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2020 Estate & Gift Tax Inflation Adjustments

Several important federal gift and estate tax exemptions are adjusted periodically to reflect the rate of inflation. The IRS has announced the following adjustments for 2020:

- Basic Exclusion – For 2020, the basic estate, gift and generation-skipping exclusion amount is \$11,580,000. The basic exclusion represents the amount that can be transferred, during lifetime or at death, free of estate tax, gift tax or generation-skipping transfer (GST) tax, as the case may be. This represents the base exclusion amount of \$10,000,000, plus an inflation adjustment.
- Exclusion for Lifetime Gifts to Non-Citizen Spouse – Lifetime gifts to a spouse who is a U.S. citizen are not subject to gift tax regardless of the amount. Lifetime gifts to a spouse who is not a U.S. citizen are subject to gift tax to the extent the gifts exceed the authorized exclusion in any year. For 2020, this exclusion is \$157,000.
- Annual Gift Tax Exclusion – The annual exclusion amount for gifts of present interests is unchanged at \$15,000.

The marginal estate, gift and GST tax rates remain at 40%.

It is important to note that on January 1, 2026, the \$10 million base exclusion amount will be reduced to \$5 million, plus an inflation adjustment. This reduction is referred to as “sunset.” The portion of the exclusion that will be lost on sunset is referred to as the “bonus” exclusion. After sunset, it is estimated that the inflation-adjusted exclusion amount will be in the range of \$6 million - \$7 million.

As noted in our 2019 newsletter, a wealthy taxpayer may wish to make a large lifetime gift to take advantage of the bonus exclusion before sunset. There was concern that, after sunset, a taxpayer may owe tax on the portion of the gift that was covered by the bonus exclusion (so-called “clawback”). The United States Treasury has confirmed through regulations that clawback will not apply, thus removing this potential deterrent to large pre-sunset gifts. (These regulations apply for gift and estate tax purposes; unfortunately, they do not address the GST tax, but we expect that a similar approach will be applied to large gifts covered by the GST tax exclusion and hope that the Treasury will issue similar regulations.) For a wealthy taxpayer to “use it or lose it,” the cumulative value of her pre-sunset gifts must exceed the value of the exclusion available at death post-sunset. For example, if a taxpayer gifts \$8 million to a child before sunset, a gift fully covered by the exclusion, and then dies after sunset and when the exclusion is \$6.5 million, she will have shielded \$1.5 million of her estate from tax under the bonus exclusion. If the pre-sunset gift was \$11 million, she will have shielded \$4.5 million of her estate from tax under the bonus exclusion. The larger the gift, the greater use of the bonus exclusion.

Of course, there are many other tax and non-tax considerations in making large gifts like this. Also, it is important to note that sunset may be accelerated if Democrats gain control of the White House and/or Congress after the 2020 elections. Feel free to contact us for more information.

Embarcadero Place | 2400 Geng Road, Suite 110 | Palo Alto, CA 94303
Phone: 650.328.7000 | Fax: 650.329.8925 or 650.327.2501 | www.lakinspears.com