

# FEDERAL Estate Tax Changes in 2018

On December 22, 2017, President Trump signed into law the most sweeping tax legislation in more than thirty years, the "Tax Cuts and Jobs Act." The most significant change in the new legislation relative to our clients for estate planning purposes is the dramatic increase to the federal estate and gift tax exemption amounts. For the year 2017, the federal estate and gift tax exemption amounts were \$5,000,000 for an individual and \$10,000,000 for a married couple (adjusted for inflation to \$5,490,000 and \$10,980,000, respectively). The Tax Cuts and Jobs Act doubled the exemption amounts for 2018 to \$11,200,000 per individual and \$22,400,000 per married couple. Thus, unless your estate exceeds \$11,200,000, you will not be required to file a Federal Estate Tax Return upon your passing, and no Federal Estate Tax will be due.

The increased exemption amounts, however, are set to "sunset" for decedents who pass away after December 31, 2025. This means that, on January 1, 2026, the estate and gift tax exemption amounts will revert back to \$5,000,000 per person (again, adjusted for inflation).

This is not the first time we have seen a change to our federal estate tax law which includes a "sunset" provision. President George W. Bush's Economic Growth and Tax Reconciliation Act of 2001 called for increased estate tax exemption amounts over a period of years, followed by an all-out repeal of the estate tax for one year, only to have the provisions of the 2001 tax act sunset in 2011. That meant that on January 1, 2011, the estate tax laws were to revert back to 2001 provisions. However, just before the 2001 Tax Act was set to expire, and the tax laws revert back to 2001 provisions, the tax Act received a two year extension and, finally, President Obama signed the American Taxpayer Relief Act of 2012, which permanently increased the estate and gift tax exemptions to \$5,000,000 (indexed for inflation).

The permanency we enjoyed following Obama's 2012 Taxpayer Relief Act didn't stay permanent for long. Here we are, in 2018, with dramatically increased exemption amounts and an entirely new estate tax landscape.

## The Moral of the Story?

Nothing is forever in the world of taxes. Flexible estate tax planning will continue to be a critical component of our estate planning process. For many of our clients who have Credit Shelter Trusts in their estate planning documents, but who do not have estates which exceed the new exemption amounts (\$11,200,000 per person or \$22,400,000 per couple), we suggest that you call our office to schedule a consultation to see if any changes should be made to your documents. With these new exemption amounts, we do not want to over or unnecessarily fund a trust, or even to not fund a trust at all, depending on the language used in your documents.

For those of you with Disclaimer Trust language in your documents, you will continue to enjoy a great deal of flexibility in your documents and the ability to protect assets from future estate tax exposure.

Finally, remember that trusts will continue to play a significant role in how we plan for you and your family. Even absent tax considerations, properly crafted trusts help to ensure that assets pass to the desired ultimate beneficiaries and remain in your bloodlines. Trusts also help to protect assets from a beneficiary's creditors (including in the event of a divorce) and from a future spouse in the event of a remarriage. Trusts are also often necessary to preserve government benefits for disabled beneficiaries.

*If you would like to schedule a time to review or update your estate plan in light of these significant changes to the Federal Tax Code, please call our office.*

## Does your group need a guest speaker?

We are available to speak to your professional, civic, religious or special interest group on various topics (Estate Planning, Elder Law, IRA Planning, Special Needs Trusts, Disability Planning.) Give our office a call at **(856) 489-8388** to arrange a date and time or visit our website at [www.fendrickmorganlaw.com](http://www.fendrickmorganlaw.com).

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**FORETHOUGHT**  
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YOUR FUTURE DESERVES

# FORETHOUGHT

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## Welcome Nancy! *Elder Care Coordinator*

Managers. In 2009, Nancy founded and managed SeniorWise Care Management, a prominent South Jersey geriatric care management program. Thereafter, Nancy launched and managed Virtua's private duty home care program, Virtua Home Caregivers. Nancy lectures locally and nationally on topics related to aging, dementia and caregiving. She has written articles for local and national publications and co-authored the book, "Recreating Neighborhoods for Successful Aging."

