Estate and Gift Tax: Key Tax Reform Takeaways

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Congress pushed through massive changes to the federal tax law, most of which are effective beginning in 2018. One of the most significant changes made was to the estate and gift tax law.

Estate and gift tax lifetime "exemption" more than doubles, from $5.49 million in 2017 to approximately $11.18 million per person in 2018.

This is the amount of assets that any person can pass to their heirs through gifts during their lifetime, or via their estate at death. Married couples can pass $22.36 million on a combined basis. Obviously this change removes a large percentage of people from the already small pool of estate taxpayers. As such, it's not anything that most taxpayers need to spend time planning for in the near future. One caveat: The increased exemption sunsets, and the former $5.49 million exemption comes back into play on Jan. 1, 2026. If your estate assets fall in between the old exemption and the new one, you will need to plan around the 2026 sunset.

The Ohio estate tax was repealed in 2013, and the Florida estate tax was repealed at the end of 2004, so Ohio and Florida residents don't need to file anything at the state level, unless they own real estate or personal property in a state that still levies a tax. There are still a number of states that maintain estate or inheritance taxes, including Ohio's neighbors Pennsylvania and Kentucky, and they will tax any property located in their state. If you do own property outside Ohio / Florida, this is something to consider in your estate planning.

Gift tax "annual exclusion" increases from $14,000 in 2017 to $15,000 in 2018.

While not affected by the new tax bill, this change increases the amount that any person can gift to another person without the requirement of filing a gift tax return. As such, married couples can now gift $30,000 to any other person.

More options for Section 529 annual gifts.

If you make annual gifts to 529 plans for your children or grandchildren, take note: The new tax law allows for tax-free distributions for private elementary and secondary school education, making them a more flexible tool. See related blog.

At the state level, Ohio increased the maximum income tax deduction from $2,000 to $4,000 per year, per beneficiary starting in 2018. It's not a huge tax savings, but it provides a little extra incentive to save for those ever-increasing college expenses. If you gift more than $4,000, the excess contribution carries over to future years.

Time to maximize the step-up in basis of your assets.

The tax law permits your heirs to increase the cost basis of any assets they inherit to the fair market value at your death. What is more critical for the vast majority of people going forward is to focus on maximizing this “step-up in basis.” This is straightforward if you are single, but if you are married, the key is to try to obtain a second step-up in basis on any assets that transfer at the death of the first spouse.

For those of you with standard revocable living trusts drafted in the last few decades, it’s time to dust off those documents and discuss them with an expert. In many cases, those trusts will be drafted to pass 100% of the trust assets to a “family trust” under this new tax regime. That was great planning 20 years ago when the estate exemption was $625,000, but under the new law the exempted assets will lose the step-up at the surviving spouse’s death, and likely won’t save you any estate taxes.