

July 2019



Connecticut Enacts Significant New Trust Legislation

During the 2019 regular legislative session, the Connecticut General Assembly passed An Act Concerning the Connecticut Uniform Trust Code, also known as the UTC.

The Act, which was signed recently by Governor Lamont, will become effective on January 1, 2020. The Act overhauls Connecticut's trust law, providing clarification and guidance on the administration of trusts in the state. In addition to modernizing Connecticut trust law and bringing it in line with many other jurisdictions, the UTC will present a number of significant planning opportunities for clients in Connecticut, including the following:

- **Directed Trusts:** Connecticut will join states such as Delaware, Alaska, Nevada, South Dakota, and New Hampshire, among others, in expressly authorizing directed trusts. A "directed trust" is a trust that empowers another advisor (defined in the Connecticut statute as a "trust director") to direct or consent to the trustee taking certain actions, such as investing or managing the trust assets and making distributions to beneficiaries. As a result, an individual creating a trust can divide these responsibilities (previously entrusted solely to a trustee or co-trustees) and assign them to the individuals or institutions whose expertise align most closely with those functions. Directed trusts can be attractive where a trust holds non-traditional assets such as real estate, collectables, or business interests.
- **Domestic Asset Protection Trusts:** Connecticut will become the 19th state to authorize domestic asset protection trusts (or "DAPTs"). DAPTs are irrevocable trusts whereby the settlor (or, the person creating the trust) is a beneficiary, but the trust assets are protected from certain of the settlor's creditors. The Act requires the trustee of a Connecticut DAPT to be a Connecticut resident or a bank or trust company with a place of business in Connecticut. Thus, in some circumstances, clients may decide to create a DAPT in Connecticut rather than under the laws of other states, such as Delaware.
- **Dynasty Trusts:** The Act extends the permissible duration of trusts to 800 years, thus allowing Connecticut residents to create Connecticut "dynasty trusts," or trusts intended to continue for multiple generations without incurring gift, estate, or generation-skipping transfer tax. Previously, Connecticut law required trusts to terminate within ninety years of the trust's creation.

Connecticut Estate Taxation of Real or Tangible Property Owned in Pass-Through Entity by Non-Resident

The legislature also passed an amendment to the Connecticut General Statutes that is important to nonresidents who own real or tangible personal property located in Connecticut. Prior to this amendment, many non-residents formed business entities and transferred ownership of their Connecticut real or tangible personal property to such entities in an attempt to avoid any future Connecticut estate tax liability. With this amendment, however, the legislature has clarified that this estate planning technique will not prevent the imposition of Connecticut estate tax on such property if the business entity is a pass-through entity (partnership, S corporation, or single member limited liability company that is disregarded for federal income tax purposes).

Rather, upon the death of a member of the pass-through entity, the entity will be disregarded for estate tax purposes, and the deceased member's estate will be subject to Connecticut estate tax in proportion to the member's ownership interest in the entity if (i) the entity does not carry on a business for the purpose of profit and gain, (ii) the ownership of the property by the entity was not for a valid business purpose, or (iii) the property was acquired by other than a bona fide sale for full and adequate consideration and the decedent retained any power or interest in the property

Trusts & Estates

James T. Betts

Joanne Butler

Coleman H. Casey

Jeffrey A. Cooper

Danielle P. Ferrucci

Stephen K. Gellman

Bryon W. Harmon

Lori E. Romano

Laura A. Schuyler

Lyn Gammill Walker



that would cause the Connecticut real or personal property to be included in the member's federal gross estate. It is noteworthy, however, that the amendment does not address the imposition of Connecticut gift tax on any lifetime gift of an interest in the business entity and questions remain about the interpretation of the statute's reach. This amendment was signed into law by Governor Lamont on July 8, 2019, and became effective upon passage.

Connecticut Retains Gift Tax

Connecticut unfortunately remains the only state that imposes a gift tax. Although Governor Lamont's first budget proposal included the repeal of the state gift tax, the repeal was omitted from the two-year state budget that was signed into law by the Governor on June 26, 2019. It is expected that a special session will be called and it is possible that the gift tax repeal could be resurrected. In the meantime, Connecticut residents (and non-residents gifting interests in real or personal property located in Connecticut) must continue to report gifts made in excess of the annual exclusion amount (currently \$15,000 per recipient).

State Tax Exemptions

As a reminder, the Connecticut gift and estate tax exemption for 2019 is \$3,600,000 per person and is scheduled to increase gradually over the next few years as follows:

Connecticut Gift and Estate Tax Exemptions

Year	Exemption
2019	\$3.6 million
2020	\$5.1 million
2021	\$7.1 million
2022	\$9.1 million
2023	Equal to then in effect federal gift and estate tax exemptions (\$11,400,000 for 2019 and increased annually for inflation)

New York Gift and Estate Tax Exemptions

The New York estate tax exemption for 2019 is \$5,740,000 and will increase annually for inflation. New York does not impose a gift tax, but taxable gifts made within three years of death are included in a New York resident decedent's estate for deaths occurring prior to 2026 (absent any change in the law).

289 Greenwich Avenue
Greenwich, CT 06830-6595
203-869-5600

One Constitution Plaza
Hartford, CT 06103-1919
860-251-5000

12 Porter Street
Lakeville, CT 06039-1809
860-435-2539

265 Church Street - Suite 1207
New Haven, CT 06510-7013
203-836-2801

400 Park Avenue - Fifth Floor
New York, NY 10022-4406
212-376-3010

300 Atlantic Street
Stamford, CT 06901-3522
203-324-8100

1875 K St., NW - Suite 600
Washington, DC 20006-1251
202-469-7750

www.shipmangoodwin.com

Trusts & Estates

James T. Betts
(860) 251-5150
jbetts@goodwin.com

Jeffrey A. Cooper
(203) 863-6418
jcooper@goodwin.com

Bryon W. Harmon
(860) 251-5106
bharmon@goodwin.com

Joanne Butler
(203) 863-6408
jbutler@goodwin.com

Danielle P. Ferrucci
(860) 251-5105
dferrucci@goodwin.com

Lori E. Romano
(203) 869-5600
lromano@goodwin.com

Coleman H. Casey
(860) 251-5112
ccasey@goodwin.com

Stephen K. Gellman
(860) 251-5109
sgellman@goodwin.com

Laura A. Schuyler
(860) 251-5338
lschuyler@goodwin.com

Lyn Gammill Walker
(860) 251-5146
lwalker@goodwin.com

www.shipmangoodwin.com/trustsandestates/

These materials have been prepared by Shipman & Goodwin LLP for informational purposes only. They are not intended as advertising and should not be considered legal advice. This information is not intended to create, and receipt of it does not create, a lawyer-client relationship. Viewers should not act upon this information without seeking professional counsel. © 2019 Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103.