

GIFT AND ESTATE TAX LAW WORKSHOP

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- Not intended to be a substitute for individual legal counsel. Please consult with an attorney to discuss your particular needs.
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Outline

Review Tax Law

- Federal Estate Tax Law
- Federal Gift Taxes
- New York Estate Tax law

Discuss Ways to Reduce Gift & Estate Taxes

- Annual Exclusion Gifting
- Credit Shelter Trusts
- Transfer assets that stand to appreciate into a trust
- Gifting Minority Interests

Gift Tax Law

Federal

- Allowed to gift \$12,000 per year to any person – “annual exclusion”
- Allowed to give in excess of annual exclusion, but must file gift tax return
- No gift taxes owed until gift > \$1 million

New York

- No gift tax

Estate Tax Law

Federal

- Exemption amount varies per year:
 - 2008: \$2 Million
 - 2009: \$3.5 Million
 - 2010: No estate tax
 - 2011: \$1 Million
- Highest Tax Rate: 45%

New York

- \$1 Million Exemption
- Highest Tax Rate: 16%

Interplay between Gift and Estate Taxes

- Any gifting beyond the annual exclusion amount reduces your estate tax exemption
- For example, if Mrs. Smith gifts \$25,000 to her niece in one year, she will owe no current gift taxes, but she will need to file a gift tax return and her federal estate tax exemption will be reduced by \$13,000 – bringing her exemption amount to \$1,987,000

Ways to Reduce Gift and Estate Taxes

- Lifetime gifting: use your annual exclusion
- If both spouses are living, distribute assets evenly and use credit shelter trusts
- Bequeath non-exempt assets to tax-exempt parties:
 - Spouses
 - Charities
- Transfer assets that stand to appreciate into a trust, such as:
 - Term Life Insurance
 - Real Property
 - Interests in a start-up business
- Gift minority interests

Annual Exclusion Gifting

- Each person allowed to give ANY person up to \$12,000 per year
- Giving to children and grandchildren and the spouses of same (where appropriate) is the most cost-effective way to reduce your estate tax liability

Tax Exempt Beneficiaries

- Bequeath the taxable portion of your estate, to the extent possible and appropriate, to tax exempt beneficiaries, such as:
 - Spouses
 - Charities

Transfer Assets that Stand to Appreciate into a Trust

- Term Life Insurance: is includible in the decedent's taxable estate IF there were any incidents of ownership, such as ability to change beneficiary
 - Nearly zero present value, so using very little of your gift tax exemption in gifting the policy to a trust
 - Commonly referred to as ILITs or Crummey Trusts
- Real Property
- Start-Up Business Interests

Transfer Minority Interests

- Less is More:
 - For example, if you gift a minority interest in a company, that interest is worth less than a pro rata valuation as it has less rights associated with it
- Often this is the most complicated way to reduce your estate tax liability:
 - Involves valuing the interest at the time of gifting – this can be costly
 - Conflicts can arise between the IRS and the taxpayer over the valuation

Additional Information

- See the following additional materials on this site:
 - Introduction to Trusts
 - New York Probate Overview
- Please feel free to contact me for further guidance:

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