New Tax Law Changes Federal And New Jersey Estate and Gift Taxes

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While most of the press has focused on the income tax changes resulting from the Tax Cuts and Jobs Act of 2017 (TCJA), the changes relating to the federal estate and gift tax seemed to have received little attention. That is unfortunate as the changes are significant. TCJA substantially increased the amount of wealth that can pass from one generation to the next free of the imposition of any estate or gift tax. As a result, many families will find that they no longer need to be concerned about the imposition of the federal estate tax. Moreover, for the estates of residents of New Jersey, 2018 brings extraordinary relief.

Federal (IRS) Estate Tax Change

The modern federal estate tax was first imposed in 1916, and the federal gift tax began in 1932. There have been several significant changes along the way. These taxes are imposed on estates and aggregate lifetime gifts over a certain threshold amount. As recently as 1997, the exemption amount was only $600,000 (or $1,200,000 for a married couple). By 2007, that amount had increased to $2,000,000 (or $4,000,000 for a couple). In 2017, the exemption was $5,490,000 ($10,980,000 for a couple).

The TCJA enacted the most significant increase ever in the exemption amount. Starting January 1, 2018, the federal estate and gift tax exemption is now $11.2 million ($22.4 million for a married couple). That means that for the vast majority of estates, the federal estate tax will never be an issue. The federal gift tax exemption was likewise increased to $11.2 million. This means that a married couple can pass $22.4 million to their children and more remote descendants, either during life, or at death, or a combination of both, and there will be no federal estate or gift taxes until these transfers exceed $22.4 million. Additionally, this amount will increase annually with inflation. For those estates in excess of $11.2 million, the estate will have to pay federal estate tax imposed at a 40% rate.

However, the increase in the exemptions for federal estate and gift tax will only remain in effect until December 31, 2025. Without an act of Congress, on January 1, 2026, the old law will come back into effect with a reduced exemption.

Federal Annual Gift Tax Changes

As set forth above, the federal gift tax exemption has increased to $11.2 million in 2018. However, not all gifts are taxable gifts. Federal law provides that certain small gifts given in any year are not subject to the gift tax, and do not result in the reduction in the $11.2 million lifetime exemption. These gifts are typically referred to as "annual exclusion gifts." Likewise, gifts to any individual in any year that do not exceed the annual exclusion, will not require the filing of a federal gift tax return – gifts over the annual exclusion amount will be required to be disclosed on a Federal gift tax return. Beginning on January 1, 2018, the annual exclusion amount is $15,000. This means that you can give $15,000 to any person in 2018 without filing a federal (IRS) gift tax return. A married couple can make gifts of twice this amount, but if the gift comes from only one spouse, a gift tax return must be filed to elect to split the gift (meaning treat ½ of the gift from each spouse). For any gifts in excess of this amount, a gift tax return must be filed and a portion of the $11.2 million lifetime exemption will be consumed. Keep in mind, until lifetime gifts in excess of the annual exclusion exceed $11.2 million in the aggregate, no actual gift tax will need to be paid.

New Jersey Estate Tax Eliminated – New Jersey Inheritance Tax Continued

Also, beginning on January 1, 2018, the New Jersey estate tax has been completely eliminated. That's right . . . you heard it correctly; THE NEW JERSEY ESTATE TAX HAS BEEN REPEALED . . . ELIMINATED . . . KAPUT!!!

The New Jersey inheritance tax, however, will continue in its present form. While the New Jersey estate tax was imposed on all transfers to anyone other than a spouse, the New Jersey inheritance tax is only imposed upon inheritances by individuals who are not charities or Class A beneficiaries.

Class A beneficiaries include a spouse, a child, a grandchild, a great-grandchild, a parent, a grandparent, or a step-child (but not a step-grandchild). You can leave any amount of assets to these Class A beneficiaries and owe no inheritance tax.

Inheritances by other individuals are subject to inheritance taxes at amounts based upon the recipient's Class or relation to the deceased individual. Class C beneficiaries include siblings, a daughter-in-law or a son-in-law. For these beneficiaries the first $25,000 is exempt from the inheritance tax; anything over $25,000 and up to $1,100,000 is taxed at 11%; anything over $1,100,000 up to $1,400,000 is taxed at 13%; anything over $1,400,000 and up to $1,700,000 is taxed at 14%; and any amount over $1,700,000 is taxed at 15%.

All other individual beneficiaries are considered Class D beneficiaries. For these beneficiaries, the first $700,000 is taxed at 15% and the amount over $700,000 is taxed at 16%.

Class E beneficiaries are exempt from the inheritance tax. Class E beneficiaries include qualified charities, religious institutions, educational and medical institutions, non-profit or benevolent institutions, and the State of New Jersey and any of its political subdivisions.

Important Planning Considerations

As a result of the significant increase in the federal estate and gift exemptions, it is imperative that you review your estate plan. The planning which you implemented prior to 2018 may no longer be necessary. Additionally, many estate plans implemented when the federal estate tax exemption was much lower, and the New Jersey estate tax was still imposed, may be counterproductive now.

The attorneys at Einhorn Barbarito are happy to discuss how your estate plan is affected by these recent changes. Please contact Einhorn Barbarito for any questions you have regarding the new tax law.