

Estate Planning

The New and Not So New

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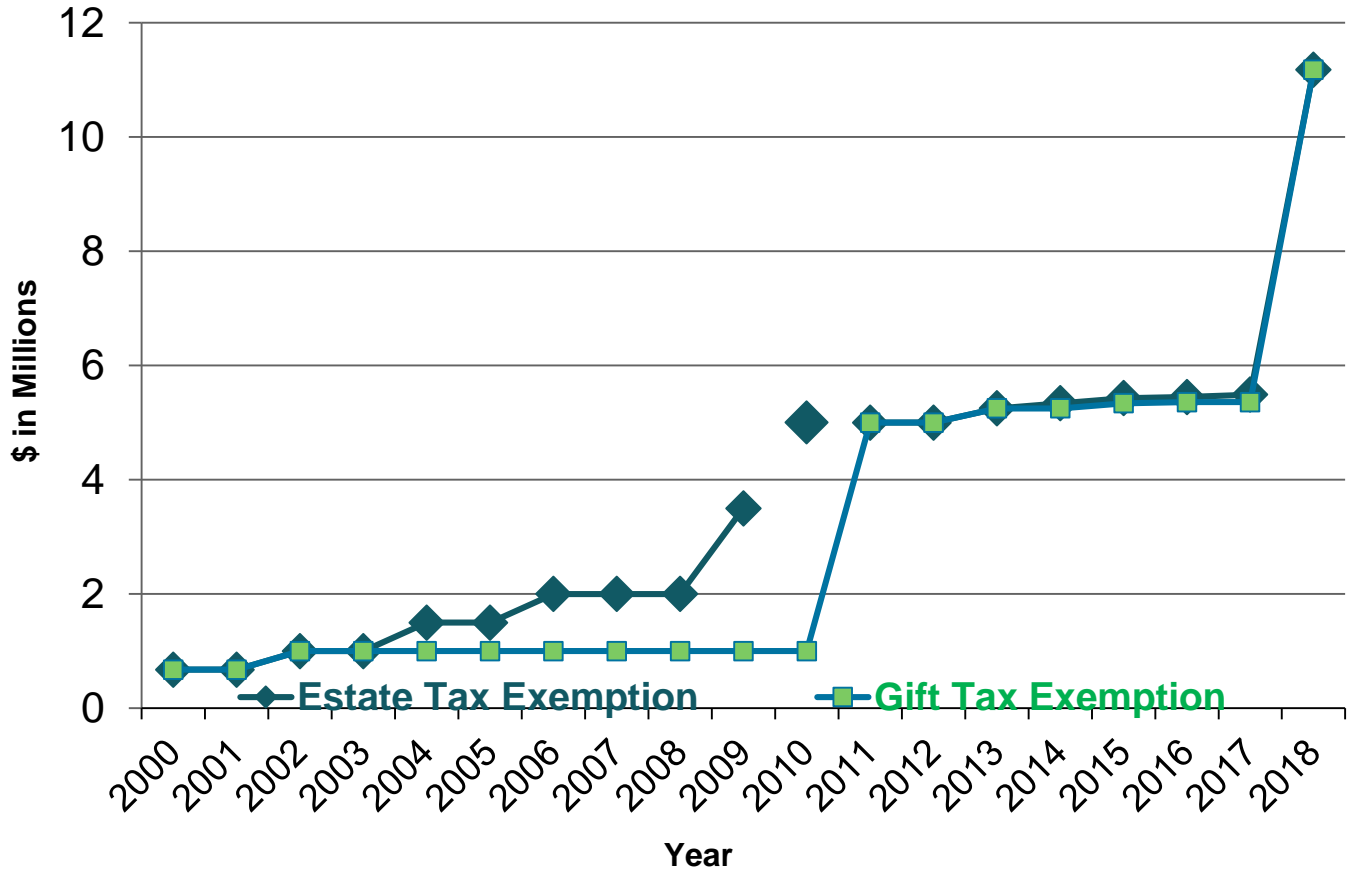
Changes Affecting Estate Planning

- Fluctuations in Wealth.
- Changes in Estate and Gift Tax.
- Changes in Income Tax.
- Changes in Family/Objectives.

Dow Jones INDU Average



Estate & Gift Tax Exemption Amount



Maximum Estate & Gift Tax Rates



Basic Tax Rules

- Gratuitous transfers are subject to tax.
- Exemptions and Deductions:
 - Annual gift tax exemption.
 - Applicable exclusion amount (including “portability”).
 - Unlimited marital deduction.
 - Unlimited charitable deduction.
- Adjusted Tax Basis on death.
- State may tax transfers.

