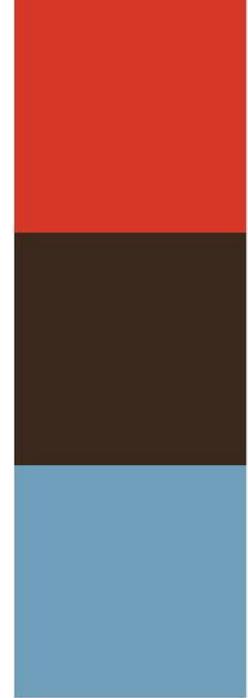


Estate Planning:

Facts You Need to Know About Your Estate Plan and Taxes



BROUSE
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A Legal Professional Association

Estate Planning Webinar Series

- *Facts You Need To Know About Your Estate Plan and Taxes-*
This presentation will provide an overview of how estate taxes can impact your estate plan and tools to reduce or eliminate the potential impact of estate taxes.
- *June 16th-Estate Planning Tools To Protect You and Your Spouse*
- *June 23rd-Estate Planning for Special Circumstances*
- *All presentations can be found at www.brouse.com*

Estate Planning Blog

For additional information, see

<https://www.brouse.com/trusts-estates-blog>

Disclaimer

- Any opinions offered are our own and not those of Brouse McDowell LPA. This presentation is provided for general informational and educational purposes only. No information contained in this presentation is to be construed as legal advice. This presentation is not a contract for legal advice and does not establish an attorney-client relationship.
- Entering into an attorney-client relationship is a mutual agreement, requiring the exchange of information and the execution of an engagement letter between the client and Brouse McDowell LPA.

INTRODUCTION

Facts You Need To Know
About Your Estate Plan and Taxes

THE FEDERAL ESTATE TAX: WHAT IS IT?

Federal Estate Tax:

What is it?

-A tax assessed upon a person's death against the total amount of property that person transferred during life or upon death to any person or organization that is not a spouse or a charity

Federal Estate Tax:

Key Facts:

- Amount of the lifetime exclusion amount in 2020 is \$11,580,000.00 per person but reverts back to \$5,000,000 in 2026
- Estates with a gross estate (plus adjusted taxable gifts) in excess of \$11,580,000 must file a U.S. Estate and Gift Tax Return, Form 706
- Estates electing “portability” also must file a Form 706
- Estate tax return is due nine (9) months after the date of death
- Any tax liability owed is paid by the estate

THE GIFT TAX: WHAT IS IT?

Federal Gift Tax:

What is it?

-A tax assessed upon any transfer in excess of the annual exclusion that is made to a person or trust that is not the transferor's spouse or a charity

Federal Gift Tax:

Key Facts:

- The annual exclusion amount is \$15,000.00 in 2020
- A "taxable transfer" is the amount of any transfer to an individual or trust (not a spouse or charity) in excess of the annual exclusion amount
- Transfers must be reported on a Form 709 by April 15th of the year following the transfer
- Any tax liability due for a gift is paid by the transferor

FEDERAL ESTATE TAX: HOW IS IT CALCULATED?

Federal Estate Tax:

How it is calculated?

- The first step is to add up the value of all assets owned at death (wherever situated; whether directly or in any trust) over which a person had certain ownership rights;
- The next step is to add the value of certain property gifted during life (“taxable gifts”)
- The third step is to add up all the expenses of administering the estate, debts, and certain transfers (e.g., to surviving spouse; to certain charities) and deduct that total from the gross estate to arrive at the value of the net property subject to estate tax

Federal Estate Tax:

How it is calculated?

- The fourth step is to calculate the total estate tax owed (2020 highest marginal rate of 40%)
- The fifth step is to subtract the 2020 applicable credit amount \$4,577,800.00 (the estate tax applied to the lifetime exclusion amount of \$11,580,000.00)
- The sixth step is to subtract the "DSUE" (the applicable credit amount from a deceased spouse's estate through portability), and
- The last step is to subtract total lifetime gift taxes paid to determine the net amount of the estate tax due nine (9) months from the date of death

Federal Estate Tax:

Hypothetical Example #1

John Smith dies on June 1, 2020 with a gross estate of \$30,000,000.00. John has designated three charities to each receive \$1,000,000.00 in his trust agreement. The rest of this estate will pass to his children. John was divorced and not remarried. John's estate also has administrative expenses of \$500,000.00. John did not make any gifts during his lifetime.

