

Recent Estate Tax Changes and the Impact on Planning For Married Couples

by George A. Baker, Esq.

In 2001, Congress passed the Economic Growth Tax Relief and Recovery Act (EGTRRA), which increased the exemption for federal estate taxes (\$1,500,000 for 2004 and 2005) and reduced the maximum estate tax rates (48% for 2004).

Prior to the passage of EGTRRA, the federal estate tax structure provided a state death tax credit that was paid to the various states in which a decedent owned assets. In effect, the credit shifted the payment of a portion of the federal estate taxes to the states. In EGTRRA, Congress eliminated the state death tax credit by phasing it out over a four year period through annual 25% reductions. For 2004 the credit is reduced by 75%, and starting in 2005 the credit is completely eliminated. The reduction and elimination of the state death tax credit has impacted the revenue received by each state, and many states (including Connecticut) have revised their estate tax laws to compensate for the shortfall.

Last year Connecticut enacted a new estate tax that will apply to estates of persons dying between July 1, 2004 and December 31, 2004. The new estate tax will only take effect if Connecticut receives less than \$110,000,000 in federal Medicaid payments for fiscal year ending June 30, 2005. Preliminary indications are that Connecticut **will not** receive the \$110,000,000 in Medicaid payments, so the new estate tax **will** take effect July 1, 2004.

The new Connecticut estate tax will be imposed on estates in excess of \$1,000,000, and will be due six months from date of death. This presents a problem for married couples who have established credit shelter trusts funded by way of a formula equal to the federal exemption. Because the federal exemption is now at \$1,500,000, if the first spouse dies between July 1, 2004 and December 31, 2004, their credit shelter trust will be funded with \$1,500,000. This will trigger a State of Connecticut estate tax of approximately \$83,000 at the death of the first spouse.

The new Connecticut estate tax will end December 31, 2004 as the current legislation exists. In order to continue the Connecticut estate tax after December 31, 2004, the Connecticut legislature will have to take action by year end.

Other states have revised their estate tax laws as a result of the elimination of the state death tax credit. For example, Rhode Island imposes a tax on all estates in excess of \$675,000. The tax applies to Rhode Island residents, or non-residents with real or personal property located in Rhode Island. This means that a Connecticut resident with real estate in Rhode Island that funds a credit shelter trust with \$1,500,000 in 2004 could pay Rhode Island estate taxes of up to \$64,000. Other states that have changed their estate taxes include New York, Massachusetts, and Vermont. Florida does not have a state estate tax because it is prohibited under its constitution.

As a result of the elimination of the state death tax credit by Congress and the resulting impact on the revenue stream for the various states, many states have already revised, or are in the process of revising, their estate tax laws to replace the lost revenue. **It is important for couples with credit shelter trusts in place to have their plans reviewed to determine how they are impacted by these changes.** L&D

If you have any questions on the new Connecticut estate tax, or any other estate planning questions, please contact one of the following attorneys in our Asset Succession and Planning Department:

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The Changing Face of Family Law in Connecticut

by Robert B. Katz

Cases involving family law issues (divorce, custody, alimony, child support, property distribution) are usually highly charged emotional conflicts often resulting in high legal fees and less than satisfactory results for the parties. Some studies indicate that the negative effects of such cases on children are likely to last a lifetime. Contested family cases usually require each party hire an attorney and cede control of very personal matters to attorneys and the court system. Cases involving issues related to children or family businesses often require the intervention of outside experts, resulting in a long process (perhaps one to two years or more) which is likely to end with a court trial involving cross allegations delivered in a hostile environment.


With attorneys representing each of the parties, and often a court appointed attorney representing the interests of the children, a trial can easily cost in excess of \$3,500.00 per day.

