

## NEWS ALERT

### TRUSTS & ESTATES



## Should I Consider Making Lifetime Gifts?

By Lisa P. Staron | April 7, 2021

One of the main purposes of estate planning is to determine who receives your property when you die, and when and how they can access that inheritance. For many families, the answer involves a written plan for the benefit of their children and grandchildren. In that scenario, part of the planning process should also include a discussion about whether lifetime gifts, whether outright or in trust, make sense.

### **CURRENT EXEMPTION AMOUNTS**

In 2021, each individual can transfer a total of \$11.7 million at death or during his or her lifetime without any Federal estate, gift, or generation-skipping transfer (“GST”) taxes. If your assets and/or transfers exceed that amount, a 40% tax applies on the excess. At the state level, in 2021 each individual who is domiciled in Connecticut can transfer \$7.1 million at death or during his or her life without incurring any Connecticut estate or gift taxes. The tax rates in Connecticut range from 7% to 12%.

What does this mean? Together, married couples in Connecticut can transfer a significant amount of money (up to \$14.2 million) to their children and grandchildren without any tax exposure whatsoever. This creates an excellent opportunity to keep wealth within your family.

If your estate is large enough to have exposure to Federal estate taxes, gifting assets during your lifetime can be a powerful way to reduce your taxable estate, thereby reducing (or eliminating) state and Federal estate, gift and GST taxes.

If estate taxes are not your primary concern, making gifts to your children and grandchildren while you are still alive allows you to see them enjoy those gifts and the benefits they bring in real time. A well thought-out estate and financial plan can help you develop a gifting strategy that balances potential estate tax savings with your income needs and living expenses during your lifetime and retirement years. Some different gifting strategies are discussed in more detail below.

### **TAX-FREE GIFTING OPPORTUNITIES**

**Annual exclusion gifts.** These are present-interest gifts that qualify for the \$15,000 per person exclusion from Federal gift taxes. A gift is considered a present interest if the recipient has all immediate rights to the use, possession, and enjoyment of the property or income from the property.

With annual exclusion gifts, you can give away up to \$15,000 in cash or property value to an unlimited number of recipients without incurring a tax and without eroding your \$11.7 million lifetime exemption amount. Married couples can choose to “split” gifts by filing Federal gift tax returns, which allows them to effectively double the amount of cash or property value per recipient (up to \$30,000). It is important to note that the annual exclusion is *per recipient* – it is not the sum total of all of your gifts. That means, for example, you can give \$15,000 in cash or property value to each of your children and grandchildren, and \$15,000 in cash or property value to each of their spouses, etc., all in the same year, without any gift tax exposure. Thus, if you have two children who are married and four grandchildren between them, you and your spouse could effectively gift up to \$180,000 in 2021 without incurring a gift tax liability. This gifting strategy can be repeated every year and keeps 100% of the value of those gifts within your family for immediate use and investment.

If this strategy works for your family and the gifts are repeated, after several years this could result in the transfer of significant value to your family members without any gift taxes ever being paid.

**Exclusion for Payment of Medical Expenses.** In addition to annual exclusion gifts, generally, expenses for medical care and medical and dental insurance premiums that are paid directly to the provider are excluded from the definition of taxable gifts. Medical care includes expenses incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, or for the transportation primarily for and essential to medical care.

The medical exclusion does not apply to amounts paid for medical care that are reimbursed by the patient's insurance. If payment for a medical expense is reimbursed by the patient's insurance company, then your payment for that expense, to the extent of the reimbursed amount, is not eligible for the medical exclusion and you are considered to have made a gift to the patient of the reimbursed amount.

**Exclusion for Payment of Qualified Educational Expenses.** A gift tax exclusion is also available for any amount paid on behalf of an individual as tuition to a qualifying educational organization for that individual's education. It is important to note that this exclusion is limited to tuition and does not include books, supplies, room and board, or similar expenses which do not constitute direct tuition costs. The tuition payment must be made directly to the educational institution to qualify for the gift tax exclusion; it cannot be a gift to the student to reimburse them for their costs and expenses. In that scenario, it would be considered a gift to the student and subject to the annual exclusion rules discussed above.

Thankfully, this exclusion is not limited to college tuition. Private school tuition for primary or secondary schools is also eligible for the exclusion. In some cases, tuition to pre-primary schools may also qualify, if the school is considered an educational institution rather than simply a day care provider.

## **LARGE (TAXABLE) GIFTS**

In addition to making smaller, tax-free gifts, you may want to consider making larger gifts to your loved ones. While it comes with some cost (you will need to prepare and file gift tax returns, the gifts will count against your lifetime gift and estate tax exemption amounts, and you lose the step-up in basis that would otherwise occur if you held the property until your death), there are still benefits to consider. First, and perhaps most importantly, you will be removing future appreciation in the value of the gifted property from your taxable estate. This could be incredibly important for families with large concentrations of appreciating illiquid assets that they wish to keep with the family, such as ownership interests in a successful closely-held business. In that example, in addition to completely or partially removing an appreciating asset from your taxable estate, making a lifetime gift of business interests to the next generation might be a key component of your ownership and management succession plan.

To make these large gifts, there are a number of different gifting strategies, such as grantor retained annuity trusts and qualified personal residence trusts, installment sales, and gifts of partial interests, which leverage actuarial factors and valuations to limit or even eliminate any negative gift tax consequences. This approach is somewhat more complicated and requires the assistance of planning professionals, but in many circumstances it is more beneficial to all parties involved than making an outright gift.

## **CONCLUSION**

By developing a gifting strategy as part of your overall estate plan, you have the ability to transfer your hard-earned wealth to your children and grandchildren in a tax-efficient manner. You also maintain the ability to control how and when your family receives these gifts, which allows you to take your family's personal financial situation and demographics into consideration.

We encourage you to meet with us and work with your financial advisors to develop your plan for a successful future.

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