



FEBRUARY 2025 // VOL. LXXVII

# THE COUNSELOR

## THE SUNSET OF THE FEDERAL ESTATE TAX EXEMPTION: ESTATE PLANNING FOR 2025 AND BEYOND

— Lorraine Boss and Nicholas Bekker

The federal estate tax exemption allows individuals to transfer significant wealth without incurring an estate or gift tax. Currently, the exemption stands at \$13.99 million, a historically high figure established by the Tax Cuts and Jobs Act of 2017, which temporarily doubled the exemption. Without new legislation, this exemption will revert to approximately \$7 million on January 1, 2026.

### Will it Happen?

While some believe that current political dynamics may delay the sunset, others believe that budgetary problems and debt service concerns facing Congress make it more likely that the exemption will sunset as scheduled.

We draw a comparison to 2012, when many individuals rushed to gift assets to their heirs in anticipation of a potential reduction in the federal estate tax exemption, which was set to drop significantly in 2013. When the exemption remained intact after the deadline, some experienced buyer's remorse, regretting their decisions to gift assets that could have remained within their control.

### What Should You Do?

As we near the potential sunset, you should take proactive steps to prepare. We can build flexibility into your estate plan, with techniques like standby trusts and irrevocable trusts with provisions allowing for adjustments. This flexibility will help you respond to changing laws and personal circumstances and can allow for certain planning decisions to be made when it is known whether or not the current exemption will sunset.

Even if the exemption remains high, effective estate planning can yield significant benefits. Making gifts now can not only lock in the higher exemption, it can also successfully shield all future appreciation on those assets from estate tax. This is particularly advantageous for assets expected to appreciate. Strategies such as Grantor Retained Annuity Trusts (GRATs), Irrevocable Life Insurance Trusts (ILITs), Qualified Personal Residence Trusts (QPRTs), Spousal Lifetime Access Trusts (SLATs), and Sales to Intentionally Defective Grantor Trusts (IDGTs) can be implemented to use and to leverage the exemption amount.

Additionally, certain strategies can be put in place to maximize the use of the New York State estate exemption, currently set at \$7.16 million. There are certain nuances in New York tax law that require careful drafting in order to minimize its estate tax.

### The Risks of Waiting

Clients should stay proactive in their estate planning to avoid missing valuable opportunities. Delaying decisions could lead to a rush to implement strategies. Increased demand for planning services is anticipated as the sunset approaches; clients who act now can sidestep this rush. Implementing certain estate planning strategies may take several months, so early planning is essential.

### Conclusion

The impending sunset of the federal estate tax exemption underscores the importance of proactive estate planning. Whether the exemption changes or stays the same, revisiting your estate plan ensures you're prepared for any scenario. Don't wait—contact our office to explore how we can help minimize your estate taxes and incorporate flexibility into your estate planning documents. ■



*Lorraine Boss, Partner*



*Nicholas Bekker, Law Clerk*



**BANKING & FINANCE**

**James C. Ricca** negotiated and closed a \$5,550,000.00 mortgage loan on behalf of an institutional lender, secured by commercial property in Valley Stream, New York.

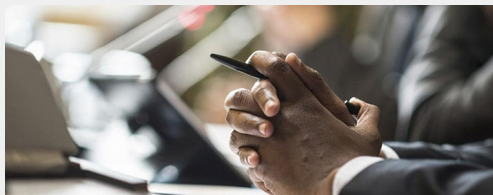
On behalf of an Institutional Lender, **James C. Ricca** and **Lindsay Mesh Lotito** negotiated and closed a revolving line of credit mortgage loan in the amount of \$2,307,500.00 secured by commercial property in Jericho, New York.

**Lindsay Mesh Lotito** and **James C. Ricca** negotiated and closed a \$6,375,000.00 acquisition mortgage loan on behalf of Hanover Bank, secured by a bowling alley in Astoria, New York.

On behalf of an institutional lender, **Steven G. Gaebler** and **Lindsay Mesh Lotito** negotiated and closed an \$8,000,000.00 mortgage loan secured by a building being operated pursuant to a Memorandum of Understanding with Neighborhood Association for Inter-Cultural Affairs, Inc. in Bronx, New York.

**James C. Ricca** negotiated and closed an \$8,250,000 Bridge Loan to a Long Island Not-For-Profit organization on behalf of Valley National Bank

On behalf of an Institutional Lender, **James C. Ricca** negotiated and closed a global Loan Modification involving seven (7) commercial properties in Queens, NY.



