

Now or Never? Take Advantage of Gift Tax Exemption Limits

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Don't let Taxmageddon deprive you and your beneficiaries of valuable tax saving opportunities

Unless Congress acts, at the end of 2012 a number of taxpayer-friendly provisions will expire, resulting in sharp increases in the tax burden for most Americans. Collectively, the tax hikes are being labeled "Taxmageddon" by some commentators.

Among the changes that would go into effect on January 1, 2013, is a major drop in the federal gift tax exemption, from \$5.12 million to \$1 million. As a consequence, this an ideal time to take advantage of the higher limits and spare your beneficiaries the cost of avoidable estate taxes.

A May 25, 2012, *Wall Street Journal* article, "[A Golden Age of Gift Giving](#)," lists several ways to take advantage of the current gift tax limits:

- 1) forgiving loans to family members;
- 2) equalizing cumulative financial gift amounts to children and grandchildren now, so they can avoid arguments and estate taxes later;
- 3) spreading financial ownership of a family business among beneficiaries; and
- 4) creating irrevocable trusts that ensure peace of mind for trustmakers and their beneficiaries.

LOAN FORGIVENESS

If you have loaned money in previous years to family members, this is a good time to turn that loan into a tax-exempt gift. However, taxpayers who choose this tactic should be careful; the IRS has imposed taxes on forgiven loans in cases where there was no paper trail to show that those "loans" were not actually gifts at the time they were made.

To create a paper trail where none currently exists, you might pursue this solution (with the help of a tax professional): Loan your family members the money needed to pay off the old loan, properly document the new loan, and then forgive it.

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EQUAL DIVISION OF ASSETS

Wills and trusts often call for the equalization of gifts to children and grandchildren for weddings, education, homes or other needs. To prevent squabbling among family members about fairness, you can take advantage of the higher gift limits by making that equalization now rather than later, ensuring the equal distribution of financial gifts to all beneficiaries.

CONTINUING THE FAMILY LEGACY

Under current law, current gift tax exemptions and valuation discounts for minority stakes in a business allow taxpayers to spread out ownership of the family business among beneficiaries. By gifting stakes in a business, you can avoid future estate taxes and maintain continuity of ownership. These valuation discounts may be taken away, so now may be the time to pursue this strategy.

GIFTING

Irrevocable trusts are the tried and true way to safeguard wealth and, especially now, are an ideal depository of your gifts. Establishing a trust for the benefit of your children (and grandchildren) allows you to remove significant wealth from your estate for tax purposes, while maintaining control over the use of the money, without incurring a gift tax liability. If you have been considering this strategy, now is the time to act while the federal gift tax exemption is at its relatively generous \$5.12 million.

DON'T LET TIME RUN OUT

While most informed observers predict that Congress will pass some form of tax relief before the end of the year (and certainly after the November election), it is not a sure thing. Even if Congress does act, the status quo is at risk, and taxpayers at the higher end of the net worth spectrum are likely to lose some valuable opportunities that exist today.

If a \$4.12 million drop in the federal gift tax exemption would negatively impact you and your beneficiaries, now is the time to start planning for a less tax-friendly future by calling [Ron Adams](#) at 480-345-8845.

Adapted from the Daily Plan-It newsletter.

Hoopes, Adams & Alexander, PLC, is a Chandler, Arizona, law firm offering services to Phoenix-area clients in the areas of estate planning, entity formation, commercial and real estate transactions, and civil litigation.
