2026 Gift and Estate Tax Changes

Planning for 2026 When the Gift and Estate Tax Exemption is Cut in Half

The current federal lifetime gift and estate tax exclusion is $12,920,000. The exclusion is expected to rise in 2024 and 2025 due to inflation. However, this is only a temporary increase that will go down after 2025 due to the Tax Cuts and Jobs Act. The exemption in 2026 will go down to $5,000,000 indexed for inflation which would make it around $6,800,000 in today's terms.

The sunsetting of the current threshold in 2026 illustrates the need for high-net-worth individuals to plan prior to the reduction in the exclusion amount. By making gifts, a taxpayer can utilize the exemption to reduce their taxable estate.

Use It or Lose It

For individuals who have very large estates, this should be a no-brainer. The IRS has ruled that beginning in 2026, an individual's tax threshold is going to be the greater of the exclusion in effect at the time of death or the total taxable gifts previously made using the exclusion in effect at that time.

This means that any exclusion not used prior to 2026 will be lost. However, any gifts made in excess of the 2026 exclusion amount in place prior to 2026 will still utilize the higher exclusion amount that has already been used. If gifts are split between spouses and with a current exclusion of $13 million the spouses could convey up to $25 million in 2023-2025 to prepare for the reduction in 2026.

Other Transfer Techniques

Limited Partnership Using Discounted Gifts

A limited partnership places restrictions on the gifted interests, resulting in a discounted gift of partnership interests which cannot be marketed publicly and cannot be sold to anyone but the partnership or another partner thus reducing the value of the gift due to lack of liquidity and restrictions on transfer or marketability. The lack of ability for limited partners to participate in decision making also enhances the value of the discount.

The ability for limited partners to participate in decision making also enhances the value of it. This kind of partnership has a restricted limit on the gifted interest. Since the gifted interest is limited, it cannot be given to anyone but the partnership or another partner thus reducing the value of the gift due to lack of liquidity.

American National has several products that work well with the trusts and partnership/ LLC enumerated above depending upon the client's goals and objectives. If a death benefit is the only requirement, American National's Signature Protection IUL policy provides a guaranteed death benefit at one of the lowest cost permanent products for premium/death benefit. This product does not try to build cash value but relies on a guaranteed death benefit at a reduced cost.

Life Insurance Held Outside the Estate

It is important to illustrate the need for life insurance to business-owning clients. Life insurance creates estate liquidity precisely at the moment it's needed. Furthermore, life insurance death benefits are often characterized as "discounted" dollars since payment of a relatively modest, yearly premium guarantees that the full face amount of the policy is available when needed.

The client can use a trust, partnership, or LLC to own the life insurance that will pass outside the owner's estate and provide the inheriting children a chance to run the company.

If a client wants not only a death benefit but also supplemental retirement income, the **Signature Performance Indexed Universal Life** policy may be the best choice. Performance IUL has the opportunity for growth in cash value based upon various indexed strategies that offer downside protection in a bad market while still allowing for upside growth.

Other Transfer Techniques

Charitable Trusts

Charitable trusts are a means to reduce estate taxes and pass additional assets for the benefit of children or the insured. Charitable trusts are best used if the grantor has a charitable intent they also wish to satisfy.

With charitable remainder trusts, the trust makes distributions to the grantor(s) for a period of years for the life of the beneficiaries with the remainder interest passing to charity at the end of the trust term.

Intentionally Defective Grantor Trusts

With an intentionally defective Grantor Trust, the Grantor sets up the Trust and gifts funds to the trust for the future benefit of the beneficiaries of the trust. By intentionally making this a defective Grantor Trust, the Grantor releases **all ownership** in the assets but from an income tax standpoint the grantor retains taxability of the trust and can make tax free gifts to the trust by paying income taxes on the trust income. This allows the grantor to make additional gifts by paying the trusts' taxes thereby assuring that the trust is undiluted from taxes paid out of trust assets.

Grantor Retained Annuity and Unitrust Trusts

This is a type of irrevocable trust whereby the donor transfers assets to a trust retaining an income interest for a term of years or for life. By retaining an income interest, the amount of the future gift is reduced due to the fact it cannot be enjoyed by the beneficiaries until the term of years is up or the individual dies. This allows for a reduction in the value of the gift allowing more assets to pass to heirs at reduced tax rates.

Once the Trust period ends, the beneficiaries receive the assets tax free. During the term of the trust, the grantor receives payments for a term of years which are derived from interest earned or as a percentage of the total value of the assets in the trust. If the grantor dies prior to the end of the term, the trust assets will become a part of the individual's taxable estate.

Taxes will change every few years as they have for decades. The key is to remain proactive and advise clients to utilize the techniques discussed here. In this instance especially, the sooner your clients can carve out a solid plan, the more money they can potentially save. This is a chance to visit with your high-net-worth clients to show them how they can navigate the changing gift tax exclusion over the next few years.

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