Estate Planning Adjustments for Tax Year 2018 & Chained CPI Under New Tax Act

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Revenue Procedure 2018-18

Many estate planning provisions of the Internal Revenue Code contain brackets, exemptions, exclusions, deductions, or other figures that the Internal Revenue Service adjusts annually for inflation. On December 22, 2017, President Trump signed the legislation previously known as the "Tax Cuts and Jobs Act" (the "2017 Tax Act")[1], which increased the federal estate and gift tax exclusion amount and generation-skipping transfer tax exemption amount to $10,000,000, adjusted for inflation, effective for decedents dying after 2017 and before 2026.

Chained CPI

In a prior **alert**, we discussed the 2018 inflation-adjusted items prior to enactment of the 2017 Tax Act. The 2017 Tax Act changed the way that inflation adjustments are calculated, and, therefore, the previously announced inflation-adjusted items needed to be recalculated.

Under the prior law, inflation adjustments were based on the Department of Labor Consumer Price Index for All Urban Consumers. The new law is based on the Department of Labor Chained Consumer Price Index for All Urban Consumers, which should result in lower estimates of inflation over time. The purpose of chained CPI is to provide a more accurate estimate of changes in the cost of living from one month to another by using market baskets for both months, "chaining" the two months together. The 2017 Tax Act makes the use of chained CPI permanent, even after most of the tax changes for individuals sunset in 2025.

On March 5, 2018, the Internal Revenue Service issued Revenue Procedure 2018-18, which appeared in Internal Revenue Bulletin 2018-10. Revenue Procedure 2018-18 clarifies inflation adjustments for 2018 under the 2017 Tax Act.

Transfer Tax Provisions

Taxpayers will see their basic exclusion amount (and GST exemption amount) increase in 2018 to $11,180,000. This $5,690,000 increase from 2017 provides many planning opportunities, including the ability to make an increased number of gifts during one's lifetime and to make late allocations of GST exemption. It is notable that many practitioners assumed that, when the basic exclusion amount was doubled from $5 million to $10 million, the inflation-adjusted amount would also double from $5.6 million to $11.2 million. However, because of the change from regular CPI to chained CPI, the inflation adjusted amount is only $11.18 million. Clients should be careful not to make gifts exceeding the $11.18 million amount and inadvertently trigger the payment of gift tax.

Other relevant figures will increase slightly in 2018. The annual exclusion for gifts to a spouse who is not a U.S. citizen increases to $152,000, a $3,000 increase from last year, and the gift amount from a foreign person that triggers information reporting obligations by the recipient increases slightly by $279 to $16,076. The gift tax annual exclusion increases by $1,000 to $15,000 per individual.

A summary table of relevant gift and estate figures as adjusted for tax year 2018 is provided below. Previous years are added for context.

Adjustment	2016	2017	**2018**
Basic exclusion amount and GST exemption amount	$5,450,000	$5,490,000	**$11,180,000**
Gift tax annual exclusion	$14,000	$14,000	**$15,000**
Annual exclusion for gifts made to spouse who is not a U.S. citizen	$148,000	$149,000	**$152,000**

Information reporting on large gifts received from a foreign person	$15,671	$15,797	**$16,076**
“2-Percent Portion” under § 6166	$1,480,000	$1,490,000	**$1,520,000**
Special valuation under § 2032A	$1,110,000	$1,120,000	**$1,140,000**

Estate and Trust Income Brackets

Under the 2017 Tax Act, the estate and trust income brackets are consolidated, moving from five separate brackets to four. These changes, which sunset in 2025, are highlighted in the table below.

Tax Year 2017		**Tax Year 2018**	
If Taxable Income is:	The Tax is:	If Taxable Income is:	The Tax is:
Not over $2,550	15% of the taxable income	Not over $2,550	10% of the taxable income

Over $2,550 but not over $6,000	$382.50 plus 25% of the excess over $2,550	Over $2,550 but not over $9,150	$255 plus 24% of the excess over $2,550
Over $6,000 but not over $9,150	$1,245 plus 28% of the excess over $6,000	Over $9,150 but not over $12,500	$1,839 plus 35% of excess over $9,150
Over $9,150 but not over $12,500	$2,127 plus 33% of the excess over $9,150	Over $12,500	$3,011.50 plus 37% of the excess over $12,500
Over $12,500	$3,232.50 plus 39.6% of the excess over $12,500		

For further information on the inflation-adjusted items for 2018, please feel free to contact any member of our team.

[1] The 2017 Tax Act is formally known as "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018."

Related People

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