

Gifting Techniques for Individuals and Families

Summarizes the 3 basic options for clients who want to make tax-free gifts to family members or trusts for their benefit:

- (1) Annual exclusion gifts
- (2) Direct payments of tuition and medical expenses
- (3) Lifetime exclusion gifts

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Gifting assets to family members during lifetime can be a rewarding and tax efficient alternative to transferring assets as part of one's estate at death.

Gifts can be made outright to beneficiaries, or gifts can be made in trust if the donor wishes to place some restrictions on a beneficiary's use or enjoyment of the transferred property, while also protecting the trust assets from the beneficiary's creditors or predators. Gifts can be made of cash, securities, closely-held business interests, real estate, art works, collectibles, or any other type of property.

THE ANNUAL GIFT TAX EXCLUSION

The annual gift tax exclusion, which is currently \$15,000 per year, allows donors to make gifts each year without incurring any gift tax. As long as the total amount of all gifts to any individual recipient does not exceed \$15,000 in any calendar year, there is no filing requirement with the Internal Revenue Service. Gifts exceeding \$15,000 to any individual in a calendar year must be reported to the IRS on a U.S. Gift Tax Return (Form 709). The annual gift tax exclusion is inflation-indexed and rises in \$1,000 increments.

GIFT-SPLITTING BY HUSBAND AND WIFE

Married couples may each gift \$15,000, or a combined \$30,000, to any number of individual recipients. If one spouse makes a gift of more than \$15,000 to an individual recipient in a calendar year, the other spouse may consent to "split" all gifts made by the couple for that calendar year. A U.S. Gift Tax Return (Form 709) must be filed to signify that the consenting spouse has agreed to split all gifts for that calendar year. Married couples in community property states (Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, and Washington), and in Wisconsin where Marital Property Laws have been adopted, are not required to split gifts because a gift by either spouse is deemed to have been divided by each spouse.

UNLIMITED EXCLUSION FOR DIRECT PAYMENTS OF TUITION AND MEDICAL EXPENSES

In addition to the \$15,000 annual gift tax exclusion, an *unlimited* amount may be paid on behalf of a beneficiary for qualified tuition and medical expenses. To qualify for this exclusion, the payments must be made *directly* to the school or medical institution. Qualifying tuition expenses include payments of tuition for any level of primary or secondary education, but do not extend to payments for books, supplies, room and board, or other similar expenses which do not constitute direct tuition costs. Qualifying medical expenses include expenses incurred for the diagnosis, cure, mitigation,

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treatment, or prevention of disease or ailment, and also include amounts directly paid for medical insurance on behalf of any individual.

THE \$11,400,000 LIFETIME EXEMPTION

The Tax Cuts and Jobs Act of 2017 increased the federal gift and estate tax exemption amount to \$11,180,000 per person in 2018. For 2020, the exemption has been raised to \$11,580,000, an amount that will continue to be adjusted for inflation each year. The exemption may be used during lifetime to shield transfers of property from gift tax (and at death to shield transfers from estate taxes). Any use of the lifetime exemption will result in a corresponding reduction in the donor's remaining estate tax exemption. Because current law also provides that a surviving spouse can keep the deceased spouse's unused exemption under certain circumstances, a married couple or a surviving spouse can make tax-free lifetime exemption gifts of up to \$23,160,000. Gifts above the exemption amount will generate a federal gift tax at the current rate of 40%.

POST-TRANSFER APPRECIATION

Higher net worth families may consider lifetime gifting as a way to reduce future estate taxes. Lifetime gifting not only removes the gifted property from the donor's estate, it also removes all post-transfer appreciation on the transferred assets from the donor's estate.

Contact your Baird Financial Advisor, to learn more about the various benefits a lifetime gifting program may have for you and your family.

This information is not provided as legal advice, but for information purposes only. You are strongly advised to seek advice from competent legal and tax counsel to determine the applicability of this information to your estate and financial planning decisions. You are also encouraged to seek qualified legal counsel to determine if any estate planning documents should be prepared which relate to this information and to have legal counsel prepare all estate planning documents you may need to carry out your estate plan.

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