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PRIVATE CLIENT SERVICES 2023 YEAR-END ADVISORY

As the new year approaches, we present our annual year-end advisory for 2023. This edition highlights noteworthy estate and gift tax changes in the law and outlines planning opportunities that can be utilized before the end of the year. We also take a moment to recognize some of our accomplishments in 2023 and provide our outlook for the new year.

2024 ESTATE, GIFT AND GST TAX EXEMPTIONS

Federal Estate, Gift, and GST Tax

Exemption. The federal estate, gift, and generation-skipping (GST) tax exemption will be \$13,610,000 per taxpayer, an increase of \$690,000 from 2023. With proper planning, a married couple can shield a total of \$27.22 million from federal estate, gift, and GST tax in 2024. Absent any new legislation, these higher exemptions are scheduled to sunset on January 1, 2026, and revert to where they were in 2017. As indexed for inflation, the exemption will revert to approximately \$7 million for individuals and \$14 million for married couples in 2026. As discussed in our previous advisories, the IRS and Treasury issued final regulations clarifying that the government will not look to claw back amounts gifted between 2018 and 2025 up to the exemption levels, even after the exemptions sunset and drop down again in 2026 and beyond.

Tax Rate. The federal, estate and GST tax rate will remain at 40%.

COMPARISON

Below is a simplified comparison of how a married couple with a \$20 million taxable estate would be taxed at death in 2024 under current law versus after the exemptions sunset and drop down in 2026:

Potential Estate Taxes	2024	2026 (after sunset)
Total Estate (married couple)	\$20,000,000	\$20,000,000
Estate Tax Exemption*	\$27,220,000	\$14,000,000
Previous Taxable Gifts	(\$200,000)	(\$200,000)
Remaining Estate and Gift Exemption	\$27,020,000	\$13,800,000
Total Estate	\$20,000,000	\$20,000,000
Less Remaining Estate and Gift Exemption (combined)	(\$27,020,000)	(\$13,800,000)
Taxable Estate	No Estate Tax Due	\$6,200,000
40% Estate Tax	\$ –	\$2,480,000

* 2024: \$13,610,000 per person; 2026: \$7,000,000 per person

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Annual Exclusion from Gift Tax. The federal gift tax annual exclusion amount will increase to \$18,000 per calendar year and per donee in 2024, an increase from \$17,000 in 2023. Accordingly, a married couple can make gifts of up to \$36,000 per calendar year per donee without using any portion of their gift tax exemptions. The exclusion for gifts made to a spouse who is not a citizen of the United States will be \$185,000 in 2024 (up from \$175,000 in 2023.)

Connecticut Estate and Gift Tax Exemption

The Connecticut estate and gift tax exemption will increase to \$13,610,000 to match the federal estate and gift tax exemption. The Connecticut exemption in 2023 was \$12,920,000. Currently, the tax rate on estates or gifts in excess of the Connecticut exemption is 12%.

New York Estate Tax Exemption and "Look Back"

For decedents dying on or after January 1, 2024, the New York state estate tax exemption is \$6,940,000 (up from \$6,580,000 in 2023). Estates larger than the New York estate tax exemption amount are subject to a "cliff," meaning that estates worth between 100% and 105% of the exemption amount will get a decreasing benefit from the exemption, and estates larger than 105% of the exemption amount will receive no exemption from New York estate taxes. The highest New York estate tax rate is 16%. While New York does not impose a gift tax, it will add back into an estate the value of nearly all gifts made by a decedent within a three-year period of his or her death for purposes of calculating New York estate tax liability.

COMPARISON

Below is a chart comparing the estate, gift and GST tax changes from 2023 to 2024:

Tax Changes From 2023 to 2024	2023	2024
Federal Estate, Gift and GST Tax Exemption	\$12,920,000	\$13,610,000
Federal Estate, Gift and GST Tax Rate	40%	40%
Federal Annual Exclusion from Gift Tax	\$17,000	\$18,000
Federal Annual Exclusion from Gift Tax for Non-Citizen Spouses	\$175,000	\$185,000
Connecticut Estate and Gift Tax Exemption	\$12,920,000	\$13,610,000
New York Estate Tax Exemption	\$6,580,000	\$6,940,000

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CORPORATE TRANSPARENCY ACT

Many clients utilize business entities, such as LLCs and limited partnerships, as a part of their estate plan. These entities may own homes, rental properties, family compounds or real operating businesses. *As of January 1, 2024, many of these entities will be subject to reporting requirements under the Corporate Transparency Act (CTA).*

The CTA was enacted on January 1, 2021, as part of the National Defense Authorization Act creating a federal beneficial ownership registry applicable to corporations, limited liability companies (LLCs) and most partnerships (i.e., "Reporting Companies"). Targeted at small and medium privately held business entities, the CTA requires these organizations to report their "beneficial owners" and "applicants" to the Financial Crimes Enforcement Network (FinCEN) in an attempt to prevent the use of shell companies to evade anti-money laundering rules or to hide other illegal activities.

