Estate Planning

Changes in Federal Estate and Gift Taxes

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If you give someone money or property during your life, you may be subject to federal gift tax. The money and property you own when you die, which is your estate, may be subject to a federal estate tax. However, there are times when these taxes apply and times when they do not . You should know how much money or property you can give away during your lifetime or leave to your heirs at your death before any tax will be owed.

Every American receives a "credit" against federal Estate and Gift Taxes.   Most states also provide their own credit for state tax purposes. This credit is referred to as the "unified" credit because federal gift and estate taxation are integrated into one unified tax system. The unified credit plays a major role in estate planning because there is no estate tax for estates that are less than or equal to the unified credit. For tax years 2006 - 2008, the amount you can pass tax free to your heirs increased to $2.0 million for federal purposes and will increase again to $3.5 million in 2009. Massachusetts exemption is $1.0 million as of 2006 and thereafter. In 2010, the estate tax (but not the gift tax) expires; in 2011, the estate tax again becomes effective at the 2002 exemption level for deaths occurring in 2011 and thereafter, unless modified by Congress.
The unified credit may be used for property left to any donee, either outright or in trust. In a typical estate plan, the unified credit amount is used by creating a trust for that amount for the surviving spouse during his or her lifetime. Upon the surviving spouse's death, the children would then become the beneficiaries of the trust. This trust is sometimes called an "exemption trust," a "by-pass" trust, credit shelter trust, or B trust. Regardless of the name of the trust, its purpose is to reduce or eliminate federal estate taxes for a married couple's estate. This type of estate plan sets up an irrevocable trust that will hold the assets of the first spouse to die. The amount transferred to the irrevocable trust usually will not be taxed for federal estate tax purposes when the second spouse dies.

You can effectively reduce or eliminate estate taxes with a little planning and the use of different types of trusts. Planning is a must. For example, a married couple’s estate of $4.0 million or less can be passed to their heirs complete free of federal estate taxes and the state tax can be greatly reduced by putting the assets of the first to die into a trust for the benefit of the children or some other beneficiary while still having the income from the trust used by the surviving spouse. Once the second to die passes on, that person’s assets will pass estate tax free if less than the exemption amount on the date of death. If this all happened in 2006 or 2007, a total of $4.0 million could be protected from federal estate taxes.

Consult your estate planning attorney for advice on how to minimize your estate taxes.