

Gift, Estate and Generation-Skipping Transfer Tax Changes for 2022

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Now that we are firmly into 2022, there are a number of federal tax changes to consider before making gifts. In sum:

- Gift tax annual exclusion increases from \$15,000 to \$16,000
- Gift/estate tax lifetime exemption increases from \$11.7 million to \$12.06 million
- Generation-skipping transfer tax lifetime exemption increases from \$11.7 million to \$12.06 million

Gift Tax Annual Exclusion

After four years, the annual federal gift tax exclusion has increased from \$15,000 to \$16,000. The annual exclusion is the most you can give away to or for the benefit of a single person within a calendar year without needing to file a federal gift tax return (Form 709) and/or reducing your lifetime exemption (discussed below). If you are married, you can "split" gifts with your spouse, essentially doubling your annual exclusion. For instance, if you are married and your spouse consents, you can gift up to \$32,000 to unlimited individuals in 2022 with no gift or estate tax consequences. The IRS treats the \$32,000 gift as two gifts below the annual exclusion, one from you and one from your spouse. In general, gifts to pay certain education and medical expenses are exempt, even if they are in excess of the annual exclusion, provided they are paid directly to the educational institution or medical provider and not paid to the recipient of the education or medical treatment.

Gift/Estate Tax Lifetime Exemption

There is a common misconception that you must pay gift taxes if you give away more than the annual exclusion to a single recipient. Every taxpayer has a lifetime gift and estate tax exemption amount. In 2022, the lifetime exemption increased from \$11.7 million to \$12.06 million. Unless the tax laws change, the lifetime exemption will drop to approximately \$6.2 million at the end of 2025. Gifts above the annual exclusion described above count against your lifetime exemption and should be reported on a Form 709 gift tax return. Generally, you will only be liable to pay federal gift taxes if your total lifetime gifts exceed the exemption. The only state that currently imposes its own gift tax is Connecticut.

The gift tax is tied to the estate tax. After you die, your executor (if you have a will) or estate administrator (if you don't) will compute the value of your estate and add that to the total taxable gifts you made during your lifetime. If the total amount (after deductions) is greater than the lifetime exemption in the year of your death, your estate must pay estate tax on the amount over the exemption. Rates range from 18% to 40%, depending on the size of your estate. Some states impose their own estate tax with different lifetime exemption amounts. Other states impose an inheritance tax based on the value of after-death transfers and your relationship to the recipient of those transfers.

Generation-Skipping Transfer Tax

The lifetime exemption for a separate but related tax, known as the generation-skipping transfer tax (GST tax), is also increasing from \$11.7 million to \$12.06 million. The GST tax is quite complex. In a nutshell, lifetime gifts and post-death transfers (e.g., through your will or certain trusts) made to or for the benefit of individuals more than one generation removed from you (skip persons) are reported and counted against your lifetime GST tax exemption, which is separate from the lifetime gift and estate tax exemption. To illustrate, if you give \$100,000 to your grandchild in 2022 during your life or through your will, \$100,000 is counted against your lifetime GST tax exemption (and \$84,000 is counted against your lifetime gift and estate tax exemption). If total transfers to skip persons exceed your lifetime GST tax exemption, a flat 40% tax is imposed on the overage. Unlike the gift tax, there is no annual exclusion for the GST tax. Notably, gifts to skip persons are also reportable for gift and estate tax purposes, so it is possible to be liable for both gift/estate tax and GST tax.

The Tax and Estates Group at White and Williams can help you create a tax-efficient wealth transfer plan. If you have questions or would like more information, please contact Andrew J. Barron (barrona@whiteandwilliams.com; 215.864.7167) or another member of the Tax and Estates Group.

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