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News & Alerts

January 17, 2018

2018 Estate Planning Update

Effective January 1, 2018, the federal gift, estate and GST tax exemptions have effectively doubled, increasing to $11,200,000 per individual ($22,400,000 per married couple) for 2018 from $5,490,000 per individual ($10,980,000 per married couple) in 2017. These new exemption amounts are indexed for inflation and are effective through 2025. Barring future legislative changes, however, effective January 1, 2026, the exemption amounts will revert back to 2017 levels, with adjustments for inflation. The top federal gift, estate and GST tax rates remain at 40% under the Act.

This significant and possibly temporary increase in the exemption amounts presents a unique planning opportunity for individuals with larger estates. Some planning options to consider include making large gifts to children and/or grandchildren or to new or existing trusts created for the benefit of children and/or grandchildren in order to maximize the use of the newly increased gift and GST tax exemption amounts. An individual who has previously used his or her entire gift tax exemption amount may now transfer an additional $5,710,000 ($11,420,000 for a married couple) to his or her desired beneficiaries in 2018. For individuals considering the creation of a dynasty trust for their current and future descendants, the increased exemption amounts present an unprecedented planning opportunity. Other planning options, including grantor retained annuity trusts, sales to grantor trusts, and charitable trusts, continue to be useful planning tools, particularly while interest rates remain low.

Regardless of the size of your estate, we recommend you review the terms of your current estate planning documents to ensure that they continue to carry out your desired intent. Frequently, Wills and Revocable Trust Agreements create future trusts, using formula funding clauses tied to the federal estate tax exemption amount in effect at the time of death of the trust's creator. As a result, the increased estate tax exemption levels may result in an estate plan distribution scheme that no longer reflects a person's wishes.

In addition to the increased exemption amounts provided by the Act, the gift tax annual exclusion has increased to $15,000 for 2018. This means that each individual may give up to $15,000 annually in cash or other property to as many individuals as desired without using any gift tax exemption amount or incurring any gift tax if the person's exemption amount has already been used. Married couples electing to "split" any such gifts may give up to $30,000 annually to as many individuals as desired without using either of their gift tax exemption amounts.

On another positive note, the existing rules that provide a "step-up" in income tax basis of assets at death and the portability of the estate/gift tax exemption between married couples are unaffected by the recent changes.

Please contact a member of the Hirschler Fleischer tax or wealth management teams if you would like to schedule a review of your current estate plan or further discuss planning opportunities provided by the Act.

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