**LITIGATION**

**Kathleen Deegan-Dickson, Richard A. Blumberg** and **Nathan R. Jones** prevailed in an Article 78 proceeding commenced on behalf of our client, an Islamic place of worship, against the Town of North Hempstead. Ms. Deegan-

Dickson brought the Client's application for site plan approval to expand its mosque facility and parking to accommodate increased attendance, which it amended in an effort to alleviate street parking issues in response to neighbors' concerns. Presented with significant community opposition, the Town Board denied the applications, alleging, among other things, that the mosque's proposed expansion was incompatible with the residential character of the neighborhood. Mr. Blumberg and Mr. Jones skillfully argued that the mosque, as a religious institution, was entitled to greater flexibility and that the Town Board failed to make every effort to accommodate its religious use. The Court agreed, finding the Town Board's unconditional denial to be arbitrary and capricious because the Town Board failed to suggest any measures to accommodate the client's proposed site plan. The Court granted the petition and remanded to the Town Board with a direction to grant the site plan application.



**LAND USE & ZONING**

**Andrea Tsoukalas Curto** obtained approvals from the Town of North Hempstead Board of Zoning and Appeals for a new veterinary hospital on Plandome Road in Manhasset. Mrs. Curto worked closely with the Council of Greater Manhasset Civic Association's President to address neighbor concerns regarding traffic and noise. Ms. Curto also worked with Town officials to facilitate a new sewer connection for the hospital.

**Andrea Tsoukalas Curto** obtained a parking variance from the Town of North Hempstead Board of Zoning and Appeals to legalize a mixed-use building used as an office and data center in the Industrial zoning district that was previously used an auto dealership with internal parking garages for the storage of vehicles. Mrs. Curto established through documentary evidence and expert testimony that the variance

should be granted because there was sufficient on-street parking to meet the actual demand of existing and future tenants and the alterations made to the internal parking garages were necessary to create usable and safe stalls. The approval enabled the owner to lease the remaining 40,000 square feet of office space and refinance the building.

**Kathleen Deegan Dickson** and **Taylor L. Gonzalez** obtained variances and site plan approval for the expansion of the London Jewelers Watch Salon at the Americana Shopping Center in Manhasset.

**Taylor L. Gonzalez** obtained a special permit from the Town of North Hempstead to permit a café in the new ambulatory care center of a major regional health provider.

**Kathleen Deegan Dickson** obtained variances and a special use permit from the Village of Mineola for the development of a new radiation-oncology center for a major health care system.

**Judy L. Simoncic** and **Philip A. Butler** successfully obtained site plan approval and a special use permit from the Town of Oyster Bay Town Board for a new 7-Eleven convenience store and gas station on Northern Boulevard in East Norwich.

**Philip A. Butler** successfully represented Tanger Outlets in securing approvals from the Town of Babylon Planning Board and Zoning Board of Appeals for a new Main Event restaurant and game room at the Arches Tanger Outlets in Deer Park.

**Judy L. Simoncic** and **Philip A. Butler** successfully obtained site plan approval and a special use permit from the Town of Oyster Bay Town Board and variances for signage from the Town of Oyster Bay Zoning Board of Appeals all for construction of a new free-standing Starbucks with a drive-thru on Old Country Road in Hicksville.

**Judy L. Simoncic** and **Philip A. Butler** successfully obtained site plan approval for the expansion of a 40,000 sq. ft. house of worship on Ludy Street in Hicksville.

**Philip A. Butler** successfully represented Rockefeller Group in securing a special use permit and site plan approval from the Town of Oyster Bay Town Board the

first Rivian all-electric-vehicle delivery and service center on Long Island located on Media Crossways in Woodbury.

**Philip A. Butler** successfully obtained the renewal and expansion of a parking variance and special use permit for Il Mulino Italian Restaurant in Roslyn Estates.

**Judy L. Simoncic** successfully obtained a change of zone from the Village of Old Westbury Board of Trustees and subdivision approval from the Village of Old Westbury Planning Board for an 8 lot residential subdivision.



TAX CERTIORARI

**Nicole S. Forchelli** resolved a property tax matter for a Fortune-500 company relating to two properties in the same municipality in Upstate New York. She employed methodologies from both the leased fee and fee simple schools of thought, supported by the actual financial experience of the subject property, and boosted by comparable sales of similar properties in the area. After several years of extensive negotiations, Ms. Forchelli obtained a real estate tax benefit of approximately \$300,000 for our client.



