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New Tax Bill Brings Changes for Estate, Gift and Generation-Skipping Taxes in 2018

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On the Subject

Estates & Trusts
Tax
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Summary

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In Depth

New Opportunities for Transfer Tax Minimization

With the president's signing of the tax bill into law, there will be major new opportunities starting in 2018 to minimize the tax cost of transferring wealth. The new law doubles the exemption base for gift, estate and generation-skipping transfer taxes but provides that starting in 2026, the exemptions revert back to the pre-2018 levels. The exemptions would continue to be indexed for inflation but by a different, less generous measure than applicable under current law. That means that the exemption next year will be slightly less than double the $5.6 million that would have been the exemption for 2018 before the new law. This is detailed further below. (What was *not* included in the new law are two items that were in the bill that was passed by the House. The bill passed by the House would have repealed the estate and generation-skipping taxes beginning in 2025 and dropped the gift tax rate from 40 percent to 35 percent starting in 2025.)

The new indexing scale is based on a measure called the chained consumer price index (chained CPI). The Congressional Budget Office expects that inflation measured by the chained CPI will be about 0.25 percentage points lower than the results produced by the CPI adjustment applicable under old law to the many inflation adjusted figures in the tax code. Our unofficial calculation of how this impacts the estate, gift and generation skipping exemptions for 2018 is that those exemptions will be *$11.18 million*, just slightly less than the *$11.2 million* figure that would apply using the traditional CPI measure and reported generally by the press as the applicable exemption for 2018.

The new chained CPI will also apply starting in 2018 for determining the maximum amount qualifying for the gift tax annual exclusion. That inflation adjusted figure ($14,000 for 2017) was scheduled under the pre-tax reform law to increase to $15,000. Our unofficial calculation using the chained CPI also results in an increase of the per donee gift tax annual exclusion amount to $15,000.

Exemption for 2017:	$5.49 million
Scheduled Exemption for 2018 before New Law:	$5.60 million
Projected 2018 Exemption under New Law:	$11.18 million

Projected 2018 Exemption increase over 2017 Exemption	$5.69 million

The Takeaway

The doubling of the exemption base translates into an opportunity starting in 2018 for those who have used their entire $5.49 million exemptions through 2017 to transfer—without current gift tax or future estate or generation-skipping taxes—an additional $5.69 million for an individual or $11.38 million for a married couple. For those who have not used the maximum amount of their exemptions, the unused amount continues to be available.

This opportunity may only be available for 8 years, until 2026. In particular, many individuals have plans that use tax-based formulas that should be reviewed and reconsidered in light of these doubled exemptions. The changes could have a profound effect on your plan at death which may not have been anticipated.