

Significant Changes to Estate, Gift, and Generation-Skipping Transfer Taxes

Winter 2018

The recently-enacted Tax Cuts and Jobs Act significantly changes the tax landscape, beginning on January 1, 2018. Many of these changes will sunset on January 1, 2026, when the law reverts to the pre-2018 law. Congress could, of course, enact new legislation that is less favorable in the meantime.

The new law affects every client's estate plan in some way, and we strongly recommend that you review your current estate plan to confirm that your wishes will be carried out under the new law. The law also provides for significant new planning opportunities.

We have highlighted below some of the most noteworthy changes in the new law that will affect your testamentary and lifetime planning.

Estate, Gift, and Generation-Skipping Transfer Taxes

An individual's estate and gift tax exemption has doubled to \$11.18 million per person beginning in 2018. This amount is adjusted for inflation and will increase each year until January 1, 2026, when the estate and gift tax exemption will revert back to \$5 million, adjusted for inflation. This doubled exemption allows clients rare planning opportunities, discussed below.

As the concept of "portability" of estate tax exemption is retained, a married couple can now pass \$22.36 million free of estate and gift tax (until the law sunsets). The top federal tax rate for both gift taxes and estate taxes remains at 40%. Additionally, the new law retains the "step up" (or "step down") in basis to date-of-death values for income tax purposes.

As we previously reported last fall, the gift tax annual exclusion has increased to \$15,000 for each donor per donee.

An individual's generation-skipping transfer ("GST") tax exemption has also doubled to \$11.18 million. This increased exemption will also sunset. The GST tax rate remains the same at 40%.

Planning Recommendations and Opportunities

Depending on how your planning is structured, the increased exemption levels could drastically alter the disposition of your estate. For example, if your documents contain formula bequests that were based on pre-2018 estate tax exemption levels, the current funding of the bequests may no longer match your expectations. We strongly recommend you call us to discuss whether any changes need to be made to carry out your wishes.

The new law also presents temporary planning opportunities related to the increased exemption levels. Given that the \$11.18 million gift tax exemption is scheduled to revert back to pre-2018 levels in 2026, clients may wish to consider using their exemptions to make substantial lifetime gifts. Clients may also wish to consider using their GST tax exemption. There are a variety of options and planning techniques that can be tailored to fit your circumstances and family goals. We strongly encourage you not to wait to consider taking advantage of the new opportunities the law provides.

Given the temporary nature of the law, there are a myriad of issues facing clients. Please contact a [member](#) of the [Private Wealth Group](#) to discuss the effect of the new law on your planning.

Contacts

Bertram L. Levy, Chair
404.873.8640
bertram.levy@agg.com

Michael L. Van Cise
404.873.8790
michael.vancise@agg.com

J. Grant Wilmer, Jr.
404.873.8686
grant.wilmer@agg.com

Suzanne Tucker Plybon, Vice-Chair
404.873.8730
suzanne.plybon@agg.com

Jeremy T. Ware
404.873.7006
jeremy.ware@agg.com

Kathryn Baldwin Hecker
404.873.8530
kathryn.hecker@agg.com

Tyson Willis
404.873.8142
tyson.willis@agg.com

not *if*, but *how*.[®]

About Arnall Golden Gregory LLP

Arnall Golden Gregory (AGG), an Am Law 200 law firm with 165 attorneys in Atlanta and Washington, DC, takes a “business sensibility” approach when advising clients. AGG provides industry knowledge, attention to detail, transparency and value to help businesses and individuals achieve their definition of success. AGG’s transaction, litigation, regulatory and privacy counselors serve clients in healthcare, real estate, retail, fintech/payment systems, global commerce/global mobility, government investigations, life sciences and logistics and transportation. AGG subscribes to the belief “not if, but how.[®]” Visit www.agg.com.

Atlanta Office
171 17th Street NW
Suite 2100
Atlanta, GA 30363

Washington, DC Office
1775 Pennsylvania Ave., NW,
Suite 1000
Washington, DC 20006

To subscribe to future alerts, insights and newsletters: <http://www.agg.com/subscribe/>

©2018. Arnall Golden Gregory LLP. This legal insight provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice. Under professional rules, this communication may be considered advertising material.