



Related Lawyers

John R. Latourette
Lisa Lassoff Nentwig

Related Practices

Trusts & Estates

Media Contact

Peter Dunn
Director of Client
Relations and
Communications
Philadelphia, PA
pdunn@dilworthlaw.com

ESTATE PLANNING UPDATE

01/22/2018

By: **John Latourette** and **Lisa Nentwig**

On December 22, 2017 President Donald Trump signed the tax reform bill entitled the Tax Cuts and Jobs Act, which made significant changes to the estate, gift and generation-skipping tax laws for years 2018 through 2025. The update below summarizes these various changes.

- The new tax law doubles the exemption amount for estate, gift and generation-skipping taxes from \$5.6 million to \$11.2 million for 2018. This means that an individual can shelter \$11.2 million (and a married couple can exclude \$22.4 million) in assets from these taxes in 2018. The federal estate tax will be 40% on assets above \$11.2 million and the rate will be 40% on gifts and generation-skipping transfers over \$11.2 million. The exemption is indexed for inflation for years 2018 through 2025. Without further Congressional action, the law will expire on December 31, 2025 and revert to the \$5 million exemption established in 2011 (indexed for inflation). There is no repeal of the Federal estate tax, gift tax or generation-skipping transfer tax.
- The new tax law offers substantial planning opportunities. A married couple, for example, will now have, pursuant to the new legislation, an extra \$11.2 million to gift or transfer at death.
- Many taxpayers currently have estate plans with trusts that are to be funded according to formula clauses tied to the exemption amount in effect on the date of their death. If death occurs before 2026, the new law may cause these trusts to be funded with significantly larger amounts than originally anticipated and may have unintended consequences (such as significantly reducing assets available to a surviving spouse). We therefore recommend that wills and trusts be reviewed in light of the doubled exemption amount.
- Taxpayers should also review the state inheritance and estate tax consequences of their estate plans. For example, New Jersey repealed its estate tax as of January 1, 2018. Therefore, all New Jersey residents should review the impact of the repeal on their estate plans.
- Wills and trusts should also continue to be reviewed for changed family or financial circumstances.
- The new tax law maintains “portability” of a deceased spouse’s unused federal estate (but not generation-skipping transfer) tax exemption to the surviving spouse. For example, if a spouse dies in 2018 and leaves his entire estate to his wife (thus rendering his entire estate exempt from federal estate tax), his unused exemption (up to \$11.2 million) can be transferred to his wife. At her death, she can use her own \$11.2 million exemption plus the \$11.2 million exemption that was transferred from her husband, so that the first \$22.4 million of her estate is tax free. This may eliminate the need for a trust for the surviving spouse in certain cases.
- The annual gift tax exclusion amount, which has been constant at \$14,000 a year per person since 2013, has increased to \$15,000 per person per year effective January 1, 2018. This is the amount an individual can give to as many donees as desired in one year without using any



E-ALERT

of the donor's estate and gift tax exemption. A married couple can give each donee up to \$30,000 in 2018 without using either spouse's estate and gift tax exemption amount.

- The new tax law does not change the rules regarding step-up income tax basis at death. An heir's cost basis in inherited assets will be stepped-up to their value on death.

If you would like to discuss any aspect of this update or the effect of the new tax law with regard to your estate planning, please contact [John Latourette](#), [Lisa Nentwig](#) or a member of Dilworth Paxson's [Trust and Estates Group](#).