

## New Maryland Legislation Caps Estate Tax Exemption at \$5 Million Beginning January 1, 2019

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A new law changes both the exemption allowed and rules permitting use of estate tax exemptions in the state of Maryland. For individuals dying in 2018, the Maryland estate tax exemption is \$4 million - a \$1 million increase from the 2017 Maryland estate tax exemption. This change was part of a 2014 law that incrementally increased the Maryland estate tax exemption each year until 2019, when the exemption was scheduled to match the

federal applicable exclusion amount.

### Federal Estate Tax Exclusion for 2019

As a result of the recently-enacted, sweeping federal tax reform known as the Tax Cuts and Jobs Act of 2017 (TCJA), the federal applicable estate tax exclusion amount is approximately \$11.2 million for decedents dying in 2018. Under the federal law, the exclusion amount will adjust annually for inflation. It is estimated that the federal applicable estate tax exclusion amount will be approximately \$11.4 million for decedents dying in 2019. Accordingly, under prior Maryland law, the Maryland estate tax exemption was scheduled to automatically jump from \$4 million in 2018 to approximately \$11.4 million starting January 1, 2019.

### Maryland Estate Tax Exclusion for 2019

However, in early April 2018, new legislation was enacted in Maryland that will cap the amount exempt from Maryland estate tax at \$5 million for people who die on or after January 1, 2019. This new law replaces the prior 2014 Maryland law that was scheduled to bring the Maryland estate tax exemption in line with the federal applicable exclusion amount in 2019. In addition, the new Maryland exemption amount will not adjust for inflation each year. So, the amount that a Maryland resident can transfer estate-tax free at death will remain frozen at \$5 million until new legislation is passed in the future.

### Portability Allowed in New Maryland Law

The new Maryland law also provides for “portability,” a rule permitting a surviving spouse to use, under certain circumstances, the portion of his or her deceased spouse’s unused Maryland estate tax exemption. While portability has been a permanent feature of the federal estate tax scheme for several years, this marks the first time that portability will be available in Maryland, making Maryland one of the few states that provide this relief to its citizens.

### How the New Law Effects Estate Planning

Keep in mind that estate tax planning is only one aspect of a comprehensive estate plan. If your estate is not likely to be subject to federal estate tax or even Maryland estate tax under the new law, you should likely focus more on incapacity planning, asset and nursing home protection, guardianship of minor children, blended family issues, special needs children planning, business succession planning, and minimizing income taxes. Current estate plans may not have the intended consequences under the

new rules, and no one should wait for a death to find out if they have a good estate plan.

**David A. Lucas** is an Attorney in Miller, Miller & Canby's Estates & Trusts and Business and Tax Practice Groups. David is committed to providing his clients with a well-crafted estate plan so they may avoid probate, protect their assets and legacies, and provide for the security of their loved ones. He takes a special interest in ensuring that the dreams parents have for their children and grandchildren are not lost to taxes, poor planning, or procrastination. He speaks frequently on a variety of estate planning topics to both the general public and private groups.

David has focused his practice on helping families preserve their financial wealth and legacies for future generations through the use of Trusts, Wills, Powers of Attorney, Advance Medical Directives, Living Wills, and other estate planning strategies.

**Contact David** to discuss your estate plan to take advantage of the laws available today and ensure flexibility for future changes. For more information on Miller, Miller & Canby's Estates & Trusts Practice, [click here](#).