Over the past decade, several alternatives to litigated family law practices have grown in popularity and acceptance within the family law community. These alternatives include:

Mediated Cases. The key to a successful mediated process is the commitment by both parties to resolving issues without airing their conflicts in court and without placing their lives in the hands of a judge. In a mediated case, the parties select a neutral mediator such as an attorney or a person from the therapeutic community. As there is no formal licensing of mediators in the State of Connecticut, the parties retain their own attorneys to advise them and to ensure the legitimacy of the process. Through successive meetings of the parties and the mediator, the parties work to resolve issues through their own efforts, being fully

involved in and responsible for the final mediated resolution presented to the court.

Private Special Masters. In the process of private special masters, the parties retain their own attorneys and, by agreement, hire two special masters to resolve the contested issues of the case. Special masters are experienced and trained individuals who often volunteer their time in the family court to help resolve family law cases, making their services available privately and scheduling meetings at the parties' convenience and in the privacy of an office. Special masters confer regarding the issues presented and advise the parties and their attorneys as to what a court would likely decide under the circumstances, thus providing independent and objective feedback to the parties regarding their respective positions.

Collaboration. Collaboration is a process in which the parties and their attorneys sign a contract at the beginning of the case indicating that they will work to resolve all of their contested issues outside the courtroom. Lawyers who practice collaborative law have received training in collaboration. If the collaborative process is unsuccessful and the parties decide to revert to court action, the collaborating attorneys must withdraw from the case and the parties are then forced to retain new attorneys to bring the matter into court, thus creating significant motivation for the parties to remain in the collaborative process. 

These approaches, as well as traditional litigated family law practices, are available to clients through Levy & Droney, P.C. For more information regarding family law matters, please contact Robert B. Katz at (860) 676-3182.



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Social Host Liability

by Monique Rubb and Kenneth Levine

With the summer season upon us and graduation parties and barbecues right around the corner, it is important to take a moment to address the legal responsibilities of serving alcohol at social functions.

A "social host" is an individual who provides alcohol to guests in his or her home. Issues of legal liability may arise if an intoxicated guest in turn injures a third party due to his or her intoxication.

Although for years commercial sellers of alcohol have been subject to liability in a variety of situations due to the Dram Shop Acts; in the past, these acts were generally interpreted as being inapplicable to individuals who served alcohol in a social, informal setting.

However, recently, the ever-growing concern about underage drinking and the tragedies involved with drunk driving have prompted the courts in several jurisdictions to impose personal liability upon "social hosts" for injuries sustained by persons to whom alcohol was provided, particularly if the intoxicated individual is a minor. "Social host" liability is based on the theory that the server of alcohol has a duty to the public at large to provide alcohol in a safe and responsible manner. In New England, five of the six states support some form of "social host" liability.

For instance, the Commonwealth of Massachusetts recognizes the liability of a social host for injuries caused by an intoxicated guest when the host

knew or should have known that his or her guest was intoxicated, but nevertheless, allowed the guest to continue to consume alcohol.

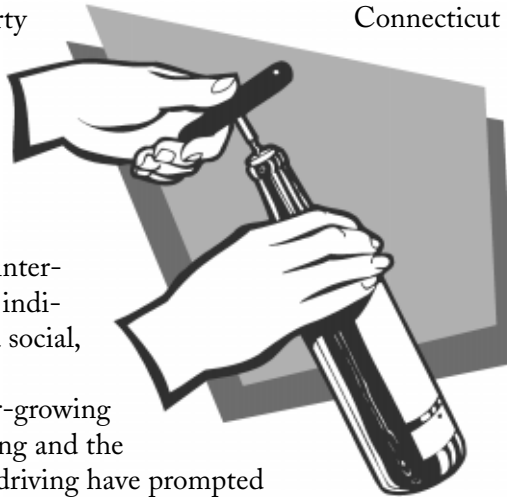
In Connecticut, "social hosts" may also be held liable for injuries caused by one of their intoxicated guests. The potential liability in Connecticut is even broader when the guest in question is a minor. This reflects an increasing public awareness that children, due to their youth and inexperience, are simply incapable of dealing responsibly with the effects of alcohol.

