



**WINTER  
2025**

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# planning matters

PRACTICAL INSIGHTS INTO  
ESTATE PLANNING & WEALTH PRESERVATION

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# transfer tax exemptions for 2025

by Anne Marie Robbins, Esq.



On October 22, 2024, the IRS issued Revenue Procedure 2024-40 setting forth the inflation adjusted transfer tax exemptions for 2025. The Basic Exclusion Amount (BEA) will be \$13,990,000. The increase means that in 2025, an individual may make gifts during life or at death totaling \$13,990,000 without incurring gift or estate tax; a married couple will be able to transfer \$27,980,000 of assets free of transfer taxes. The Generation-Skipping Transfer (GST) Exemption under section 2631 of the Code will also increase to \$13,990,000.

The annual gift tax exclusion provided by Code section 2503 will increase in 2025 to \$19,000 per donee (or \$38,000 if spouses elect gift-splitting).

The gift tax annual exclusion for gifts to non-citizen spouses as set forth in Code sections 2503 and 2523(i)(2) will increase to \$190,000.

The 2025 exemptions mean that even a taxpayer who has fully used the BEA to shelter lifetime gifts will be able to give an additional amount this year free from transfer taxes.

Those who have made large gifts to irrevocable trusts or outright to descendants should consider additional gifts in 2025 to take advantage of the increases in the BEA and the GST Exemption. We recommend consulting your estate planning attorney about strategies that will secure the benefit of the larger estate, gift and GST exemptions, which under current law are scheduled to sunset at the end of 2025.

## charitable residuary beneficiaries under a will

by James K. Estabrook, Esq. & Gozde Celik, Esq.

For many, designating a portion of one's estate to charities and charitable purposes is an essential and significant part of their Last Will and Testament. Those seeking to make contributions to causes and organizations they are passionate about should be wary of the costs entailed in how such contributions are distributed. Under New Jersey law, when such contributions are designated in the form of a residuary bequest, the State Attorney General is required to exercise its power to protect the public's interest in charitable gifts and seek costly accounting and lengthy review services, which ultimately drain the estate of funds it could have extended to the aforementioned charitable causes and organizations.

Under N.J. Ct. R. 4:80-6 and R. 4:28-4, the New Jersey State Attorney General is required to review and approve the accounting and administration of an estate when the estate leaves a residuary, or percentage, amount to a charitable organization. The Office of the Attorney General will require the filing of:

1. intermediate and/or final Accounting;
2. statement and calculations of any commissions paid to trustees or executors;
3. final distribution and disbursement schedule of bequests;
4. affidavit of any attorney's and accountant's rendered services; and

5. Refunding Bond and Releases executed by the charitable beneficiaries.

After receiving such documentation, the Attorney General's office must approve the amount the charitable beneficiaries are being given, and such approvals could face backlogs and other administrative delays. Further, a thorough examination into the charitable organization could jeopardize its ability to receive its bequest and could even result in a court redirecting the bequest to a different charity under the *cy pres* doctrine, as a recent decision in the Appellate Division revealed. See *Matter of Estate of Heinecke*, No. A-3604-21, 2024 WL 1125186 (N.J. Super. Ct. App. Div. March 15, 2024).

In order to optimize the administration of the estate and maximize the desired bequests to charitable organizations, individuals should consider fashioning their bequests in specific amounts or by specific items rather than leaving percentages or the residuary of the estate to such causes. Doing so will ensure that the distribution of the contribution under the estate will not be subject to the costly and lengthy accounting and legal services under R. 4:80-6 and R. 4:28-4 and will ultimately give more control and autonomy to the individual making the bequest.

# umbrella liability insurance

by Elizabeth Candido Petite, Esq.



Clients often ask about ways to protect their assets and limit liability in the event of future creditors. Transferring assets to trusts, limited liability companies, or into the names of others (for example, a spouse or child) may work in some instances but all have their drawbacks. Some states allow a grantor to create a self-settled asset protection trust, which safeguards assets from creditors and keeps the assets available to the grantor. However, New Jersey law does not allow such trusts. Limited liability companies provide protection for legitimate business or income-producing endeavors, such as a rental property, but not for personal assets. And spouses may be liable for their partner's debts in certain circumstances.

## What, then, can be done?

One option to consider is purchasing umbrella liability insurance. An umbrella policy provides additional coverage beyond the limits of homeowners or auto insurance policies. An umbrella policy typically covers the following:

- Personal injury
- Property damage
- Slander, defamation, or libel
- Legal defense costs

Umbrella insurance kicks in when the limits of your home or auto policies run out. For example, assume you get into a car accident and are sued. A judgment (or settlement) determines you are responsible to pay \$1 million. Your auto insurance coverage policy is for \$500,000. Once you pay the deductible, the insurance company would pay \$500,000. The umbrella policy would cover the remaining \$500,000. Without

the umbrella policy, you would be personally responsible for that remaining amount.

## Policy Pricing

Typical umbrella policies may be purchased in amount ranging from \$1 million to \$10 million, and the premiums are relatively inexpensive. The amount you should purchase depends on your total assets and your existing policies' limits.

Businesses are also eligible to purchase umbrella insurance. Commercial umbrella policies are often purchased for up to \$25 million in coverage to protect a business from expenses not covered by general liability and commercial auto policies in the event of a judgment or settlement. This could be the difference between continuing operations or being forced to go out of business.

## Policy Coverage

Umbrella insurance does not cover every situation. Typical exclusions include intentional or criminal acts and liability associated with contracts into which you have entered. It is important to read the terms of the policy to ensure that the protection you are purchasing is adequate for your situation.

Some policies may also provide coverage if you are sued in your capacity as a director of a nonprofit organization or as the executor of an estate or trustee of a trust. Typically, people do not think about this risk when they accept the position of executor of an estate, and that could be a costly mistake. With the rise in blended families and when emotions are already on high alert after the death of a loved one, family squabbles often morph into lawsuits claiming mismanagement or negligence by the fiduciary. Umbrella insurance might offer some protection here, as could other types of insurance specifically designed for these roles.

We recommend you consult your insurance agent and other advisors to determine whether umbrella liability insurance—and how much—is right to protect you and your family.



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