



Changes to the Estate and Gift Tax Exemption

Changes to the estate and gift tax exemption, made by the massive Tax Cuts and Jobs Act (TCJA) effective beginning in 2018, will result in many fewer estates being subject to the 40% tax, and larger estates owing less tax.

Before the TCJA, the first \$5 million (as adjusted for inflation in years after 2011) of transferred property was exempt from estate and gift tax. For estates of decedents dying and gifts made in 2018, this “basic exclusion amount” as adjusted for inflation would have been \$5.6 million, or \$11.2 million for a married couple with proper planning and estate administration allowing the unused portion of a deceased spouse’s exclusion to be added to that of the surviving spouse (known as “portability”).

Exclusion doubled

The new law temporarily doubles the amount that can be excluded from these transfer taxes. For decedents dying and gifts made from 2018 through 2025, the TCJA doubles the base estate and gift tax exemption amount from \$5 million to \$10 million. Indexing for post-2011 inflation, brings this amount to approximately \$11.2 million for 2018, and \$22.4 million per married couple, with some basic portability techniques.

A related transfer tax, called the generation-skipping transfer (GST) tax, is designed to prevent avoidance of estate and gift taxes by skipping transfers to the next successive generation. The TCJA doesn’t specifically mention generation-skipping transfers, but since the GST exemption amount is based on the basic exclusion amount, generation-skipping transfers will also benefit from the post-2017 increased exclusion.

This increased exclusion amount may have an impact on your current estate plan and cause you to consider the need to redraft some important documents, including wills and trusts.

Disclaimer

These materials are presented with the understanding that the information provided is not legal advice. Due to the rapidly changing nature of the law, information contained in this publication may become outdated. Anyone using these materials should always research original sources of authority and update this information to ensure accuracy when dealing with a specific matter. No person should act or rely upon the information contained in this publication without seeking the advice of an attorney.

Circular 230 Notice

With respect to federal tax issues, no advice, statement or information contained in this communication is intended to be, or written for the purpose of being, (a) relied upon by a taxpayer as the exclusive basis to avoid penalties under the Internal Revenue Code, or (b) used in connection with the promotion, marketing or recommendation of any tax shelter product or tax shelter transaction.

Questions?

Please contact a member of the Bowles Rice Tax Team if you wish to discuss how these, or any of the many other changes in the TCJA, could affect your particular tax situation, and the planning steps you might consider in response.

Mike Caryl

(304) 264-4225
mcaryl@bowlesrice.com

Bob Kiss

(304) 347-1736
rkiss@bowlesrice.com

Marc Monteleone

(304) 347-1132
monteleone@bowlesrice.com

Alison Cox

(304) 264-4211
aacox@bowlesrice.com

David DeJarnett

(304) 264-4232
ddejarnett@bowlesrice.com

Emily Lambricht

(304) 347-1124
elambricht@bowlesrice.com

Kin Sayre

(304) 264-4226
ksayre@bowlesrice.com

Melissa Hall

(724) 514-8942
mhall@bowlesrice.com

Rick Hudson

(304) 420-5511
rhudson@bowlesrice.com

Breck Martin

(304) 420-5506
bmartin@bowlesrice.com

Seth Wilson

(304) 285-2531
swilson@bowlesrice.com

Amy Lamp-Leonard

(304) 264-4235
aleonard@bowlesrice.com