Give Away Your Potential Tax Liability

You spend a lifetime accumulating a large estate. But without careful planning, Uncle Sam will knock on the door after you die and vastly reduce the wealth passed onto your heirs.

After a temporary repeal in 2010, the federal estate tax came back in 2011 and 2012. For 2012 the maximum estate tax rate was 35% and the estate tax exclusion was $5.12 million. On January 2, 2013, yet another bill, the *American Taxpayer Relief Act of 2012* was signed by President Obama, raising the maximum tax rate to 40%, with an estate tax exclusion of $5.25 million for 2013. From there it went to $5.34 million for 2014, to $5.43 million in 2015, to $5.45 million in 2016, to $5.49 million in 2017 and to $11.18 million in 2018.

So... estate planning is as important as ever and a fundamental part of that for many people involves "gifting."

By giving away some of your assets while you're still alive, you can significantly trim the value of your estate tax free. And, if you make the gifts using certain trusts, you can maintain control over those assets.

For 2018 the tax law allows you to give $15,000 a year to as many people as you want without paying any gift tax (up from $14,000 for 2017).

Depending on the age and number of recipients, you can transfer a significant amount of wealth out of your estate by gifting.

And in addition to the $15,000 annual amount you can pay tuition or medical bills for your loved ones and the money isn't considered a gift for tax purposes. To qualify, the money must be paid directly to the provider of the education or the medical care (for example, a college or hospital). This is an opportunity for grandparents who have accumulated assets to help pay for their grandchildren's expenses *and* reduce the size of their estate without the gift-tax bite.

Also, you have a lifetime gift tax exemption, which in 2018 is $11.18 million, in addition to amounts sheltered by the annual gift tax exclusion. But using the lifetime gift tax exemption reduces the available estate tax shelter.

Here are a couple more advantages to gifting:

Lock in value. Any future appreciation in the value of the gift will be excluded from your taxable estate. So if you give away an asset worth $10,000 now and at your death it is worth $50,000, a grand total of $50,000 escapes taxes.

Ability to evaluate your heirs. Lifetime gifting gives you an opportunity to see how your children handle wealth. If they handle it well, you may feel more comfortable passing on more, whether during your lifetime or when you die.

However, before you begin gifting, consult with your estate advisor about how the latest tax law should affect your planning. Consider these gifting disadvantages:

1. You lose control and use of the gifted property. You want to give away enough to avoid taxes, but not so much that you are unable to maintain your lifestyle years from now.

2. Gifts of certain partial interests in property, future interests, and gifts to some trusts may not qualify for this exclusion.

3. Capital gains taxes could be higher with a gift now, rather than waiting until the future. The recipient's basis for determining a capital gain is equal to your basis in the asset, plus the gift tax paid on net appreciation. So let's say you give stock shares valued at $30,000, which you bought for $10,000, and you pay a gift tax of $2,000.

The recipient's basis for gain is then $12,000 (your cost of $10,000 plus gift tax paid of $2,000). If, instead, you transferred the stock when you died through your will or living trust, the heir would take the inheritance at its value on the date of your death, thereby avoiding capital gains taxes.

The Split Gift: You and your spouse (if both are U.S. residents) can jointly give $30,000 to as many people as you like. This is true even if one spouse owns all of the gift property — as long as the other spouse agrees to it.

How Gifting Can Work

Sylvia and Henry have three married children and six grandchildren. Under lifetime gifting, each child, in-law and grandchild can receive $30,000 a year — $15,000 from each parent or all from one parent with gift splitting. So every year, Sylvia and Henry can take $360,000 (12 times $30,000) from the value of their combined estate, money that can continue to grow. Their gifts are not considered "income" to the recipients. Of course, any income (such as dividends or interest) that is generated by the property after the asset is transferred is income taxable to the recipients.

Barbara inherited a vast fortune and married John, who is not wealthy. Each year, Barbara gives $30,000 (which John agrees to treat as a split gift) to each of their three children. In this way, over the next 10 years, Barbara can transfer $900,000 without gift tax consequences, which otherwise would have been included in her estate at death.

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