As an Elder Care Coordinator at Fendrick & Morgan, Nancy helps elders and their families to identify problems during times of uncertainty, and assists them in finding practical solutions. Her approach involves a comprehensive client-centered in-home assessment of the elder's individual needs and considers each client's health and well-being, financial resources, housing options, family caregiving, and local resources. Nancy is then able to provide health care advocacy and navigation through the maze of long-term care resources and options. In consultation with the elder and family, Nancy creates a personalized care plan for each client, which she works to modify as life happens and circumstances change.

With ongoing Elder Care Coordination as part of a client's Life Care Plan, Nancy

is able to coordinate services, determine changing needs and ensure that the elder's quality of life is closely monitored. As an Elder Care Coordinator, Nancy can recommend quality care which provides as much independence for the elder as possible, with safety being paramount. Such care may be had in the elder's own home through in-home services or in a senior living community. Nancy has knowledge of a wide variety of community resources and supportive living environments such as independent living communities, assisted living residences, memory care settings and skilled nursing facilities.

For overwhelmed caregivers, Nancy provides family caregiving education and coaching. With Elder Care Coordination, families that live at distance or have busy lives of their own, have peace of mind knowing that their loved one is receiving quality care and compassionate support.

At Fendrick & Morgan, we realize that every family situation is unique. Nancy is committed to working hand-in-hand with our elderly clients and their family caregivers to provide personalized and practical solutions. As always, our elder law attorneys are here to provide guidance through the maze of legal and financial challenges that come with aging and increasing long-term care costs.

*To find out more about our Elder Care Coordination services, you can reach Nancy at our office at 856-489-8388. We look forward to hearing from you and joining us in welcoming Nancy to our team!*

We are proud to announce that Nancy Carman, MA, CMC has joined Fendrick & Morgan, LLC, as our first Elder Care Coordinator. Nancy brings years of experience with elders and their family caregivers to our firm's holistic approach to the elder care planning process. Her client-centered focus helps guide families to choices that ensure quality of care and optimal health and well-being for their aging loved ones.

Nancy received her master's degree in Gerontology from the University of South Florida and has worked as a geriatric care manager since 1996. Nancy has been a certified care manager since 1998 and is a member of the Aging Life Care Association (ALCA), formerly known as the National Association of Professional Geriatric Care



# Life Care Planning: What Is It and How Can It Help You?

With the addition of Nancy Carman, MA, CMC, to our practice as Elder Care Coordinator, at Fendrick and Morgan, LLC, we are excited to now be able to offer Life Care Planning™ services, in addition to the estate planning and elder law services we have provided since opening our doors in 2001. Life Care Planning is a revolutionary new way to respond to the challenges created by living longer, including chronic illness and disability. Through a Life Care Plan, elders and their families have access to a wider variety of options for care, as well as knowledgeable guidance from a team of compassionate advisors. The elder-centered, inter-disciplinary team at Fendrick & Morgan, LLC, can help obtain the best possible care in the least restrictive, and most appropriate, environment, while preserving assets to the greatest extent possible. Bundling our estate planning and elder law services, often geared towards asset preservation, with care coordination, crisis intervention and nursing home advocacy, a Life Care Plan affords the most comprehensive and holistic approach to senior care planning.

Traditional elder law planning focuses on ensuring that all legal documents are properly drafted and in place, and that steps are taken to preserve assets for future generations. Those services are a hallmark of our practice and will continue to be. With the added service of Life Care Planning, we are now able to address the caregiving challenges that most families bear in silence. The process begins with a thorough care assessment by our Elder Care Coordinator, which then guides the direction of the Plan. The Life Care Plan then includes assistance with locating and coordinating in-home help and services, crisis intervention, family education and decision making support, and advocacy services to protect the elder's right to safe and effective care in every long-term care setting, as appropriate.

A Life Care Plan benefits families before, during and after a transition to a long-term care setting. For an elder residing at home, the Life Care Plan will help coordinate the appropriate in-home care and care needs; identify community services; and provide family education and support.

As the elder's condition progresses, our attorneys are available to modify, or put in place, any estate and asset protection plan, while our Elder Care Coordinator assists with appropriate care settings and long-term care needs. If Medicaid assistance is needed to help pay for those long-term care services, we can help you obtain such assistance and, thus, help pay for long-term care.