Basic Tax Rules

(Continued)

- Examples:
 - Annual Gifts.
 - Combining the applicable exemption with the marital deduction.
 - Exemption Trust.
 - Portability.
 - Gifts during lifetime.
 - Valuation of transferred assets.
 - Title to assets.

Tax Law Changes

- Gratuitous transfers – *gift and estate tax rates are at near historic lows.*
- Annual Exclusion – *small changes.*
- Applicable Exclusion – *historic high; portability.*
- Unlimited marital deduction – *no change.*
- Unlimited charitable deduction – *no change.*
- Generation skipping tax exemption – *historic high.*
- Income tax – *changes for 2018:*

- Federal 37%
- California 13%
- Healthcare 3.8%
- Alt Min Tax 28%

Gift and Estate Taxes

Year	LIFETIME GIFT-TAX EXEMPTION	TOTAL GIFT AND ESTATE-TAX EXEMPTION	GST TAX EXEMPTION	GIFT, ESTATE, AND GST TAXES/TOP RATE
2001	\$675,000	\$675,000	\$1.06 million	55% ^a
2002	\$1 million	\$1 million	\$1.1 million	50%
2003	\$1 million	\$1 million	\$1.1 million	49%
2004	\$1 million	\$1.5 million	\$1.5 million	48%
2005	\$1 million	\$1.5 million	\$1.5 million	47%
2006	\$1 million	\$2 million	\$2 million	46%
2007	\$1 million	\$2 million	\$2 million	45%
2008	\$1 million	\$2 million	\$2 million	45%
2009	\$1 million	\$3.5 million	\$3.5 million	45%
2010	\$1 million	\$5 million/Unlimited ^b	\$5 million/Unlimited ^b	35% ^b
2011	\$5 million	\$5 million	\$5 million	35%
2012	\$5.12 million	\$5.12 million	\$5.12 million	35%
2013	\$5.25 million	\$5.25 million	\$5.25 million	40%
2014	\$5.34 million	\$5.34 million	\$5.34 million	40%
2015	\$5.43 million	\$5.43 million	\$5.43 million	40%
2016	\$5.45 million	\$5.45 million	\$5.45 million	40%
2017	\$5.49 million	\$5.49 million	\$5.49 million	40%
2018	\$11.18 million	\$11.18 million	\$11.18 million	40%

^a A 5% surcharge can apply

^b Depends on whether gift or bequest and, if bequest, what election was made

Implications of Current Tax Law

- Most current planning remains appropriate, but...
- Appropriate to review objectives.
- Analyze current estate plans; there may be planning opportunities (e.g., higher exemption, portability -- exemption trust vs. step up in basis on second death).
- The tax changes will change.
- Estate plans have a limited life (*review them often*).
- Take advantage of increased gift tax exemption.
- There is a reluctance to use techniques that incur gift tax.
- Review Retirement Plan Designation.

Implications of Current Tax Law

(Continued)

- Bypass trusts (limit access; creditor protection; lose step up in basis).
- Consider portability depending on likely size of estate of surviving spouse at his/her death.
- Gifts that do not incur tax:
 - Use exclusions/exemptions.
 - Low valuations.
 - Discount planning (2016 Proposed Regulations).
 - GRATS, CLATS, Sales to Defective Grantor Trusts, Loans (all of these benefit from the historic low discount rate).
 - Private foundations, Donor Advised Funds, Support organizations.
 - Dynasty trusts.

Retirement Plan Distributions

- Distributions at death subject to estate tax and income tax.
- General rule for beneficiary designation.
- For those interested in charity, good asset to leave to charity at death.
- Gifts from retirement plan to charity during lifetime (\$100,000 limit).



Estate Planning in Low Interest Rate Environment

- Intra family loans.
- Installment sales to family members (Defective Grantor Trusts).
- GRATS, CLATS, Gift of Remainder Interest in Residence.

Historic Low Interest Rate

Section 7520 Rate



Combining Estate Planning Techniques

- Charitable Remainder Trust (“CRT”)
 - Appreciated assets placed in trust – no tax on sale.
 - Income stream to trustor.
 - Remainder to charity – income tax deduction.

Combining Estate Planning Techniques

(Continued)

- Irrevocable Life Insurance Trust (“ILIT”)
 - Appreciated assets placed in trust – no tax on sale.
 - Income stream to trustor.
 - Remainder to charity – income tax deduction.
 - Trust assets avoid estate tax.
- Combining CRT & ILIT
 - CRT provides tax free sale, stream of income and gifts to charity.
 - ILIT provides children assets to replace assets that went to charity.