Top Issues in 2020: Wealth Planning

GIFT, ESTATE, AND GENERATION-SKIPPING TRANSFER TAX BASIC EXCLUSION AMOUNT

Beginning in 2011, the gift, estate, and generation-skipping transfer tax basic exclusion amounts were indexed for inflation. In 2020, all three exclusions are $11,580,000, up from $11,400,000 in 2019**.** The annual exclusion amount for gifts remains at $15,000 per year per done**.** The top estate tax bracket remains at 40%.

LOW INTEREST RATE ENVIRONMENT

Many estate planning techniques work best when interest rates are low, particularly gifts to grantor retained annuity trusts (GRATs), sales of assets using promissory notes, including sales to family members either directly or to an intentionally defective grantor trusts, and gifts to charitable lead trusts (CLTs). The applicable federal rates for February 2020 are:

Short-term:	1.59% (term of note less than 3 years)
Mid-term:	1.75% (term of note at least 3 years but less than 9 years)
Long-term:	2.15% (term of note 9 years or more)
7520 rate:	2.20% (used with GRATs and CLTs)

IRS FINAL REGULATIONS SURROUNDING LARGE GIFTS

The higher gift tax exclusion amounts described above are scheduled to sunset after December 31, 2025 (barring change in law before then). Announced in November, the U.S. Treasury Department and the Internal Revenue Service (IRS) issued its final regulations confirming individuals making increased gift and estate tax exclusion amounts between 2018 and 2025 will not be adversely impacted after 2025 if the exclusion amounts are reduced.

Therefore, clients would be encouraged to contemplate making larger gifts if the exclusion amounts are reduced in the future, but should be mindful that assets gifted during lifetime have a carryover basis from the donor to the donee (i.e., any unrealized capital gain remains), while assets that pass at death receive a basis adjustment to fair market value, so the balancing act will be not just avoidance of estate/gift tax, but minimization of capital gains tax.

RETIREMENT PLANS AND THE SECURE ACT

The Setting Every Community Up for Retirement Enhancement Act of 2019 (the SECURE Act) was passed as part of the budget bill signed into law at the end of 2019. The SECURE Act contains provisions that have major estate planning implications.

First, the required beginning date for minimum required distributions was pushed out from the year in which a participant turned 70 ½ to the year in which they turn 72. Plan participants can still make a qualified charitable distribution (QCD) up to $100,000 after reaching 70 ½, but the amount of the distribution excluded from income must be reduced by the amount of deductible individual retirement account (IRA) contributions the participant makes during the year the QCD is made.

Second, as long as a taxpayer or their spouse is still working, they can continue to make additions to traditional IRAs. Prior law prevented additions to traditional IRAs in the year an individual reached age 70 ½ and thereafter, but did allow additions to Roth IRAs after 70 ½, subject to limitations based on income. The new law allows individuals over the income limitations eligible for a Roth IRA contribution to continue to make non-deductible contributions after 70 ½ to a regular IRA and then convert that regular IRA to a Roth IRA (so-called "backdoor Roth contribution").

Finally, the most impactful estate planning change eliminates the ability to stretch the payout of an IRA over the life expectancy of most non-spouse beneficiaries. Prior law allowed a designated beneficiary to take distributions over their life expectancy, so an IRA left to a three-year-old niece could be withdrawn over her life expectancy (79.7 years under the Single Life Table for 2019). For persons dying after December 21, 2019, beneficiaries must take complete distribution of the benefits in the plan by the end of the 10^{th} calendar year following the plan participant's death.

Exceptions to the 10-year payout include if the designated beneficiary is: the plan participant's spouse or minor child (or a conduit trust for their benefit); a disabled or chronically ill person; or a person not more than 10 years younger than the plan participant. Note that when a minor child reaches majority, the balance of the account must be distributed within 10 years after such age.

HOW WE CAN HELP

Our lawyers act as both legal advisors and trusted counselors, helping clients leverage financial and legal tools to achieve their personal, family, business, and charitable goals. Please reach out to Sarah Ehrhardt, Brad Kalscheur, Amy Kiiskila, Phil Maples, Kate Reynolds, Sheila Stevens, Julie Gorens-Winston or other members of our Wealth Planning team, for additional information regarding the topics referenced above or for any questions related to our wealth and estate planning services.

Wealth Planning Attorney Team

Sarah N. Ehrhardt

Partner
snehrhardt@michaelbest.com
T. 720.240.9519

Bradley J. Kalscheur

Partner
bjkalscheur@michaelbest.com
T. 414.225.2763

Amy S. Kiiskila

Partner
askiiskila@michaelbest.com
T. 262.956.6522

Phillip R. Maples

Partner
prmaples@michaelbest.com
T. 920.682.9036

Katherine M. Reynolds

Partner
kmreynolds@michaelbest.com
T. 920.682.9994

Sheila Boothby Stevens

Partner
sbstevens@michaelbest.com
T. 608.283.2252

Julie Gorens-Winston

Senior Counsel
jgwinston@michaelbest.com
T. 414.223.2514

Family Office and Accounting Team

Katie R. Petroske

Wealth Planning CPA
krpetroske@michaelbest.com
T. 262.956.6569

Deborah M. Robb

Wealth Planning CPA
dmrobb@michaelbest.com
T. 262.956.6542

Rose M. Sadlon

Wealth Planning CPA
rmsadlon@michaelbest.com
T. 414.347.4748

Bonnie J. Turczynski

Paralegal
bjturczynski@michaelbest.com
T. 920.482.4825