

Tax Cuts and Jobs Act—New Opportunities to Minimize the Tax Cost of Transferring Wealth

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President Donald Trump signed tax legislation into law in late-December 2017, ushering in several changes to the wealth transfer tax system, which took effect on January 1, 2018. Under the new law, the federal estate, gift and generation-skipping transfer (“GST”) tax exemption amounts will be approximately \$11,180,000 for individuals and \$22,360,000 for married couples. This is increased from \$5,490,000 and \$10,980,000, respectively, in 2017. These exemption amounts are scheduled to increase with inflation each year until 2025. On January 1, 2026, the exemption amounts are scheduled to revert to the 2017 levels, adjusted for inflation. The highest marginal federal estate and gift tax rates will remain at 40%, and the GST tax rate will remain a flat 40%.

This significant and temporary increase in the exemption amounts presents a unique opportunity for estate planning. We recommend that you consider taking advantage of the increased gift tax exemption amount and possibly the GST tax exemption amount by making gifts to children and/or grandchildren either outright or to new or existing trusts.

In addition, we advise looking at existing Irrevocable Trusts with inclusion ratios greater than zero and where assets may ultimately pass to skip persons. Consider making a late allocation of GST exemption where appropriate to cause such trusts to have an inclusion ratio of zero.

We also recommend that you review the terms of your Wills and Revocable Trusts at this time to ensure they remain in accordance with your wishes. Many Wills and Revocable Trusts create trusts that will be funded according to formula clauses tied to the exemption amount in effect on your date of death. If you die before 2026, these trusts may be funded with significantly larger amounts than you were anticipating when the documents were signed.

In addition to the increased exemption amounts discussed above, the amount each person may give annually to as many individuals as he or she desires without incurring a gift tax and without using any of the gift tax exemption amount will increase to \$15,000 in 2018 (up from \$14,000 in 2017). In other words, beginning in 2018, a married couple may make “annual exclusion gifts” of up to a total of \$30,000 to an unlimited number of recipients. If you would like to make annual exclusion gifts to a minor, you may wish to make these gifts to “Crummey” trusts, UTMA or college savings accounts. Please note that in addition to making gifts using your gift tax exemption and annual exclusion amounts, there is an unlimited gift tax exclusion for amounts paid on behalf of an individual directly to medical care providers for medical care and educational institutions for tuition.

You may also wish to leverage gifts of your gift and GST tax exemption amounts by engaging in sales to grantor trusts. Other estate planning techniques, including intra-family loans, grantor retained annuity trusts (“GRATs”) and split-interest charitable trusts, continue to be effective wealth transfer tools as well. In January 2018, the Applicable Federal Rate for use with a sale to a grantor trust or for an intra-family loan with a nine-year term will be 2.17%. The Section 7520 “hurdle rate” for GRATs and certain split-interest trusts will be 2.6%. It is important to note that certain techniques work better in a low interest-rate environment, so it may be advantageous to act in the near future before interest rates rise further.

If you have questions about this and other aspects of the Tax Cuts and Jobs Act, please contact your HCVT tax advisor or marketing@hcv.com.

About Sarah Cullen:

Sarah brings over 25 years of public accounting experience to her client engagements and provides tax services to high net worth individuals and their related entities. In serving her clients, Sarah focuses on providing solutions to achieve tax savings. Her approach to client service is to look at her clients’ financial position in its entirety and provide solutions that are practical and aligned with their goals. She advises her clients on charitable giving and trust and estate planning. Sarah also has extensive experience providing tax consulting and compliance services to nonprofit organizations including private foundations and public charities. Connect with Sarah at sarah.cullen@hcv.com.

About HCVT:

The firm provides tax, audit and assurance, business management, and mergers & acquisition services to private companies, closely-held businesses, public companies and high net worth individuals and family offices. HCVT provides audit services to privately held businesses, funds, and employee benefit plans. The team consists of over 550 members, including over 100 partners and principals. HCVT serves its clients from eight offices in Southern California and offices in Northern California, Ft. Worth, Texas and Park City, Utah. The firm is highly specialized and focuses on specific industries and market niches. To learn more about HCVT, see www.hcvt.com.