Federal Estate Tax: Example Calculation #1

\$30,000,000.00 Gross Estate; Fair market value as of DOD of all property, wherever situated
(\$ 500,000.00) Less: Debts of the Decedent; Expenses of administering the Estate
(\$ 3,000,000.00) Less: Property passing to certain charities
\$ None Add: Taxable Gifts Made During Life
\$26,500,000.00 Taxable Estate
x 40% Tax Rate
\$10,545,800.00 Gross Federal Estate Tax
(\$ None) Gift Taxes Paid During Life
(\$4,577,800.00) applicable credit amount
\$5,968,000.00 - Net Estate Tax Owed

Federal Estate Tax:

Hypothetical Example #2

John Smith dies on June 1, 2020 with a gross estate of \$30,000,000.00. John is survived by his spouse, Mary Smith. John's trust provides that his entire net estate will be held in trust for his wife, Mary (the remainder after Mary's death will pass in trust to John's children.) John's estate also has administrative expenses of \$500,000.00. John did not make any gifts during his lifetime.

Federal Estate Tax:

Example Calculation #2

\$30,000,000.00 Gross Estate; Fair market value as of DOD of all property, wherever situated
(\$ 500,000.00) Less: Debts of the Decedent; Expenses of administering the Estate
(\$29,500,000.00) Less: Property passing to Surviving Spouse (directly or in certain kinds of trusts)
\$ None Taxable Estate
x 40% Tax Rate _____
\$ None Gross Federal Estate Tax
(\$ None) Gift Taxes Paid During Life
(\$4,577,800.00) applicable credit amount
\$(None) DSUE amount
\$ None * Net Estate Tax Owed

*\$4,577,800.00 of applicable credit amount ("DSUE") is available to Mary's estate via portability

HOW COULD ESTATE & GIFT TAXES AFFECT MY ESTATE PLAN?

Estate & Gift Taxes Can Affect: Who receives property

- A decedent's estate plan may direct assets between trusts (e.g., Marital Trust; Family Trust; Charitable Trust) to reduce or eliminate an estate tax in the decedent's estate
- The instrument creating the transfer may direct that estate and gift taxes be paid out of certain property
- Care must be taken not to inadvertently cause a disinheritance

Estate & Gift Taxes Can Affect: Income Tax Basis of Inherited Property

-Property in the hands of the recipient is assigned a new basis for income tax purposes equal to the fair market value of the property as of the decedent's date of death (a "Stepped Up" Basis) to the extent the property is includible in a person's gross estate (regardless of whether a return must be filed)

Estate & Gift Taxes Can Affect:

How much property passes

- Estate and gift taxes are owed by the Decedent/Transferor
- Strategies for reducing taxes include: marital gifts; charitable gifts; estate freezes
- Strategies for increasing transfers include: life insurance trusts
- Caution: an inheritance or a gift can be reduced depending on what the gifting instrument says about the source of funds used to pay the tax

Estate & Gift Taxes Can Affect:

When property passes

- Estate taxes are owed by the Estate 9 months after death but may not be finalized until the IRS has accepted the Estate Tax Return, Form 706, or until completion of an audit (which may be several years after death)
- Certain cash poor estates may be able to defer the estate tax liability for years so that heirs do not receive their full inheritance until after the deferral period

Closing Thoughts

The current coronavirus pandemic has brought to the forefront the importance of estate planning documents and implementing an estate plan. One of the most important things you can do for yourself and your family is to work with an experienced estate planning attorney to prepare an estate plan to ensure your objectives and wishes are met and provide peace of mind that your family is protected.

Next Up

- *June 16th-Estate Planning Tools To Protect You and Your Spouse*
- *June 23rd-Estate Planning for Special Circumstances*
- *All future updates, webinars, client advisories and blogs at: www.brouse.com*

Thank you!

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