Estate Planning
The New and Not So New

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Reunion Weekend 2018
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

$ in Millions

Year


Estate Tax Exemption
Gift Tax Exemption
Maximum Estate & Gift Tax Rates

Tax Bracket Percentile

Year

Estate Tax
Gift Tax
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%
  - Healthcare 3.8%
  - California 13%
  - Alt Min Tax 28%
## Gift and Estate Taxes

<table>
<thead>
<tr>
<th>Year</th>
<th>LIFETIME GIFT-TAX EXEMPTION</th>
<th>TOTAL GIFT AND ESTATE-TAX EXEMPTION</th>
<th>GST TAX EXEMPTION</th>
<th>GIFT, ESTATE, AND GST TAXES/TOP RATE</th>
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<tbody>
<tr>
<td>2001</td>
<td>$675,000</td>
<td>$675,000</td>
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<td>55%a</td>
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<tr>
<td>2010</td>
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<td>$5 million/Unlimitedb</td>
<td>$5 million/Unlimitedb</td>
<td>35%b</td>
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<td>2018</td>
<td>$11.18 million</td>
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<td>40%</td>
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</table>

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.
  - 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

Year

Percent (%)


September 2018 3.4%
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.