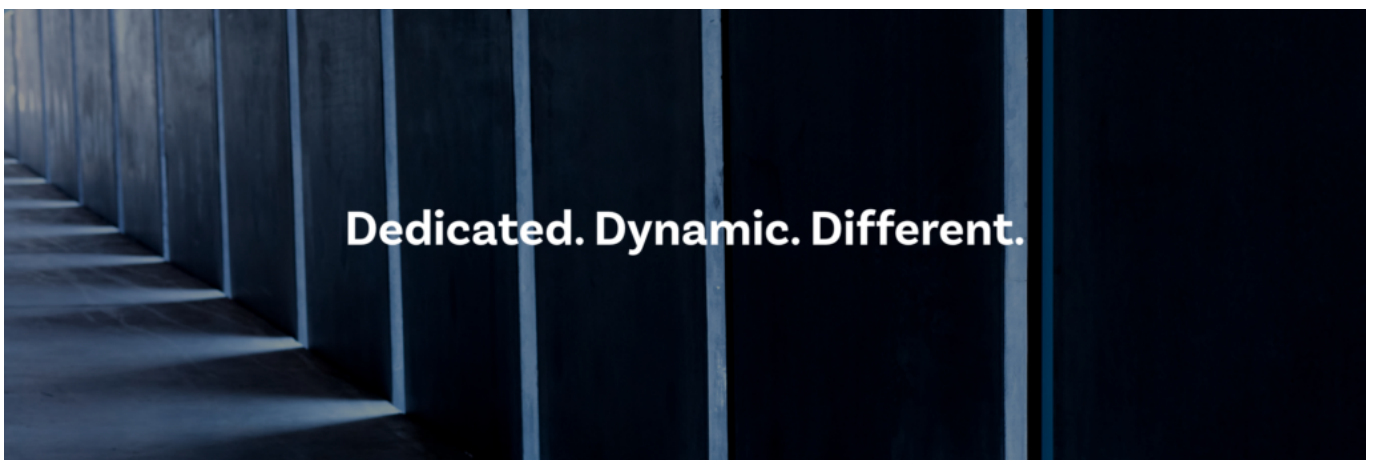


Client Alert: Increases of Estate and Gift Exemption and Exclusion Amounts

Firm News • November 22, 2023

The IRS just announced the inflation adjustments leading to increases to the annual exclusion gift amount, and the federal estate, gift, and generation skipping transfer tax exemptions for 2024.

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Federal estate and gift taxes – a topic of great interest to meticulous planners – are levied on the transfer of your wealth upon death or when a gift is made during your lifetime, when such transfers exceed the amount of available exemptions. Historically, nonexempt transfers have been taxed at 40%.

2024 will bring increases to the federal estate, gift, and generation-skipping transfer (GST) tax exemptions. These exemptions, coupled with upcoming sunset of the 2017 Tax Cuts and Jobs Act (TCJA) at the end of 2025 and the current maximum gift and estate tax rate increasing to 45% in 2026, mean that *now* is the time for savvy investors to begin planning their estate, no matter its size.

What is the annual exclusion?

Generally, any gift is taxable. As with every rule, however, there are exceptions – indeed, annual gifts below certain thresholds are tax exempt. In 2023, that threshold is \$17,000. In 2024, the annual exemption will increase to \$18,000. Of note, the annual exclusion applies on a *per-donee basis* such that, each year, you can give unlimited recipients gifts valued below the annual exemption without incurring any tax liability. Moreover, your spouse can make their own exempt gifts, effectively doubling the annual exclusions for married couples without decreasing your lifetime exemption or increasing your taxable estate.

What is the lifetime exemption and what changes are coming?

The lifetime federal estate, gift and GST exemption represents the amount of your wealth that is exempt from taxation on transfers made during your lifetime or upon your death. Lifetime gifts that exceed the annual exclusion reduce your available lifetime exemption and are subject to taxation. Under the TCJA, the 2023 lifetime exemption amount is \$12,920,000 per individual (\$24,120,000 for married couples). In 2024, the inflation-adjusted exemption amount will increase to \$13,610,000 per individual (\$27,220,000 for married couples). This roughly 5% increase presents tremendous opportunities for high-net-worth individuals to begin shifting wealth outside of their taxable estate, particularly given the fact that using the federal lifetime gift exemption during your life reduces the available estate exemption available to you at death. As of January 1, 2026, however, when the TCJA sunsets, the exemption will shrink all the way to \$5,000,000.

New York, New Jersey and Connecticut

New York does not have a gift tax or inheritance tax, but does have an estate tax. There is also a 3-year clawback for gifts made within 3 years of death, with some exceptions. The New York tax exemption for 2024 has not yet been announced. The current exemption amount is \$6,580,000.

New Jersey does not have a gift tax or estate tax but does have an inheritance tax, with some exceptions including transfers made to spouses and descendants, among others.

Connecticut has both a gift tax and an estate tax. The Connecticut exemption is tied to the federal system and has therefore also increased to \$13,610,000, and will also sunset at the end of 2025.

How can I start preparing?

In light of the anticipated increases in the lifetime exemption and annual exclusion amounts for 2024 and 2025 and the limited window to make outsized transfers before the TCJA sunsets and drastically reduces the available exemptions, you should immediately revisit your estate planning, finalize your 2023 gifting and consider whether additional gifting would be beneficial. If you don't take advantage of the increased exemptions in place now, they might be lost forever. Some options for leveraging these opportunities include gifting directly to beneficiaries, creating and funding irrevocable trusts, estate planning strategies that perform well in the current high interest rate environment and allocating GST exemptions to prior transfers. The possibilities are endless.

I might not even have a taxable estate. Can't I just wait and see what happens?

Because the current exemption amounts are so substantial, many are shortsightedly ignoring valuable estate planning tactics. It is important to remember, however, that estate planning is a long game. There are significant benefits unrelated to taxes that should also be considered. A sound estate plan includes planning the effective and efficient disposition of your entire estate for your heirs benefit - both during your life and upon your death. It includes protecting your estate from so called "creditors and predators", planning for aging and retirement and establishing your legacy in ways other than mere wealth preservation. Well versed advisors can also incorporate income tax savings into estate planning.

Many sophisticated estate and asset protection planning techniques involve multiple layers, which require the passage of time to be effective. Putting off this planning in hopes that, say, the 2024 election might bring further exemptions presents unnecessary risks and is likely to jeopardize your ultimate goals.

My estate is negligible, so I don't need to act, right?

As Benjamin Franklin so famously said, **"In this world, nothing is certain except death and taxes." If you do not plan for your death (and possible incapacity), you in fact are planning to fail.**

If you already have a plan, great! Now is the time to review and update it. Regular review of your estate plan is essential to ensuring it evolves with applicable law and your ever-changing goals and circumstances.

If you do not yet have a plan, that is also OK! Now is the time to take control over your life and your assets while you are still capable of doing so. This includes the choice of who should have the authority over your healthcare and medical decisions, your financial decisions, and the guardianship of your minor children, your property, and yourself. Most importantly, knowing that you and your family are protected will provide immense comfort to you and your loved ones.

Please feel free to contact me at (212) 994-9963, x204 or at eschajer@federmansteifman.com if you would like to discuss further.

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