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NEWS

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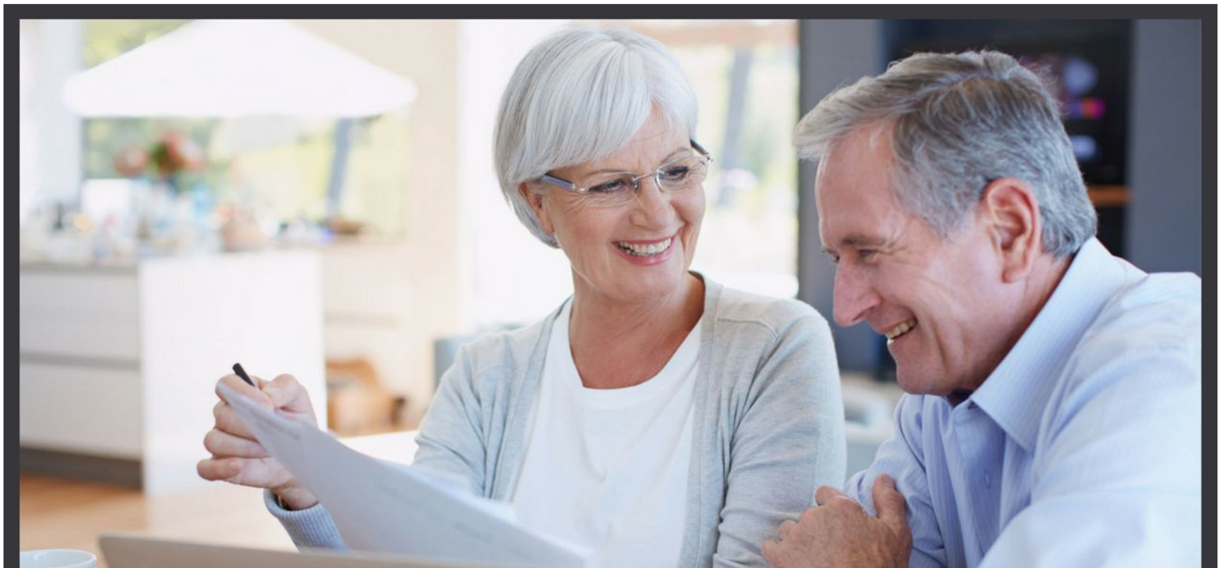
Give Now! 2018 Tax Changes On Lifetime Gift & Estate Provisions



Strategic gifting and careful estate planning can yield results well past the seven-year horizon of the current tax law's gift and estate provisions.

There's never been a better time to give: with the provisions in the 2017 tax bill, estate planners and real estate investors are looking at lifetime gifting as a way to maximize their long-term strategies.

As you'll remember from the debates surrounding the new tax code, in addition to many business-positive changes, the 2018 law temporarily (and controversially) doubled the exemption amount for estate, gift and generation-skipping taxes from the $5 million base (set in 2011) to a new $10 million base, for tax years 2018-2025.

The exemption is indexed for inflation, so an individual could realistically shelter $11.2 million in assets. With proper planning to take advantage of portability, a couple could exclude $22.4 million for 2018. The law is set to sunset in 2025, and opinions remain divided on whether or not it will do so.

In the meantime, everyone agrees on one thing: whether this is a temporary measure or a permanent one, there's no question that this is the moment to do some very serious estate planning. "One does not need to die before 2026 to take advantage of this increased exemption, since it can be used for lifetime gifts," said Beth Kaufman, an estate tax lawyer at Caplin & Drysdale and former associate tax legislative counsel at the Treasury Department.

So if, for example, you expected to live for at least another twenty years, you would presently have an $11.2 million (or $22.4 million if married) exemption level, which in seven years might or might not fall back to $6 million. But if you were to gift your children, heirs, or charity $11 million today instead of at your death, you would in essence be able to give them an extra $5 million dollars tax free.

Thus, many estate planners are encouraging that families, trusts, and individuals take advantage of strategies based in gifting, like:

- Making gifts to existing or new irrevocable trusts, including generation-skipping trusts;
- Leveraging gifts to support the funding of life insurance or existing sales to trusts; and
- Pairing gifts with philanthropy (such as a charitable lead trust).

It is also worth noting that the new tax bill creates a new 20% deduction for pass-through businesses, which is especially relevant for estates and trusts. For taxpayers with incomes above certain thresholds, the 20% deduction is limited to the greater of: (a) 50% of the W-2 wages paid by the business, or (b) 25% of the W-2 wages paid by the business, plus 2.5% of the unadjusted basis, immediately after acquisition, of depreciable property (which includes structures, but not land). REIT dividends and distributions from publicly traded partnerships are not be subject to the wage restriction.

Also noteworthy for those with real estate investments is the fact that the bill preserves the 20% tax credit for the rehabilitation of historically certified structures, but taxpayers must claim the credit ratably over a 5-year period. The bill does, however, repeal the 10% credit for the rehabilitation of pre-1936 structures.

“Many of the provisions passed will have a positive impact on investors by putting more money back into their pockets in terms of tax savings,” said Michael Episcope, co-founder and principal at Origin Investments, a real estate investment firm that acquires primarily office and multifamily properties. “Some of the changes to the tax treatment of capital expenditures, for example, will shield a tremendous amount of income for property owners that are making capital investments and improvements in properties,” he says.

So whether it’s considering how to restructure a trust or making a gift now instead of in the future, the options are wide open in a way that they have never been before.

If you or your clients might need appraisal services related to the tax code’s updated provisions surrounding gift and estate taxes, date of death appraisals, or any other kind of commercial real estate valuation need, please email us today at LA@valbridge.com or call us at (626) 486-9327.

SOURCES/FURTHER READING:

- “Final Tax Bill Includes Huge Estate Tax Win For The Rich: The $22.4 Million Exemption,” Forbes.com (Dec. 21 2017)
- “New estate tax law gives an enormous gift to rich families,” CNN Money (Jan. 9, 2018)
- “The Effect of the New Tax Reform Bill on Real Estate,” IPX1031 (Dec. 18, 2017)
- “How CRE Investors Could Cash In on the Tax Bill,” National Real Estate Investor (Dec. 27, 2017)
- “The Tax Cuts and Jobs Acts - What it Means for Homeowners and Real Estate Professionals,” National Association of Realtors
- “New Tax Law ‘Holds Favorable Prospects’ for Commercial Real Estate,” rebusiness (Jan. 16, 2018)