

Tax-Savvy Estate and Succession Planning for Business Owners

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Presenters



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Items to discuss

- Estate exemption and impending Sunset
- Deceased Spousal Unused Exemption
- Generation Skipping Transfers
- Gifting Strategies
- Basic Checklist Items



CPE Activity Question

How did you hear about this webinar?

A. Email invitation

B. Social media

C. Word of mouth

D. GBQ's Bottomline newsletter

Historical Estate Exemption

Tax Rate of 40%
(marginal rate on assets below \$1m)

- **2002 - 2010** **\$1,000,000**
- **2011 - 2017** **\$5,000,000 plus inflation**
- **2018** **\$11,180,000**
- **2019** **\$11,400,000**
- **2020** **\$11,580,000**
- **2021** **\$11,700,000**
- **2022** **\$12,060,000**
- **2023** **\$12,920,000**
- **2024** **\$13,610,000**

- **2026 – SUNSET** ***\$7,000,000 estimated***



Optimizing Spousal Exemptions

- For married couples with joint estates above \$26m, it is highly recommended to fully utilize both exemptions prior to 2026 Sunset.
 - Estimate reduction of \$6.6m each
 - Combined savings at 40%
 - \$5,280,000
- For married couples with estates within the current \$20m and \$13.6m, it is important to consider using one spouse's full lifetime exemption prior to the Sunset.
 - Gifts can be made by one spouse (without gift splitting) to still take advantage of a large portion of the expiring exemption; commonly used to fund SLATs.



Funding of SLATs

- Reciprocal doctrine can negate spousal trusts.
- Important for trusts not to be exact mirrors of each other.
- Best to fund in two separate years. With Sunset being 2026, the opening to fund in 2024 and 2025 is quickly closing.

Deceased Spousal Unused Exemption “DSUE”

- **Made permanent in 2012.**
- **Must be used first with surviving spouse’s current gifting before individual may use their own lifetime exemption.**
- **Five year late election relief for estates filing for portability.**
- **With 2026 exemption Sunset, important to review whether portability filing is material for descendants still within five year window.**

Generation Skipping Transfers “GST”

- Important to review trust language and confirm GST properly applied on 709s.
- If GST election not properly made, there is late relief to prevent further growth from being includible in future GST taxation.
- If 2026 sunset occurs, GST becomes even more valuable to large wealth families. Electing GST at the first generation on assets transferred to trust, preserve those assets free of transfer taxes for future generations – funding of Dynasty Trusts.



Gifting Strategies

- Utilization of Trusts
 - Funding basic trusts for benefit of children with controlled parameters for access
 - Extending longevity for benefit of grandchildren in the case of dynasty trusts
 - Funding trusts for benefit of Spouse – known as Spousal Limited Access Trusts
 - *Very useful, but keep in mind that if spouse beneficiary dies, surviving spouse loses access to those funds*
 - ILITs – trusts holding life insurance policies that are excludible from estate taxes. Can be utilized to pay estate taxes and/or additional asset for benefit of descendants



Gifting Strategies (Con't)

- Gifting of Business Assets –
 - Discount valuations available.
 - Gift minority interests over a period of time to optimize the discounts available
- Sale of Business Assets -
 - Can utilize a “sale” to a trust – commonly done with Grantor Trusts.
 - *Since Grantor Trust is disregarded for income tax purposes, no gain recognized on sale.*
 - Affords a cash flow back to the grantor if necessary.
 - Possible use of SCINs (Self Canceling Installment Notes).
 - Must be careful regarding life expectancy and strict compliance to meet bona fide debt rules



Intentionally Defective Grantor Trusts “IDGT”

- Trusts written as irrevocable with special provisions to Grantor; most commonly substitution power of assets
- Transfers are complete for estate purposes but not for income tax purposes
- Income of assets stays with trust
- Grantor responsible for paying income taxes
 - *The payment of trust taxes escapes transfer taxes – another way to shift wealth without utilizing exemption*
- Can allow the option to turn off powers to cease taxation to the Grantor should cash flow become of issue in future years

Consider Income Tax Differential when Funding Trusts

- Trusts hit top tax bracket of 37% on income above \$14,450
- Trusts written as IDGTs shift taxation into Grantor's tax bracket
- Trusts that are irrevocable and currently in effect to make distributions will often make minimal distributions equivalent to the taxable income to shift into a lower tax bracket of beneficiary
 - **Should** not apply when causes assets to be pulled back into an individual with a taxable estate. Important to consider both sides when looking at income shifting for income tax purposes

Step Up Considerations

- Assets includible in estate at date of death will receive a step up to Fair Market Value
- Assets transferred to Irrevocable Trust during lifetime will be locked in with carryover basis from the Grantor
- Important to weigh assets properly to determine optimal funding – 40% estate tax versus 15-23.8% capital gains tax
 - While an asset might have a lower cost basis that would benefit by step up; is this asset anticipated to grow significantly more than another asset causing future estate inclusion issues?





CPE Activity Question

What day of the week do you prefer to attend webinars?

A. Monday

B. Tuesday

C. Wednesday

D. Thursday

E. Friday



Estate Basics Reminders

- Ensure your wills and trusts are updated for life events; such as new children, grandchildren, divorce, death of beneficiary or trustee
- Verify titling on accounts have been updated per your wills and trusts to avoid dispute of ownership and aide in smooth administration
- Reminder that titling on accounts will overwrite intended split designated in a will or trust.
 - *For example, a bank account with one child's name added for FDIC insurance purposes will go to that child. It will not become part of the pooled assets to split equally among all children.*

An American flag is shown waving in the foreground on the left side of the slide. In the background, the dome and columns of the United States Capitol building are visible under a clear sky. The right side of the slide is a light blue gradient with a white curved shape at the bottom.

Estate & Gift Tax Implications of a Trump Presidency

Tax Cuts & Jobs Act (TCJA)

- Make TCJA Estate Tax changes permanent
- Keep exemption at \$13.61 million (adjusted for inflation)
- Make the 40% estate tax rate permanent
- IRC Section 1014 post-mortem basis adjustments or “step-up in basis” would remain



Estate & Gift Tax Implications of a Harris Presidency

American Housing and Economic Mobility Act of 2024

- Gifts and transfers at death treated as gain recognition events
- A reduction in the exemption to \$3.5 million (adjusted for post-2016 inflation)
- An increase in the current 40% rate to a progressive rate ranging from 55% to 65%
- 10% rate surcharge for any estate over \$1 billion
- Grantor trust, GSST and “step-up in basis” tax rule changes



CPE Activity Question

How do you prefer to engage with speakers during a webinar?

- A. Live Q&A**
- B. Chat feature**
- C. Polls and surveys**
- D. Post-event feedback form**

Questions





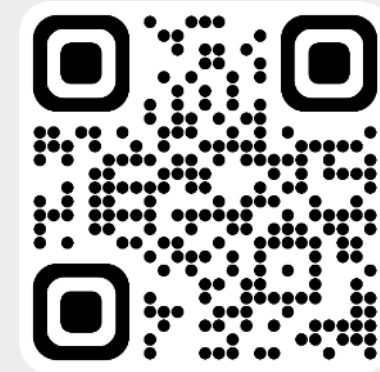
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