For the elder who is already residing in a long-term care facility, our Elder Care Coordinator will regularly visit and carefully monitor the care being provided. We can serve as your family's advocate and if, in the unfortunate event, a problem arises, we are already engaged and can assist as quickly as possible.

*In providing this additional service, we hope to help you accomplish the following:*

- Obtain appropriate care sooner so that you or your loved one can age with maximum possible dignity and independence and, in some cases, delay transition to a nursing home setting.
- Grant your loved ones peace of mind, knowing that they are supported and guided by our professional staff and that assets are protected to the greatest extent possible.
- Provide caregivers with relief from all of the burdens of care coordination; a daunting task which takes loved ones into unfamiliar territory and imposes an overwhelming responsibility.
- Empower your loved ones with support, education and guidance through every aspect of your legal, medical and long-term care path.



*If you think that you or a loved one might benefit from this new and holistic approach to care planning, please call our office to schedule a consultation.*

# NEW JERSEY Estate Tax Changes in 2018



Good news for our New Jersey clients: As of January 1, 2018, the New Jersey Estate Tax was repealed. That said, if we know one thing for certain about taxes, it is that they don't stay the same forever. No one can predict what a post-Governor Christie administration may bring (or restore?) to the world of the New Jersey Estate Tax. Historically, New Jersey has been an undesirable state to live in from a tax perspective. The repeal of the New Jersey Estate Tax is plainly designed to do away with an unpopular "death tax." However, for most of us New Jerseyans, the income and property taxes are more troubling than the Estate Tax. Thus, query whether this tax will remain a thing of the past forever, or even for long?

Prior to 2018, estate planning for New Jersey married couples with estates valued in excess of \$675,000 (or, \$2,000,000 for 2017) involved the transfer of assets to a trust for the benefit of the surviving spouse at the first spouse's death. By transferring assets to a trust for the benefit of the surviving spouse, we were able to preserve the New Jersey Estate Tax Exemption of the deceased spouse and reduce the overall estate tax burden upon the death of the surviving spouse. With the repeal of the New Jersey Estate Tax, that planning should now be reconsidered.

If you are one of our many clients with "New Jersey Credit Shelter Trust" language in your documents, we suggest that you call our office to schedule a consultation to see if changes should be made to your documents. The formula language that was used to fund a New Jersey Credit Shelter Trust at the death of the first spouse was directly correlated to the New Jersey Estate Tax Exemption Amount. Of course, the current law no longer contains an Estate Tax Exemption Amount. Thus, if your documents contain New Jersey Credit Shelter Trust language, such language is likely to result in no trust being funded at the death of the first spouse. That may not be a desirable result; particularly in the case of a blended family.

Flexibility will continue to be a core component of our planning. For those clients with Disclaimer Trust language in their documents, your documents contain sufficient flexibility with regard to the funding of a trust at the death of the first spouse, that changes to your documents may not be necessary. Disclaimer Trusts will allow your documents to self-adjust to any future changes to the estate tax laws.

Although we do not have a New Jersey Estate Tax to contend with at the moment, New Jersey still has an Inheritance Tax.

Unlike the Estate Tax, the Inheritance Tax is imposed based upon the decedent's relationship to the beneficiary. Transfers to spouses, civil union partners and all lineal descendants and ascendants, as well as to qualified charities, are exempt from this tax. Transfers to a sibling are exempt up to the first \$25,000 and are taxed at a beginning rate of 11% on all assets over such amount. Assets passing to anyone else are taxed at 15% or 16% rates.

Please also remember that there remain many non-tax reasons to use trusts as part of your estate plan. Properly crafted trusts help to ensure that assets pass to the desired ultimate beneficiaries and remain in your bloodlines. Trusts also help to protect assets from a beneficiary's creditors (including in the event of a divorce) and from a future spouse in the event of a remarriage. Trusts are also often necessary to preserve government benefits for disabled beneficiaries.

We caution that this Bulletin is intended to serve as a general overview, and should not be relied upon without additional counsel. Furthermore, as stated above, estate tax laws are always subject to change and we continue to emphasize flexibility in estate planning in order to accommodate those changes. Every estate is different, and should be considered as such.

*If you have questions regarding these significant changes to the New Jersey estate tax, or your existing estate planning documents and whether any changes should be made, please contact our office to discuss.*