2018 U.S. Master™ Estate and Gift Tax Guide

Tax Cuts and Jobs Act Impact

The Tax Cuts and Jobs Act (P.L. 115-97) (2017 Tax Cuts Act), as signed by the President on December 22, 2017, makes several changes to the federal estate, gift, and generation-skipping transfer (GST) tax laws.

Estate and Gift Tax Exclusion Doubled

The basic exclusion amount for purposes of federal estate and gift taxes will be doubled from $5 million to $10 million, before adjustment for inflation, for the estates of decedents dying and gifts made after 2017 and before 2026 (Code Sec. 2010(c)(3)(C), as amended by the Tax Cuts Act). The $10 million amount will be adjusted annually for inflation in the case of any decedent dying in a calendar year after 2017 using the Chained Consumer Price Index for All Urban Consumers (C-CPI-U) (Code Sec. 2010(c)(3)(B)(ii), as amended by the Tax Cuts Act). The inflation-adjusted amount for 2018, using C-CPI-U, is $11,180,000 (Rev. Rul. 2018-18, I.R.B. 2018-10, 392, superseding in part Rev. Proc. 2017-58, I.R.B. 2017-45,489.) For decedents dying and gifts made after 2025, the basic exclusion amount will revert to $5 million, as adjusted for inflation using chained-CPI.

> ***Comment:*** Because the doubling of the estate and gift tax exclusion amount will expire for decedents dying and gifts made after December 31, 2025, the next several years present a tremendous opportunity for wealthy individuals and married couples to make large gifts. These taxpayers can leverage the amount of the available exclusion by making certain types of gifts, such as those to grantor retained annuity trusts (GRATs).

GST tax exemption amount. Because the exemption from the GST tax is computed by reference to the basic exclusion amount used for estate and gift tax purposes (Code Sec. 2631), the GST exemption amount for GSTs occurring in 2018 will also be $10 million ($11,180,000, as adjusted for inflation using C-CPI-U, for 2018). Portability does not apply for purposes of the GST tax.

Corresponding adjustments with respect to prior gifts. In addition to the increase in the basic exclusion amount, the 2017 Tax Cuts Act modifies the computation of gift tax payable and estate tax payable in cases where gifts have been made in prior years (Code Sec. 2001(g), as amended by the 2017 Tax Cuts Act).

With respect to the computation of gift tax payable, the tax rates in effect at the time of the decedent's death are to be used rather than the rates that were in effect at the time the gifts were made (Code Sec. 2001(g)(1), as amended by the 2017 Tax Cuts Act). And, the Secretary of the Treasury is directed to prescribe regulations clarifying the computation of estate tax payable in situations where the basic exclusion amount was different in the year of the decedent's death as opposed to the year when the prior gifts were made (Code Sec. 2001(g)(2), as amended by the 2017 Tax Cuts Act).

Egypt's Sinai Peninsula Treated as Combat Zone

The Sinai Peninsula of Egypt is a qualified hazardous duty area and members of the U.S. Armed Forces serving there are considered to be serving in a combat zone (Act Sec. 11026(b) of the 2017 Tax Cuts Act). As a result, such members of the military are entitled to combat zone tax benefits, including a reduction in estate taxes for members of the military dying in the combat zone or by reason of combat-zone incurred wounds (Code Sec. 2201).

Members of the military serving in the Sinai Peninsula of Egypt are granted combat zone tax benefits if, as of December 22, 2017, they are entitled to special pay under section 310 of Title 37 of the U.S. Code (Act Sec. 11026(b) of the 2017 Tax Cuts Act). Combat zone tax benefits begin June 9, 2015, and apply to every subsequent tax year through December 31, 2025. The Sinai Peninsula of Egypt is considered a qualified hazardous duty zone for the same period.