HCR WEALTH ADVISORS

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The Clarity Formula® – Estate Planning Exemption Limits

The Tax Cuts and Jobs Act signed into law in December of 2017, nearly doubled the estate, gift, and generation skipping transfer tax exemption from $5.49 million to $11.18 million. This exemption limit for 2021 is $11.7 million. For individuals and families with substantial amounts of wealth, this presents an opportunity to leave more money to family members without incurring a "death tax." Timing, however, is of the essence because these increased exemption amounts are scheduled to revert back to the old limits on January 1, 2026. Additionally, as a result of the presidential election and democratic control of both the house and senate, this legislation could change even sooner.

With the change in the exemption limits, it is imperative to review your current trust and ensure it is still in line with your wishes. Particularly, pay attention if your estate plan was designed to pass an amount equal to your remaining federal exemption amount to another trust. The temporary exemption increase provides a window for those with taxable estates in excess of $11.7 million to make much larger tax-free gifts. A gift from your estate not only removes the gifted asset from your estate but also any future appreciation the asset may experience. Gifting assets while you are alive also gives you the chance to see the results of your gift.

The first place to start is with the "freebie" gifts:

1. Annual gift exclusion of $15,000 ($30,000 for a married couple)

If you gift to a trust vs. outright to individuals, make sure "Crummey" notices are mailed to beneficiaries

2. Medical payments paid directly to the medical institution or care provider

Expenses that qualify are the same as those that are deductible for income tax purposes

3. Tuition payments paid directly to the learning institution

Below is a list of other planning opportunities to explore to further take advantage of the increased exemption.

Intentionally Defective Grantor Trust (IDGT)

This irrevocable grantor trust is an estate planning tool used to freeze the assets of an individual for estate planning purposes in order to reduce their estate tax exposure. A loophole in the income tax law allows the grantor to continue paying the income taxes on these trust assets thereby allowing the assets in the trust to essentially grow tax-free and avoid gift taxation for the grantor's beneficiaries.

Spousal Lifetime Access Trust (SLAT)

This irrevocable grantor trust is an estate planning tool used to remove assets from a married couple's combined estate in order to reduce their estate tax exposure. The donor spouse gifts assets to an irrevocable trust for the benefit of the non-donor spouse and future generations. The donor spouse can still indirectly benefit from the assets gifted to the trust as long as the non-donor spouse is alive and married to the donor.

Grantor Retained Annuity Trust (GRAT)

This irrevocable grantor trust with a specified term is an estate planning tool used to minimize taxes on large financial gifts. The grantor transfers assets to the trust but retains the right to receive an annual income stream from the trust for the specified term. The grantor also pays the income tax generated by the trust, allowing the assets to grow income tax free. After the trust term expires and all annual payments have been made to the grantor, the remaining trust assets can be distributed to the beneficiaries free of estate and gift taxes.

Intrafamily Loans

This is an estate planning tool used to transfer assets to beneficiaries without incurring a gift tax. A senior member of the family can make a loan directly to a beneficiary or to a trust for the benefit of a beneficiary. The IRS mandates a specific interest rate for the loan based on its term. The beneficiary can in turn invest that money into an asset with the hopes that it produces a return greater than the interest rate being charged. Because this is a loan, any excess return can be kept by the beneficiary gift tax-free.

The current estate, gift, and generation skipping transfer tax exemption amount coupled with low interest rates presents a rare opportunity for people to significantly reduce the size of their taxable estates. As the laws have changed, it is highly encouraged you confirm your estate plan still addresses your desires. Now is a great opportunity to speak with your advisor and estate planning attorney to ensure this is still the case.

As always, if you have any questions, please do not hesitate to contact your advisor.

Sources: The Balance, Wealthspire, Investopedia, Fidelity, Creative Planning, Wealthspire

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