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Client Alert: 2024 Inflation Adjustments That Impact Current Estate Planning Opportunities

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The Internal Revenue Service recently announced increased transfer tax exclusions for calendar year 2024 as part of Revenue Procedure 2023-34. The significant increases in the unified credit against estate, gift and generation-skipping transfer ("GST") tax, annual gift tax exclusion amount, and gifts to non-citizen spouses present important planning opportunities and are summarized below:

	2023	2024
Unified Credit Against Estate Tax (Estate, Gift, and Generation-Skipping Transfer Tax Exemption)	$12,920,000	$13,610,000
Annual Exclusion for Gifts	$17,000	$18,000
Gifts to Non-Citizen Spouses	$175,000	$185,000

Unified Credit Against Estate Tax (Estate, Gift, and Generation-Skipping Transfer Tax)

An individual's exclusion from gift, estate and GST tax will increase by $690,000 in 2024 to $13,610,000. For individuals who have used all of their current lifetime

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exemption, this represents a significant opportunity to make additional lifetime transfers; married couples can transfer an additional $1,380,000 in 2024 to family members (in trust or outright) if they split those gifts. Each year, the exemption amount will increase to keep pace with inflation.

1. Sunset of High Exemptions

Barring Congressional action, the historically high transfer tax exemptions are set to sunset at the end of 2025 and return to their pre-2018 levels on January 1, 2026. Therefore, clients intending to use their full lifetime exemptions should start the planning process in 2024. If an individual does not utilize all of his/her exemption by the end of 2025, he/she may lose a significant portion of the currently high exemption. For example, in 2024, if a client utilizes $6,200,000 of exemption (not their full $13,610,000) and in 2026 the lifetime exemption for transfer tax purposes deceases to $6,200,000, that individual will have $0 exemption available in 2026 for future-gifting. If both spouses are not ready to use their exemptions, then at least one spouse should consider gift planning to "lock-in" the use of all of one of their exemptions.

2. Plan Now to Act Later

For clients with significant wealth as well as remaining exemptions, they should explore strategies that maximize the use of their exemption in anticipation of the sunset. Waiting until the end of 2025 to begin planning is not recommended, especially where appropriate transfer documentation and supporting valuations for illiquid assets take time to complete in a timely manner.

For those procrastinators who are interested in making large gifts with marketable securities and cash at the end of 2025, the use of a limited liability company ("LLC") to hold these assets can be an effective mechanism in this process. While financial institutions have cut-off dates for

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making year-end transfers, the transfer of LLC interests as gifts can occur outside of bankers' hours.

Annual Exclusion Gifts

Gifting assets during lifetime is an effective way of reducing one's taxable estate. During 2024, an individual can give up to $18,000 annually ($36,000 for married couples) to as many other individuals as he or she wishes without incurring any gift or GST tax. Gifts to 529 Plans permit front-loading a gift, thereby using the annual exclusion amount for the next five years (i.e., $90,000 per person, $180,000 for married couples).

1. Gifts in Trust (in lieu of outright gifts)

Although certain gifts in trust will not qualify for the annual exclusion from gift tax, gifts to a trust that qualifies as a Minor's Trust under Section 2503(c) of the Internal Revenue Code or a "Crummey Trust" will qualify for the annual exclusion from gift tax if drafted properly.

2. Considering GST Exemption Regarding Gifts to Trusts

In making annual exclusion gifts to trusts, additional considerations with respect to GST exemption apply. Please discuss these with your advisors to determine which course of action makes the most sense for you and your family.

3. Qualified Payments for Educational or Medical Expenses (in addition to annual exclusion gifting)

The Internal Revenue Code allows an unlimited gift tax exclusion for any "qualified transfer" of property to an educational organization on behalf of an individual as tuition or to medical care providers for certain medical expenses. Payments for qualified educational and medical expenses are exempt from gift tax. As a result, pairing annual gift tax planning with payments of

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education and medical expenses can result in large transfers of wealth while decreasing clients' taxable estates.

Gifts to Non-US Citizen Spouses

A US person married to a non-US person does not have the benefit of being able to make unlimited transfers between spouses for gift tax purposes, as would a couple where both spouses are US persons. In 2024, the annual exemption for gifts to a non-citizen spouse will increase by $10,000 to $185,000. However, as part of an estate plan, a US person may leave an unlimited amount of money to a non-citizen spouse as long as a transfer at death is to a "qualified domestic trust" (a so-called "QDOT"). Due to the limitation on lifetime gifts to non-citizen spouses, pairing lifetime and post-death planning is of particular importance.

Planning Opportunities

For clients interested in making additional gifts in 2024 or looking ahead to 2025, the significant increases in these exclusions presents valuable opportunities for economically impactful gifts that leverage use of the increased exemption amounts. Working with your attorney and other advisors to devise thoughtful, individualized plans for lifetime gifts in connection with broader wealth planning will help maximize the long-term benefits of gifts to loved ones. With the start of the holiday season, clients have opportunities to consider or discuss their intentions with their families. Tax-efficient solutions are as important as impact and legacy.

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