TAX, TRUSTS & ESTATES

**Stephanie M. Alberts, Robert H. Groman, Johanna C. David** and **Lorraine S. Boss** successfully crafted estate plans for dozens of FDT clients over the past three (3) months which included Wills, Trusts (revocable and irrevocable) and advanced directives.

**Stephanie M. Alberts, Cheryl L. Katz** and **Johanna C. David** secured Decrees Granting Probate and Decrees Granting

Letters of Administration for eight (8) estates in the past three (3) months.

After years of litigation, **Cheryl L. Katz** and **Jonathan P. Weiss** successfully represented a beneficiary in receiving her inheritance from her deceased mother's estate. The litigation was commenced due to the estate's executor failing to administer the estate for over three years.

**Cheryl L. Katz** and **Jonathan P. Weiss** successfully represented two distributees in obtaining their inheritance from their deceased cousin's estate. After extensive settlement discussions, it was agreed that each of the clients would receive their entire intestate share of their cousin's estate notwithstanding the terms of the decedent's purported last will and testament offered for probate by a non-family member who was the primary beneficiary under such instrument.

**Cheryl L. Katz** and **Jonathan P. Weiss** successfully represented the decedent's power of attorney agent who was facing contempt charges at the time FDT was retained. Not only was the contempt discharged, but our client was fully released of any and all future liability or charges.

**Robert H. Groman** and **Rachel L. Partain** successfully settled case before the Tax Court regarding an innocent spouse claim. After being denied by the IRS twice, a wife was relieved of over \$500,000 of tax liability resulting from audit adjustments to jointly-filed tax returns.

**Rachel L. Partain** successfully obtained innocent spouse relief from the IRS. A wife was relieved of over \$50,000 of tax liability reported on a jointly-filed tax return.

**Rachel L. Partain** successfully resolved an issue in a case before the Tax Court relating to shareholder loans. The IRS proposed to treat the loans as over \$8 million of constructive dividends, and settled 80-20 in the shareholder's favor.

**Daniel S. Dornfeld** and **Rachel L. Partain** successfully obtained an IRS Private Letter Ruling to obtain an extension of time to make an election to self-certify as a Qualified Opportunity Fund. The fund was unable to file a

timely tax return, and without the extension, would have paid millions of dollars of tax, penalties and interest.



**Daniel P. Deegan, Louis H. Fiore** and **John P. Gordon** closed a \$43,000,000 tax-exempt and taxable bond issuance from Suffolk County Economic Development Corporation on behalf of Agape Community Sports Services – Kings Park, LLC to fund the construction of an indoor/outdoor youth sports complex containing 7 outdoor playing fields and a 71,000 indoor sports complex, part of the broader DestinationKP project being developed in Kings Park, which will also contain medical offices.

**Daniel P. Deegan** and **John P. Gordon** closed a financial assistance package on behalf of The Hillcrest of Floral Park LLC with the Town of Hempstead Industrial Development Agency for the construction of a 36,000 square foot building with 12 residential apartments and 6,800 square feet of ground floor commercial space on Covert Avenue in Floral Park. There was previously a one-story row of businesses at the property, which were destroyed by fire in 2020.

**Daniel P. Deegan, Louis H. Fiore** and **John P. Gordon** closed a financial assistance package with the Nassau County IDA for the renovation of an existing 288,000 square foot office building in Woodbury to incentivize job creation and job retention at the site. The new owner sought the PILOT to make the building, which has significant vacancy, more attractive to both incoming and existing tenants.

**Daniel P. Deegan, Louis H. Fiore** and **John P. Gordon** closed a financial assistance package with the Nassau County IDA for the development of a 3-story addition to an existing office building in the Village of Mineola's Historic Overlay District to add 30 residential apartments. ■

## EVENTS & SPEAKING ENGAGEMENTS

As Chair of the NYSBA Trusts and Estate's Legislation Committee, **Cheryl L. Katz** organized and held numerous meetings with the NYS Surrogate's Court Advisory Committee to work on the drafting of new legislation concerning the execution of Electronic Wills in New York. The meetings are attended by various Surrogates and trusts and estates practitioners. The project will be ongoing for many months.

**Daniel P. Deegan, Brian W. Kennedy, John P. Gordon** and **Brian R. Sahn** attended the ribbon cutting ceremony for The Belmont at Eastview.



