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 exemption 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 exemption to be added to that of the surviving spouse (known as "portability").

Exemption doubled. The TCJA allows decedents who are deceased, and gifts made from 2018 through 2025, to double 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 ($13.61 million in 2024, $13.99 million in 2025). 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 exemption amount, generation-skipping transfers will also benefit from the post-2017 increased exemption.

Gifts of up to $18,000 in 2024 ($19,000 in 2025) per taxpayer are allowed to each recipient before having to file Form 709, Gift (and Generation-Skipping Transfer) Tax Return. Excess gifts (above $18,000 for 2024, $19,000 for 2025, per taxpayer to a recipient) are required to be reported on Form 709 annually. However, some gifts are excluded from reporting purposes altogether. These include:

1. Tuition for someone else paid directly to the educational institution,

2. Medical expenses for someone else paid directly to the health care provider or health insurance company.

Final regulations have confirmed that excess gifting during the TCJA covered years (2018-2025) may save future estate tax if the estate and gift tax exemption drops down to prior lower levels, if the estate tax ratees are increased, or both.

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.