Trust & Estate Planning Practice Group

KEEP YOUR ESTATE PLAN CURRENT:
Changes in your own life can make a difference.

We want to be sure your estate is planned and updated so that your wishes are fulfilled. The laws governing estates and trusts are constantly changing, and nearly every year there are modifications at the state or federal level that can impact your planning. Changes in your own life can also make a difference.

We have put together a list of life events and other changes that may affect your estate planning. If any of these events or changes have occurred since you executed your estate planning documents, please contact our office so that together we can review your existing plan and advise you about any necessary or suggested updates.

SIGNIFICANT LIFE EVENTS

- Inheritance or gift received
- Health problems or serious illness
- Marriage of a family member
- Dissolution (divorce) or marital separation
- Birth or adoption
- Death or disability of a family member
- Real property purchase outside your state of residence

OTHER CHANGES

- Significant increase or decrease in estate values
- Income level or nature of income
- Asset ownership or business interests, including incorporation or partnership formation
- Employment status
- State residency
- Life insurance coverage or insurability
- Executor, trustee or guardian appointees

The preceding list is not intended to be comprehensive. Other events, including changes in the law, may occur that would necessitate a review of your estate plan.

THE FOLLOWING IS A BRIEF SUMMARY OF THE FEDERAL ESTATE AND GIFT TAX LAWS FOR 2024 FOR U.S. CITIZENS AND INDIVIDUALS DOMICILED IN THE UNITED STATES.

FEDERAL ESTATE AND GIFT TAX EXCLUSION

Barring legislative action by Congress that reduces the exemption amount, in 2024, the federal estate and gift tax exemption is $13,610,000 per individual, which is an increase from the $12,920,000 exemption amount in 2023 (this increase is the result of a statutory inflation adjustment). The effective tax rate for transfers above this threshold remains at 40%. The surviving spouse may be able to use the deceased spouse's unused exclusion amount (the DSUE amount). In order for the surviving spouse to use the DSUE amount, the executor of the deceased spouse's estate makes a "portability election" on the deceased spouse's estate tax return.

ANNUAL EXCLUSION GIFTS

In 2024, each person (donor) has an annual exclusion from the application of the federal gift tax of $18,000 per recipient (donee) per calendar year, which is an increase from the $17,000 annual exclusion amount in 2023 (this increase is also the result of a statutory inflation adjustment). There is no limitation on the number of donees. Annual exclusion gifts are not included in the donor's federal estate and gift tax exclusion. Gifts must be completed by December 31 to qualify for the calendar year exclusion.

INCOME TAX BASIS OF TRANSFERRED ASSETS

Under the current law, a donee does not pay income tax for receiving property by gift or inheritance. However, a donor should be aware of the differences between the income tax basis treatment of assets that are given during life and the assets that are inherited at death. When assets are given, the donor's income tax basis in the given property is transferred to the donee. When assets are transferred at death, the income tax basis of inherited property is generally the fair market value at the time of the decedent's death. As a matter of overall strategy, donors commonly make lifetime gifts of cash or slightly appreciated property and retain highly appreciated assets until death or use such assets to make charitable gifts.

CURRENT ESTATE AND GIFT TAX LAWS SUBJECT TO CHANGE

The Tax Cuts and Jobs Act of 2017 (the Act) effectively doubled the federal estate and gift tax exemption (the exemption was increased from $5,490,000 in 2017 to $11,180,000 in 2018). In recent years, Congress has considered passing tax legislation that would reduce the exemption amount. However, even without new legislative changes to the current estate and gift tax law, the exemption is already set under current law to revert to the pre-Act level ($5,000,000, adjusted for inflation) after December 31, 2025. Therefore, taxpayers likely have a limited window to use the increased exemption amount.

STATE ESTATE AND INHERITANCE TAX

In addition to the federal estate tax, certain states impose a state estate or inheritance tax on residents as well as nonresidents who own property in the state. Either or both of these taxes are imposed by the state or by local jurisdictions in Connecticut, District of Columbia, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington. Most states that impose an estate tax do not impose a gift tax, which can make lifetime gifting strategies even more advantageous.

WANT TO KNOW MORE?

If you have any questions about giving strategies or other issues that may have an impact on your estate planning, please contact your lawyer at Perkins Coie.