

Practical Probate: Advantages of Living Trusts Part 4

**Domenick N. Calabrese, Judge
Region 22 Probate District**

This last article in my series on the advantages of living trusts looks at how living trusts can be used in planning for Connecticut estate taxes. Connecticut estate taxes may be due after a Connecticut resident passes away. Beginning in 2011, there is a \$2 million Connecticut estate tax exemption: the first \$2 million of each Connecticut resident's estate is exempt from Connecticut estate tax liability when that person dies.

However, between a married couple, the exemption is unlimited: any amount could be transferred to the surviving spouse upon the death of the first spouse with no Connecticut estate tax liability, even if the transfer to the surviving spouse exceeds \$2 million. This unlimited spousal exemption comes at a price: when the first spouse dies, their \$2 million exemption may be "lost" unless there is a plan to preserve it. A trust can be established to "save" the Connecticut estate tax exemption - \$2 million - upon the death of the first spouse.

Let's look at a simplified, fictitious example of how this might work. Edgar and Florence Poe, a Connecticut married couple with three adult children, own \$4 million in combined assets. Edgar's will and Florence's will each provide that upon the death of the first of them, all assets go to the survivor.

Edgar is the first to pass away. Under Edgar's will, all of his assets go to Florence. There is no Connecticut estate tax due because of the unlimited spousal exemption, and Florence now owns \$4 million in assets.

When Florence passes away, if Connecticut estate tax laws don't change, only one \$2 million exemption will be available for Florence if she doesn't remarry. If Florence's estate is valued at \$4 million, \$2 million will be subject to Connecticut estate taxes. Edgar's \$2 million Connecticut estate tax exemption is essentially "lost" in this example.

Next, let's look at the same couple - Edgar and Florence, with \$4 million in combined assets. In this example, Edgar and Florence create living trusts designed to preserve the estate tax exemption. In Edgar's will, there is a provision that, upon his death, \$2 million goes directly to Florence; the other \$2 million is transferred to a trust for Florence's benefit. Because of the \$2 million Connecticut estate tax exemption, assets passing into the trust are not subject to Connecticut estate tax. Because of the unlimited spousal exemption, the \$2 million passing directly to Florence is not subject to Connecticut estate tax.

When Florence passes away, the \$2 million in Edgar's trust may be distributed to the Poe's children,

grandchildren, or anyone else provided for in the trust. Because the assets in Edgar's trust may not be subject to Connecticut estate tax, there may be no Connecticut estate tax due for trust assets when Florence passes away. Florence's estate can apply the \$2 million Connecticut estate tax exemption for the \$2 million remaining in Florence's name.

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About the author



Dom Calabrese has been a Connecticut Probate Judge since 2002. He's currently the judge in the Region 22 Probate District in Southbury, Connecticut and is a judge in the Waterbury Regional Children's Court.

Dom also practices law with locations in Stamford and Watertown, Connecticut. His areas of practice include probate, estate planning, trusts, wills, planning for incapacity, asset protection, commercial transactions, contracts and agreements, and business counsel.

For more of Dom's articles and presentations, please visit:

Website

<https://DCalLaw.com>

Blog

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