**Danielle B. Gatto, Lisa M. Casa** and **Bret L. McCabe** presented a CLE for the Nassau County Bar Association's Dean's Hour titled, "Negotiating and Litigating Arbitration Clauses." Hon. **Peter B. Skelos** (Ret.) led the panel of attorneys.

FDT was a Bronze Sponsor at the Long Island Hispanic Bar Association's Annual Installation and Scholarship Gala. **Jonathan P. Weiss, Cheryl L. Katz** and **Camila Morcos** attended.



**Lisa M. Casa** spoke on a panel at the Third Annual National Interdisciplinary Cannabis Symposium at New York Law School.

**Mary E. Mongioi** was invited by Andrea Crabtree (a veterinary consultant) and David Liss (a veterinary management professional) to be a guest speaker on the podcast episode, "The Importance of Veterinary Attorneys." They discussed the importance of having a good relationship with your practice attorney. Ms. Mongioi explained the

different types of buying & selling practices, real estate, the importance of employee contracts, DEA compliance, restrictive covenants, and SOPs.

**Gerard R. Luckman, James C. Ricca, Brian R. Sahn** and **Daniel S. Dornfeld** attended the Institute of Management Accountants' (IMA) State of the Real Estate Market Networking Event. Mr. Luckman spoke at the event on behalf of the firm.

FDT was a Platinum Sponsor at the Nassau County Bar Association's Judiciary Night. **Lisa M. Casa, Stephanie M. Alberts, Danielle B. Gatto, Michael A. Berger, Gregory S. Lisi, Jacqueline A. Rappel, Russell G. Tisman, Gabriella E. Botticelli, Andrew E. Curto** and **Richard A. Blumberg** attended.

**Donald F. Leistman, Robert L. Renda, Jason M. Penighetti** and **Myrna Cadet-Osse** attended the American Property Tax Counsel's (APTC) Annual Client Tax Seminar.



**Daniel P. Deegan, John P. Gordon, Brian W. Kennedy, Judy L. Simoncic** and **Laureen Harris** attended the Long Island Business Development Council's (LIBDC) 54th Annual Economic Development Conference.

**Mary E. Mongioi** attended the NY Vet Show conference and exhibit hall for leading thinkers, visionaries and practitioners in small animal medicine. Following the conference, Ms. Mongioi and Anthony LaPolla from Empower Business Strategies, hosted industry professionals at a cocktail reception. **Elbert F. Nasis, Jeremy M. Musella, Alex Kerzhner, Rachel L. Partain, Michael A. Berger** and **Kristina Filippi** attended.



**Cheryl L. Katz** spoke at the NYSBA's Trusts & Estates Practitioner Networking Reception. This program introduced law students to the fundamental nuts and bolts of the Section's ever-evolving area of the law.

## EVENTS & SPEAKING ENGAGEMENTS: CONTINUED

**Douglas W. Atkins, Donald F. Leistman, Nicole S. Forchelli** and **Julia J. Lee** attended the IPT Property Tax Symposium in Tucson, Arizona. The symposium offers new and varied perspectives on a wide array of topics relevant to those in property taxation. FDT was the Monday Breakfast sponsor.



**Lisa M. Casa** was a speaker at the Women Economic Developers of Long Island's (WEDLI) Cannabis Update Program. **Julia J. Lee** attended.

**Johanna C. David** presented at NCBA's "Dean's Hour – Cultural Considerations for Today's Legal Practitioner-How Can We Better Serve the Needs of a Diverse Client Population?" hybrid event.

**Stephanie M. Alberts** chaired and **Cheryl L. Katz** spoke at the NYSBA "probate and Administration of Estates 2024" virtual webinar.

**Kathleen Deegan Dickson** participated in the LIBI Women's Committee panel on Women Attorney for Construction Law and

presented on the necessity of and challenges involved in obtaining building permits for projects.

**Donald F. Leistman** was a panelist at the Hofstra Breslin Center for Real Estate Studies Careers in Real Estate Panel Discussion and Networking Event, which was co-hosted with the Hofstra School of Law Real Estate Law Association.

FDT was a Bronze Sponsor at Vision Long Island's Smart Growth Summit. **Judy L. Simoncic, Kathleen Deegan Dickson, Andrea Tsoukalas Curto, John P. Gordon, Brian W. Kennedy, Philip A. Butler** and **Gregory Kalnitsky** attended.



FDT was a Silver Sponsor at Vision Long Island's 25th Anniversary Gala.