The U.S. Treasury estimates that more than 32 million pre-existing entities and approximately 5 million new reporting companies annually over the next decade will have to register under the CTA. Given the estimated impact on millions of people, it is important to understand what information must be reported to avoid severe penalties for non-compliance. *Click [here](#) to read more about the CTA and click [here](#) to listen to a podcast episode presented by the Private Client Services team at Wiggin and Dana.*

YEAR-END PLANNING OPPORTUNITIES

Gifts to Family and Friends that Utilize the Annual Gift Tax Exclusion. The holiday season is rife with opportunities for gift giving to friends and family. Under the federal gift tax laws, each individual can gift up to \$17,000 before December 31, 2023, to any number of people without exhausting any portion of his or her lifetime exemption from estate and gift tax. A married couple can gift up to \$34,000 per donee. Such gifts may be made either outright or to certain types of trusts under which the beneficiaries have withdrawal rights (sometimes referred to as "Crummey trusts") and can be in the form of cash, marketable securities or other property interests. Note that each recipient can only receive \$17,000 in total in a given year from a specific donor (or \$34,000 from a married couple). For that reason, outright gifts, gifts in trust, and any other gifts to an individual beneficiary (including, for example, to insurance trusts and 529 College Savings Plans) should be coordinated to avoid inadvertently exceeding your gift tax annual exclusion amounts.

Donors may want to keep in mind two additional exceptions to the gift tax:

1. Funding Educational Expenses. A taxpayer may pay an individual's tuition without incurring any gift tax liability if such payment is made directly to the educational institution. Reimbursement of tuition expenses to the benefitted individual will be treated as a gift for gift tax purposes. While this exception only applies to tuition, funds held in 529 College Savings Plans can be used to pay other education expenses such as room and board, books, and related items. *Click [here](#) to read more on funding educational expenses and click [here](#) to listen to a podcast episode on this topic.*

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2. Funding Medical Expenses. Medical expenses may be paid on behalf of an individual directly to the provider also without incurring any gift tax liability. In order to qualify, such medical expenses must not be paid by an insurance company and cannot be reimbursable by insurance. Permissible medical expenses include, but are not limited to, payments for prescription drugs; expenses related to the diagnosis, cure, mitigation, treatment, or prevention of disease; transportation essential to medical care; and premiums for medical insurance. *Click [here](#) to read more on paying medical expenses on another's behalf.*

As mentioned above, Connecticut residents should be aware that Connecticut imposes its own gift tax. However, the Connecticut gift tax annual exclusion mirrors the federal gift tax annual exclusion and payment of permissible educational and medical expenses do not incur any gift tax liability in Connecticut.

Gifting Beyond the Annual Gift Tax Exclusion to Use Record High Exemptions.

You may wish to make large gifts that exceed the annual exclusion amounts to take advantage of the record high lifetime estate and gift tax exemption before the exemption drastically decreases on January 1, 2026, absent further legislative reform.

If you are someone who has already made large gifts in the past, and therefore, has less exemption remaining, you may wish to utilize Grantor Retained Annuity Trusts (GRATs), which are an excellent tool to transfer wealth outside of your taxable estate while using a minimal amount of gift tax exemption in the process. *Click [here](#) to read more on gifting to Grantor Retained Annuity Trusts.*

For individuals wishing to use up their lifetime estate and gift exemption prior to 2026, we encourage you to consider planning strategies in 2024 to avoid the year end rush of 2025. Some of these strategies may include:

