

The Jaffe Update

Legal News Delivered

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Impact of Federal Tax Reform on Estate Planning

On December 22, 2017, the Federal Tax Cuts and Jobs Act (the “Act”) was enacted into law, resulting in significant changes to the federal estate, gift and generation skipping transfer taxes effective January 1, 2018.

The Act increased the amount each person may transfer during life or at death to \$11,180,000 without incurring federal gift or estate tax (married couples may transfer a combined \$22,360,000). Transfers in excess of the exclusion amount remain subject to a 40% tax. This increased exclusion amount is indexed for future inflation and is scheduled to remain in effect for eight years (expiring December 31, 2025). Additionally, the generation skipping transfer tax exemption (the “GST exemption”) also increased to \$11,180,000 per person, indexed for future inflation, for the same period.

There was no change in the rules regarding income tax basis for transferred assets. A donor’s basis in gifted property will “carry-over” to the gift recipient, and property owned at death will receive a basis adjustment (up or down) equal to the fair market value of the property on the date of death or alternate valuation date.

Apart from the Act revisions, the annual gift exclusion increased to \$15,000 per recipient in 2018 (married couples may make annual gifts of up to \$30,000 per recipient).

What This Means for Your Estate Plan

The increase in the federal gift and estate exemption amount and the GST exemption amount may have unintended consequences on existing estate plans. It is very important that you contact your Jaffe estate planning attorney to review and discuss whether your documents remain consistent with your intended disposition of your property in light of the changes in the law. Most estate plan documents use a formula approach, based upon your available exemption amounts at the time of your death, to divide assets among beneficiaries. Given the significant increase in these exemption amounts, more of your assets may now be allocated to certain family members under your existing estate plan than desired.

The temporary increases in these exemption amounts provide a window of opportunity to consider making significant tax-free gifts. In addition, there may be income tax savings opportunities to explore.

Please contact your Jaffe attorney to discuss these matters.

For information regarding the Tax Act’s impact on changes to the Internal Revenue Code affecting both individuals and businesses click [here](#)

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27777 FRANKLIN ROAD • SUITE 2500 • SOUTHFIELD, MICHIGAN 48034

PHONE: 248.351.3000 • FAX: 248.351.3082

SOUTHFIELD • DETROIT

ANN ARBOR • NAPLES

www.jaffelaw.com