

# Personal Planning Strategies

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## **Under Proposed changes to New York's Estate, Gift and Generation-Skipping Transfer Tax Rules, There Are Advantages to Making Gifts Before April 1, 2014**

New Yorkers may have an unusual opportunity to make tax-favored gifts until April 1, 2014. New York Governor Andrew Cuomo has submitted a budget proposal which, if adopted, would significantly change the rules pertaining to the calculation of New York State's estate tax and the way lifetime gifts are treated. However, the proposal would not apply to gifts made prior to April 1, 2014.

Under the proposed law, all lifetime gifts would be added back into the estate of the donor for New York State estate tax purposes. The effect of this would be to increase the value of the donor's taxable estate at her death. Under the current law, which would apply to gifts completed before April 1, 2014, lifetime gifts are not subject to gift tax at the state level and are not part of the taxable New York estate. Aside from minimizing the donor's New York taxable estate, making lifetime gifts may produce the added benefit of excluding all income and appreciation generated by the gifted assets entirely from the donor's estate. The proposed legislative change would negate substantial tax savings now available to many New Yorkers.

The proposal also includes measures to increase the amount of property that can pass free of New York State estate tax (called the "exemption") from its current \$1 million level to \$5.34 million, subject to annual inflation indexing. Notably, however larger estates would receive no exemption at all under the proposed legislation. Individuals with significant assets should consider making strategic gifts before April 1, 2014 to decrease their net worth and take advantage of the New York exemption which might otherwise be entirely unavailable.

To discuss gifting opportunities prior to April 1, 2014 and any associated tax implications, please contact one of the attorneys in the Personal Planning Department at Proskauer Rose LLP.

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