- 1. Spousal Lifetime Access Trusts (SLATs).** A SLAT is an irrevocable trust where the spouse is a permitted beneficiary. It allows married clients to take advantage of the high gift tax exemption amount while also allowing for continued access to the gifted trust assets, if needed, while removing any appreciation on the gift from each spouse's taxable estate. *Click [here](#) to read more and click [here](#) for a podcast episode on this topic.*
- 2. Dynasty Trusts. A Dynasty Trust** (sometimes also referred to as a Generation-Skipping Trust), is an irrevocable trust that continues for as long as the applicable state law allows. *Click [here](#) to read more and click [here](#) for a podcast episode on this topic.*
- 3. Qualified Personal Residence Trusts (QPRTs).** A special kind of irrevocable trust, known as a qualified personal residence trust (or QPRT), may enable you to transfer your residence to your children (or others) at a significantly reduced value for tax purposes, yet allow you to continue to live in the residence for as long as you wish. *Click [here](#) to read more on this topic.*

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Gift Tax Update. Gift tax returns for gifts made in 2023 are due on April 15, 2024. You can extend the due date of your Federal gift tax return to October 15, 2024, by either filing a Form 8892 to extend the time to file just your gift tax return or by filing a Form 4868 to extend the time to file your 2023 income tax return, which also extends the time to file your gift tax return. You can also extend the due date of your Connecticut gift tax return to October 15, 2024, by filing Form CT-706/709 EXT.

If you created a trust or contributed to an existing trust this year, you should direct your accountant to elect to have your GST tax exemption either allocated or not allocated, as the case may be, to trust contributions. It is critical that you not overlook that step, which must be taken even if your gifts do not exceed the annual gift tax exclusion and would, therefore, not otherwise require the filing of a gift tax return. You should call one of our attorneys if you have any questions about your GST tax exemption allocation.

IRA Required Minimum Distributions. As of 2023, the SECURE 2.0 Act raised the age that you must begin taking required minimum distributions (RMDs) to 73 (if you reached age 72 after December 31, 2022.) This means, if you are the owner of an IRA and you turned age 72 this year, you must start to take RMDs from your IRA by April 1, 2025, for the 2024 year.

If you are required to take an RMD in 2023, you must receive those distributions by December 31 of this year. The RMDs must be separately calculated for each retirement account that you own. Per the Secure 2.0 Act, there is reduction in the excise tax imposed for a failure to take RMDs by the annual deadline to 25% (instead of 50%) of the amount by which the RMD exceeds the amount actually distributed during the calendar year with a further reduction to 10% if corrected within a two-year correction window.

PRIVATE CLIENT SERVICES ACCOMPLISHMENTS

Launch of Estate Planning Podcast

As we wrap on the inaugural year of our podcast, “Future Focused: Sophisticated Estate Planning” – where partners **Erin D. Nicholls** and **Michael T. Clear** explore high-level estate planning techniques and trends – we look back on the numerous topics we covered in 2023, including **Estate Planning for Digital Assets**, **Prenuptial Agreements**, **Estate Planning for Pets**, and addressing **Trustee Troubles**.



The Future Focused: Sophisticated Estate Planning podcast explores high-level estate planning techniques and trends. It is ideal for professionals in the accounting, insurance, investment, and financial planning industries since each episode will offer concise and timely information on topics that are critical to the planning they do with their clients.

Click below to subscribe to the podcast and get emailed new episodes as they become available, along with exclusive subscriber content.

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

AWARDS AND RECOGNITIONS

The firm's Private Client Services practice and its partners, **Michael T. Clear**, **Daniel L. Daniels**, **Leonard Leader**, **Steven B. Malech** and **Carolyn A. Reers** have been ranked in the seventh edition of the annual Chambers High Net Worth (HNW) 2023 Guide. We were also fortunate to rank in the fourteenth edition of "Best Law Firms®" nationally and regionally in Connecticut and New York. "Best Law Firms®" rankings are based on an evaluation across the country through a rigorous and trusted data review process.



FINAL THOUGHTS

As 2023 comes to an end, we recommend that you consider the planning opportunities outlined in this advisory. We welcome the opportunity to discuss these strategies with you in further detail. In the meantime, we wish you and your family the very best for the holidays and a healthy, safe, and wonderful 2024.

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RESOURCES

ADVISORIES *click box to read*

The Corporate Transparency Act (CTA) 2023 Update

3 Key Strategies for Funding Educational Expenses

The Gift of Medical Care - the "Med" of the "Med-Ed Exclusion"

SLATs—Spousal Lifetime Access Trusts

Dynasty Trusts

Qualified Personal Residence Trusts

GRATs – Grantor Retained Annuity Trusts

PODCASTS *click box to listen*

The Corporate Transparency Act: Navigating Reporting and Compliance

From Cradle to College: Strategies for Funding Educational Expenses

SLATs and Gifting

Key Considerations with Generation-Skipping Transfer Tax