

Estate Tax Exemption Rises to 1.5 Million

Time to Review Your Estate Plan

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In accordance with the Economic Growth and Tax Relief Reconciliation Act of 2001 (“2001 Tax Act”), the applicable exclusion for federal estate tax purposes increased January 1, 2004 to \$1.5 million from \$1.0 million in 2003. The federal generation skipping tax exemption also increased to \$1.5 million on January 1, 2004.

Curiously, the lifetime exclusion for gifts did not increase along with the other federal exclusions. The cumulative gift tax exclusion remains at \$1.0 million. Thus, it is now possible to leave more money tax free to heirs at death than through lifetime giving.

Considering the recent increases in estate tax and generation skipping tax exclusions, it is a good time for clients to reevaluate their estate plans. For single individuals and surviving spouses, the increase in exemption automatically increases the amount that can pass tax free to heirs. For married couples, it is necessary for their estate plan to include a credit shelter (or bypass) trust in order to take maximum advantage of the exemption increases. This is a good time to make sure your estate plan is qualified to take the maximum advantage of the increase in the federal exclusions.

The 2001 Tax Act also contains future increases in the federal estate tax exclusion and the federal generation skipping tax exclusion. Below is a chart which illustrates the scheduled increase.

Applicable Exclusion Amounts and Highest Estate and Gift-Tax Rates				
Calendar Year	Estate and GST Tax		Gifting During Lifetime	
	Applicable Exclusion Amount	Highest Estate and GST Tax Rate	Applicable Exclusion Amount	Highest Gift-Tax Rate
2004	\$1.5 million	48%	\$1 million	48%
2005	\$1.5 million	47%	\$1 million	47%
2006	\$2 million	46%	\$1 million	46%
2007	\$2 million	45%	\$1 million	45%
2008	\$2 million	45%	\$1 million	45%
2009	\$3.5 million	45%	\$1 million	45%
2010	N/A (taxes repealed)	N/A (taxes repealed)	\$1 million	Top individual income tax rate
2011 and Beyond	Sunset or Permanent	Sunset or Permanent	Sunset or Permanent	Sunset or Permanent

The tricky part of the 2001 Tax Act occurs in 2010. For that one year, the federal estate and generation skipping taxes are repealed. However, on December 31, 2010, the estate tax and generation skipping tax laws will be restored unless some

future Congress votes to make the repeal permanent. In the past couple of years, the U.S. House of Representatives has voted to make the repeal permanent, but the U.S. Senate has not passed the permanent repeal bill. With Congressional elections approaching this November, it is likely that the permanent repeal issue will be delayed until the next session of Congress. The prospects for permanent repeal after the election will hinge largely on whether there is a significant shift in U.S. Senate seats in the upcoming election.

Given the uncertainty of the federal transfer tax laws, it is important that clients keep abreast of tax law changes and adjust their estate tax plans accordingly.