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Planning for the Next Generation

New Strategies for Farm and Ranch Succession Planning

Prepared and Presented by:

Heather A. Kmetz and Julie K. Kelly

1000 SW Broadway, Suite 1400 Portland Oregon 97205 | 503.227.1111 | sussmanshank.com

Gift and Estate Tax Mechanics

- 2012 American Taxpayer Relief Act established federal transfer tax exemption amount of $5,000,000 (indexed)
- Tax Cuts and Jobs Act of 2017 doubled the exemption amount to $10,000,000 (also indexed)
- The new law is subject to a sunset provision that takes effect on January 1, 2026
- Maximum tax rate of 40%

Calendar Year	Estate and GST Tax Exemption	Gift Tax Exemption	Estate and GST Tax Rate	Gift Tax Rate
2009	$3.5 million	$1 million	45%	45%
2010	"Repeal"	$1 million	0%	35%
2011	$5 million	$5 million	35%	35%
2012	$5.12 million	$5.12 million	35%	35%
2013	$5.25 million	$5.25 million	40%	40%
2014	$5.34 million	$5.34 million	40%	40%
2015	$5.43 million	$5.43 million	40%	40%
2016	$5.45 million	$5.45 million	40%	40%
2017	$5.49 million	$5.49 million	40%	40%
2018	$11.18 million	$11.18 million	40%	40%
2019-2025	$10 million (indexed)	$10 million (indexed)	40%	40%
2026	$5 million (indexed)	$5 million (indexed)	40%	40%

Federal Unified Credit

- Federal estate and gift tax credit is **unified**
- Gifts in excess of the annual exclusion (currently, $15,000 per recipient) reduce the taxpayer's credit at death
- For instance…

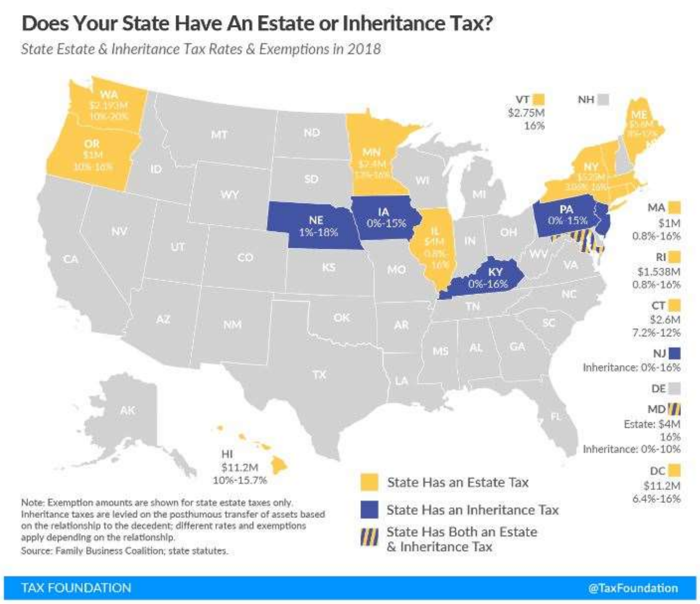
On December 31, 2018, Sue gifts $15,000 to each of the following individuals: Bob, Alex, Joe, and Mary. On January 1, 2019, Sue gifts $15,000 to the same individuals. All of the gifts are exempt from gift tax. Further, if Bob, Alex, Joe, and Mary are each married, Sue could also gift $15,000 to each of their spouses.

Bob gifted Alex $11,180,000 in 2018. In 2019, Bob transfers $1,000,000 by gift to Mary. Gift tax would be assessed on the 2019 gift to Mary because Bob exhausted his exemption amount in 2018.

Bob gifted Alex $11,180,000 in 2018. In 2019, Bob dies leaving an estate of $21,180,000. Estate tax would be assessed on the entire $21,180,000 estate because Bob exhausted his exemption amount in 2018. If Bob did not make the 2018 gift, only $10,000,000 of the estate would be subject to estate tax.

Oregon Estate Tax

- Assets over $1,000,000 are subject to Oregon estate tax
  - Estate tax rate begins at 10%
  - Maximum estate tax rate is 16% (which applies to estates over $9.5 million)
- No gift tax in Oregon
  - Taxpayers can avoid Oregon estate tax by gifting assets during their lifetime such that they are left with assets of less than $1,000,000 at death
  - "Deathbed Gifting" permitted
  - Although lifetime gifting can avoid Oregon estate tax liability, donor should carefully consider income tax consequences:
    - Carryover Basis
    - Step-up in Basis



Gross Estate

- Life Insurance Proceeds
- Personal Property
- Real Property
- Retirement Accounts
- Annuities
- Revocable Trust Assets
- Promissory Notes
- Investment and Cash Accounts
- Business Interests
- Outstanding Notes
- Stocks and Bonds

Transfer of Assets at Death

- Titling Assets
  - Individual Name
  - Survivorship
  - Tenancy in Common
- Probate Avoidance – Revocable Trust
  - Transfer title from your individual name to trust
  - Benefit of lifetime management of assets
  - Assets transfer at death to designated beneficiaries (often referred to as a "will substitute") without need for court intervention
  - Affords opportunity for more tax planning

Form of Entity Considerations

- Sole Proprietorship
- General Partnership
- Limited Partnership
- Limited Liability Company
- Corporation
  - C Corporation
  - S Corporation

Lifetime Transfer Options and Mitigation of Tax Liability

- Sale
  - During life:
    - Plan early
    - Consider restructuring the entity (or establishing an entity)
    - Charitable trusts
  - At death:
    - Basis and future appreciation
    - Estate tax triggered by way of inclusion
- Gift
  - Basis considerations
  - Leveraging gifts
- Combination Sale / Gift

Additional Considerations

- Oregon Natural Resource Credit
  - Decedent's *gross* estate must not exceed $15 million;
  - Value of property must exceed 50 percent of the gross estate;
  - Property must have been operated as a farm, forestry or fishing business by the decedent or a family member of the decedent's family for at least five of the eight years preceding the decedent's death; and
  - One or more of the decedent's family members must continue to operate the property as a farm, forestry or fishing business for at least five of the eight years following the decedent's death.
- Special Use Valuation (IRC § 2032A)
- Property Tax Incentives
- Future Uncertainties

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Questions?

Thank you for your time!

hkmetz@sussmanshank.com

jkelly@sussmanshank.com

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