

TRUSTS AND ESTATES

A Shipman & Goodwin LLP® Newsletter

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2023 Estate, Gift, and GST Tax Changes

The Internal Revenue Services has announced the inflation-adjusted figures for estate, gift, and generation-skipping transfer (“GST”) tax exemptions for 2023.

- The annual gift tax exclusion amount (i.e., the amount you can give each year to someone free of gift tax) is increased from \$16,000 to \$17,000 (or \$34,000 for a married couple).
- The federal lifetime gift and estate tax exemption amount (i.e., the total amount you can give away during your life or at death free of gift or estate tax) is increased by \$860,000 from \$12.06 million to \$12.92 million. This means that a married couple could transfer a combined total of \$25.84 million without owing any federal estate tax. The top federal gift and estate tax rate remains 40%.
- The federal GST exemption will similarly increase to \$12.92 million. The GST tax is the tax on transfers to grandchildren or more remote descendants or unrelated individuals who are more than 37 ½ years younger than you. The GST tax rate remains a flat 40%. Unlike the federal estate tax exemption, any GST tax exemption unused at one spouse’s death cannot be used by the surviving spouse. In other words, you must “use it or lose it.”
- Starting in 2023, the Connecticut lifetime gift and estate tax exemption amount will match the federal gift and estate tax exemption amount, meaning that the Connecticut exemption will increase from \$9.1 million to \$12.92 million on January 1, 2023. The top Connecticut gift and estate tax rate remains 12%. Note, a surviving spouse cannot take advantage of any Connecticut unused exemption of the first-to-die.

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As a reminder, the federal lifetime gift and estate tax exemption was increased by the 2017 Tax Cuts & Jobs Act and, absent any change in the law, the exemption will decrease by about one-half on January 1, 2026. Whether Congress really will let the exemption decrease in 2026 is hard to forecast, but it is safe to say that such a decrease is far from a given.

If you are concerned about the possibility of the estate tax exemption decreasing, you may wish to transfer property before then to use up all or most of your remaining exemption amount and “lock in” the higher exemption amount. Treasury Regulations (referred to as the “anti-clawback” rules) issued in 2019 effectively approved this strategy and clarified that, generally, the Internal Revenue Service will not impose an additional estate tax if the exemption at an individual’s death is lower than the exemption available and used by the individual at the time the individual made lifetime gifts. Gifts designed to lock in use of your current estate tax exemption can be structured in many ways and can be funded with a variety of assets. Please contact us if you would like to explore your options.

IRA Required Mandatory Distribution Changes

As described in a prior newsletter, the SECURE Act, which was signed into law on December 20, 2019, made substantial changes to the rules governing IRAs and other qualified plans. One of the most significant changes eliminated the ability of most non-spouse beneficiaries to “stretch” withdrawals from inherited IRAs or other qualified retirement plans (known as required minimum distributions, or “RMDs”) over the beneficiary’s life expectancy. Instead, these beneficiaries are required to withdraw all of the account assets within ten years of the plan participant’s death. (Note: This change affects accounts of participants who died after December 31, 2019.)

Proposed Regulations issued in February 2022 created significant confusion on whether beneficiaries subject to this new “ten-year rule” (i) must take RMDs over the course of the ten-year period before taking the balance of the assets at the end of the period or (ii) may defer all withdrawals during the ten-year period and take a single lump sum at the end of the period. In recognition of this confusion, the IRS recently issued Notice 2022-53, stating that final regulations relating to RMDs will apply no earlier than tax year 2023. In other words, beneficiaries subject to the ten-year rule can rest assured that they will not be penalized if they failed to take any distributions for tax years 2021 or 2022.

In addition, on December 29, 2022, President Biden signed into law the SECURE 2.0 Act as a follow-up to the SECURE Act. The SECURE 2.0 Act makes a number of changes to retirement plans. Notably, participants born after December 31, 1950 may now defer taking RMDs until age 73, and participants born after December 31, 1958 may defer taking RMDs until age 75.

Introducing Cheryl A. Clemens



Shipman & Goodwin (Shipman) is pleased to announce that Cheryl A. Clemens has joined the Trusts & Estates Department as an Associate. Cheryl graduated from Pace Law with her J.D. in 2021 and is currently pursuing her L.L.M. in Taxation at Boston University. Prior to joining the firm, she worked in the Trusts & Estates Department at a firm in Southbury, Connecticut, where she worked closely with individuals to develop their estate plans and also helped clients navigate the probate process after the loss of a loved one.

Questions or Assistance

Please contact your Shipman & Goodwin estate planning attorney if you have any questions on the issues described above or would like to review your estate plan generally.

Trusts & Estates

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