



legally speaking
WILLS, TRUSTS & ESTATES:
PLAIN & SIMPLE

By Patricia C. Marcin, Esq. ©2016

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The current per person NYS estate tax exemption is \$4,187,500, which means that if you have no spouse (ex. Widowed, divorced or never married), you can leave up to that amount to your heirs at your death without paying NYS (or federal) estate tax. If your taxable estate, however, is in the so-called “estate tax cliff range” (that is between \$4,187,500 and \$4,526,014 for the period 4/1/16 – 3/30/17 – the amount changes each April 1), you fall off the NYS estate tax “cliff” and the amount over the NYS exemption amount is actually taxed at a rate of more than 100% - as much as 170% or more! There is a solution to this crazy situation.

One can reduce the impact of the “cliff” by making a bequest to charity of the assets in excess of the NYS exemption amount that takes effect only if the excess that is to go to charity is less than the NYS estate tax that would be due. That is, the charitable bequest only takes effect when the amount over the NYS exemption amount is taxed at more than 100%.

Example: April 1, 2016 NY exemption amount = \$4,187,500
 Decedent dies July 1, 2016 with a taxable estate of \$4,396,875 (which is 105% of the NYS exemption amount. Note that the effect is actually still felt until the taxable estate reaches \$4,526,014.)

The \$209,375 over the NYS exemption amount causes a NYS estate tax of \$324,050 (approximately 155%). With the “Santa Clause”, charity would get \$209,375, which brings the taxable estate down to the NYS exemption amount (\$4,187,500), so NO NY estate tax.

The net benefit to heirs:

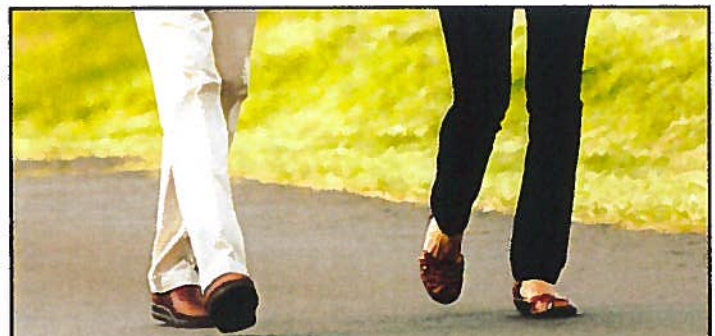
Tax w/out the Santa Clause	\$ 324,050
vs. Bequest to Charity	\$(209,375)
Net benefit to heirs	\$ 114,675

The bottom line is that if you suspect that your taxable estate at the time of your death may be within the NYS estate tax “cliff” range, you may want to consider using a “Santa clause” in your

estate planning documents to “hedge your bets” to get more to your heirs, while also benefitting the charities of your choice. Your estate planning professional can help you run the numbers.

If there is a trusts or estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com with your suggestion and I will do my best to cover it in a future column.

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“I’m so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family’s future.”



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