On behalf of NYSBA's Trusts and Estates Legislation Committee and New York State's Surrogate's Court Advisory Committee, **Cheryl L. Katz** organized and participated in a plenary meeting to work on new proposed legislation concerning No Contest Clauses applying to trusts. ■

## FIRM MENTIONS

### NEWSDAY FEATURED:

- **Daniel P. Deegan** in the article, "Suffolk IDA Needs to Take a Tougher Stand on Canon." Dan is an attorney for Canon.
- **Judy L. Simoncic** in the article, "Pitch for 24-hour 7-Eleven gas station in East Norwich draws opposition."

### LONG ISLAND BUSINESS NEWS FEATURED:

- **Johanna C. David** in WHO's WHO Women in Professional Services special section.
- **Joseph V. Cuomo** in the LI Focus: Law feature, "The upcoming Corporate Transparency Act: What are the implications?"
- **Lauren Harris** in the special section, Influencers: Most Influential Long Islanders.
- **Frank W. Brennan** was interviewed in the article, "New OSHA rule: 'safety first' gets a second look."

### NEW YORK REAL ESTATE JOURNAL

### PUBLISHED:

- **James C. Ricca's** article, "Real Estate Transfer Methods".
- **James C. Ricca** and **Lindsay Mesh Lotito's** article, "Effects of the NAR Settlement in New York".
- **Philip A. Butler's** article, "Positive Forecast for New York's Pro-Housing Push?"

### LIVMA NEWS PUBLISHED:

- **Jeremy M. Musella's** article, "How to Fetch Your Purr-fect Practice: Forming Your Professional Entity in New York".
- **Mary E. Mongioi** and **Jeremy M. Musella's** article, "Transitioning 'Tails': A Veterinarian's Journey Through Due Diligence".

### NORTHEAST REAL ESTATE BUSINESS PUBLISHED:

- **Jason M. Penighetti** and **Carol Rizzo's** article, "To Increase Affordable Housing, New York State Must Make Changes". ■

FDT RECEIVED 2025 BEST LAW FIRMS® RANKINGS:



- *Metropolitan Tier 1 on Long Island in Employment Law - Management and Land Use and Zoning Law*
- *Metropolitan Tier 2 on Long Island in Litigation - Labor and Employment and Real Estate Law*

---

JAD S. SAYAGE



*Jad has joined the firm as an associate in the Real Estate practice group*

LAUREEN HARRIS



*FDT congratulates Lauren Harris who was selected by LIBN as one of Long Island Business News' Most Influential Long Islanders of 2024*

NOTABLE APPOINTMENTS



**Andrea Tsoukalas Curto** was appointed CIBS Board Member and Co-Chair of the CIBS W Committee.



**Elbert F. Nasis** was elected to the board of Long Island Metro Business Action (LIMBA).



**Mary E. Mongioi**, partner and chair of the firm's Veterinary practice group, has been appointed as Co-Chair of its Corporate and Mergers & Acquisitions practice group.



**Daniel P. Deegan**, a partner in the firm's IDA/ Government Incentives practice group, will be the sole honoree of The Society of the Friendly Sons of St. Patrick of Long Island, Inc.'s 38th Annual Emerald Ball.

**THE TAX, TRUSTS & ESTATES PRACTICE GROUP HAS BEEN DIVIDED INTO A "TAX" AND "TRUSTS & ESTATES" PRACTICE GROUP.**



*The new Tax practice group is led by co-chairs Robert H. Groman and Rachel L. Partain*



*The new Trusts & Estates practice group is led by co-chairs Stephanie M. Alberts and Robert H. Groman*

## SUFFOLK COUNTY OFFICE GRAND OPENING EVENT RIBBON CUTTING CEREMONY



TO BETTER SERVE OUR CLIENTS ACROSS LONG ISLAND.

TAX • TRUSTS & ESTATES • BANKING & FINANCE • TAX CERTIORARI  
CONDEMNATION • LITIGATION • ENVIRONMENTAL • IDA • REAL ESTATE  
CONSTRUCTION • EMPLOYMENT & LABOR • LAND USE & ZONING  
CORPORATE AND M&A • VETERINARY • BANKRUPTCY • CANNABIS

333 Earle Ovington Blvd., Suite 1010 | Uniondale, NY 11553  
100 Motor Parkway, Suite 115 | Hauppauge, NY 11788  
516.248.1700 | forchellilaw.com