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Maryland Governor Signs Estate Tax Changes into Law

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Maryland estate tax law is changing and it is likely to have an impact on your estate plan. On May 15, 2014, Governor O'Malley signed a bill increasing the amount of wealth that can pass to heirs free of Maryland estate tax, the amount known as the applicable exclusion. Prior to the passage of this new law (and for the balance of 2014), the applicable exclusion is $1,000,000, meaning that $1,000,000 can pass to heirs free of Maryland estate tax. After the end of 2014, the applicable exclusion increases gradually:

- For taxpayers dying in 2015, the applicable exclusion is $1,500,000;
- For taxpayers dying in 2016, the applicable exclusion is $2,000,000;
- For taxpayers dying in 2017, the applicable exclusion is $3,000,000;
- For taxpayers dying in 2018, the applicable exclusion is $4,000,000; and
- For taxpayers dying in 2019 or later, the applicable exclusion is tied to the federal estate tax applicable exclusion amount, which is $5,000,000 indexed for inflation, currently $5,340,000.

As was the case before the new law, unlimited amounts may pass to a surviving spouse and charity free of Maryland estate tax, and there remain special exemptions for qualified agricultural property. The current Maryland inheritance tax still applies to amounts received by individuals unrelated or distantly related to the decedent.

Although for years beginning in 2019, the stated amount that can pass free of Maryland estate tax will be the same as the amount that can pass free of federal estate tax, there remain important differences between the federal and Maryland estate taxes that could result in the two taxes behaving differently. Significantly, there is no Maryland gift tax if you make gifts exceeding your applicable exclusion during your lifetime, but there is a federal gift tax.

If your current estate plan is based on a formula tied to the amount that can pass free of estate taxes, as most plans for married couples are, then you should revisit your estate plan. Depending on your level of wealth, you may be able to simplify your plan, you may need a more income tax focused plan, or your plan may be fine as is.

If you have structures in place for the purpose of reducing estate tax, and you now find that your wealth is below the applicable exclusion, you may wish to refocus your estate planning objectives on saving income taxes or other non-tax objectives. This could mean adjusting existing estate planning vehicles such as life insurance trusts or limited liability companies to take into account the new estate tax landscape.

All of our **Tax and Wealth Planning attorneys** are happy to answer your questions about the new Maryland estate tax.