IRS

Final regulations confirm: Making large gifts now won’t harm estates after 2025

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WASHINGTON — The Treasury Department and the Internal Revenue Service today issued final regulations confirming that individuals taking advantage of the increased gift and estate tax exclusion amounts in effect from 2018 to 2025 will not be adversely impacted after 2025 when the exclusion amount is scheduled to drop to pre-2018 levels.

Treasury Decision 9884, available today in the Federal Register, implements changes made by the Tax Cuts and Jobs Act (TCJA), the tax reform legislation enacted in December 2017. Though the final regulations largely adopt the proposed regulations published last November, they also include clarifying technical language addressing concerns raised in several public comments as well as four examples which, among other things, illustrate the impact of inflation adjustments. As a result, individuals planning to make large gifts between 2018 and 2025 can do so without concern that they will lose the tax benefit of the higher exclusion level once it decreases after 2025.

In general, gift and estate taxes are calculated, using a unified rate schedule, on taxable transfers of money, property and other assets. Any tax due is determined after applying a credit – formerly known as the unified credit – based on an applicable exclusion amount.

The applicable exclusion amount is the sum of the basic exclusion amount (BEA) established in the statute, and other elements, if applicable, described in the final regulations. The credit is first used during life to offset gift tax and any remaining credit is available to reduce or eliminate estate tax.

The TCJA temporarily increased the BEA from $5 million to $10 million for tax years 2018 through 2025, with both dollar amounts adjusted for inflation. For 2019, the inflation-adjusted BEA is $11.4 million. In 2026, the BEA will revert to the 2017 level of $5 million as adjusted for inflation.

To address concerns that an estate tax could apply to gifts exempt from gift tax by the increased BEA, the final regulations provide a special rule that allows the estate to compute its estate tax credit using the higher of the BEA applicable to gifts made during life or the BEA applicable on the date of death.

More information about this and other TCJA provisions can be found on the Tax Reform page on IRS.gov.

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