Tax Planning with Trusts
By Domenick N. Calabrese, Judge
Region 22 Probate District

This article on advantages of living trusts examines how trusts may 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. This means that 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 after the death of the first spouse. There would be no Connecticut estate tax liability, even if the value of the estate exceeds $2 million. This unlimited exemption comes at a "price" however: the deceased spouse's $2 million exemption is lost. 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 fictitious example of how this might work. Edgar and Florence Poe, a Connecticut married couple, have $4 million in combined assets. They also have three adult children. Edgar's will and Florence's will each provide that upon the death of the first of them to pass away, all assets go to the surviving spouse.

Edgar is the first to pass away. According to 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 the Connecticut estate tax laws don't change, only the single $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, with a Connecticut estate tax liability of about $XXXXXXX. 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 specially drafted living trusts designed to preserve the estate tax exemption. In Edgar's will, there is a provision that, upon Edgar's death, $2 million goes directly to Florence; the other $2 million is transferred to a living trust for the benefit of Florence. Because of the $2 million Connecticut estate tax exemption, the 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.

THIS ARTICLE DOES NOT, AND IS NOT INTENDED TO BE RELIED UPON AS LEGAL ADVICE. IT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. FOR