For example, in *Ely vs. Murphy*, the Connecticut Supreme Court held that a father

that hosted a high school graduation party where alcohol was served could be legally responsible for injuries caused by a minor that attended and consumed alcohol at that party. In *Boban vs. Last*, the Court held that the purveyors (i.e., bars) have a responsibility to refrain from negligently and intentionally serving alcohol to minors.

Again, minors are presumed to not have the capacity to completely understand the risks associated with intoxication and the burden to prevent an alcohol related injury falls to the adults in these minor's lives.

These decisions underscore the need to exercise caution when serving alcohol. Graduation parties, summer gatherings and picnics are times of fun and celebration which often include the consumption of alcohol, but these emotions must be tempered with a strong sense of responsibility. Enjoy yourselves, but be aware of your legal responsibilities as the host of these events. **LD**



Levy & Droney Speaker's Bureau

If your organization would like a lawyer to speak on a legal issue or topic, we would be pleased to offer the talents of an attorney of Levy & Droney. Topics include:

- * Workplace issues
- * Family Issues
- * Charitable Planning & Giving
- * Estate Planning
- * Automobile Liability
- * Homeowner's Liability
- * Condominium Issues
- * First-time Home Buyers
- * Starting a Business

Please contact Attorney Robert B. Levine at rlevine@ldlaw or (860) 676-3259 for more info.

Client Highlight

In this issue, we are introducing a new feature highlighting one or more of our clients. We hope you enjoy the column. If you would like to be considered for future issues, please contact Risa Brownstein.

BICYCLES EAST

2249 New London Turnpike, South Glastonbury

Last year, Steve Dauphinais made the big jump. Steve left the manufacturing world and followed his dream of owning his own bike shop. Now, Steve and his wife, Deb, are learning all the joys and challenges of owning a small retail business.

The shop provides personal, knowledgeable attention to all its customers — from tykes receiving their first bikes up to hardcore road racers and trail riders. A large inventory of new bicycles is always on hand, and special orders are only a few days away. Professional service on all bikes is also provided on site.

Steve, Deb and their staff lead road, mountain and rails-to-trails rides throughout the year and sponsor in-store clinics on bike maintenance and related topics.

Please visit Steve and Deb at their store or online at www.bicycleseast.com. 



Deb and Steve Dauphinais

Firm Happenings

COLEMAN B. LEVY has been reappointed to the Board of Directors of the Jewish Federation of Greater Hartford and to the Board of Directors of the New Britain Museum of American Art.

DANIEL E. KLEINMAN, Managing Partner of Levy & Droney, and Chairman of the Buick Championship (formerly GHO) Management Committee was the keynote speaker at the CBI's Connecticut XPO 2004 For Business luncheon on June 8, 2004. Kleinman gave a "behind the scenes" look at how the business community rallied to support the effort to save the golf tournament.

KEN LEVINE has been recognized by the Connecticut Bar Association for participating in The Law Works For People Pro Bono program. This program provides free legal services to low-income residents throughout Connecticut.

GEORGE BAKER spoke at the Banker's Seminar on May 6, 2004 regarding the Probate Process and its relationship with the banking community.

BOB KATZ was a workshop presenter at the annual Connecticut Association for Marriage and Family Therapy Conference on Friday, May 21, 2004 at the Marriott Hotel in Rocky Hill. CAMFT is a statewide organization of approximately 800 marriage and family therapists. Besides making a presentation concerning the latest cases and trends in family law, Bob was on a panel of divorce attorneys addressing the group and answering questions from the audience.

BOB ZELINGER was re-elected to serve as Chairman of the Board of Directors of the Waterbury Regional Chamber at its annual meeting in April. The Waterbury Regional Chamber has approximately 1,000 members throughout the Central Naugatuck Valley. Attorney Zelinger was also appointed a member of the Board of Directors of the newly created Waterbury Development Corporation, a quasi-public/private agency responsible for economic development activity.