

O'NEIL & STEINER, PLLC
ESTATE & GIFT TAX INFORMATION

Before the TCJA, the first \$5 million (as adjusted for inflation in years after 2011) of transferred property was exempt from estate and gift tax. For estates of decedents dying and gifts made in 2018, this "basic exclusion amount" as adjusted for inflation would have been \$5.6 million, or \$11.2 million for a married couple with proper planning and estate administration allowing the unused portion of a deceased spouse's exclusion to be added to that of the surviving spouse (known as "portability").

Exclusion doubled. The new law temporarily doubles the amount that can be excluded from these transfer taxes. For decedents dying and gifts made from 2018 through 2025, the TCJA doubles the base estate and gift tax exemption amount (total of estate assets plus excess gifts given over your lifetime) from \$5 million to \$10 million, and that amount is indexed for inflation after 2011 (\$11.18 million for tax year 2018). For married couples, the exemption amount can be doubled, with some basic portability techniques.

A related transfer tax called the generation-skipping transfer (GST) tax is designed to prevent avoidance of estate and gift taxes by skipping transfers to the next successive generation. The TCJA doesn't specifically mention generation-skipping transfers, but since the GST exemption amount is based on the basic exclusion amount, generation-skipping transfers will also benefit from the post-2017 increased exclusion.

Gifts of up to \$15,000 per taxpayer are allowed beginning in tax year 2018 to each recipient before having to file Form 709, Gift (and Generation-Skipping Transfer) Tax Return. Excess gifts (above \$15,000 per taxpayer to a recipient) are required to be reported on Form 709 annually.

This increased exclusion amount may have an impact on your current estate plan and cause you to consider the need to redraft some important documents, including wills and trusts.