



Estate Planning Alert

IRS Guidance - Federal Gift and Estate Tax: Large Gifts Using TCJA Increased Exemption Will Not Harm Estates After 2025

November 26, 2019

The Internal Revenue Service ("IRS") has issued final regulations confirming that individuals taking advantage of the increased gift and estate tax exclusion amounts in effect pursuant to the Tax Cuts and Jobs Act ("TCJA") from 2018 to 2025 will not be adversely impacted after 2025 when the exclusion amount is scheduled to drop to the pre-2018 level.

TCJA temporarily increased the federal gift and estate tax basic exclusion amount ("Basic Exclusion Amount") from \$5 million to \$10 million for tax years 2018 through 2025, with both dollar amounts adjusted for inflation. For 2019, the inflation-adjusted Basic Exclusion Amount is \$11.4 million. In 2026, the Basic Exclusion Amount will revert to the 2017 level of \$5 million, as adjusted for inflation.

IRS guidance describing the final regulations states that to address concerns that an estate tax could apply to gifts exempt from gift tax by the temporarily increased Basic Exclusion Amount, the final regulations provide a special rule that allows the estate to compute its estate tax credit using the higher of the Basic Exclusion Amount applicable to gifts made during life or the Basic Exclusion Amount applicable on the date of death.

A decision to make a large lifetime gift, because of the increased Basic Exclusion Amount in 2018 through 2025, should be considered carefully. This should include consideration of income tax consequences and all probable financial and non-tax effects of the gift.

If you have questions about this or other TCJA changes that could affect your tax situation or involve estate planning, please contact your GableGotwals attorney or those who work in gift and estate tax and estate planning named below.

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