



IRS Nationwide
2007
Tax
FORUM
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Administration

Basic Federal Estate and Gift Taxation

Transfer Tax System

- Estate tax
- Gift tax
- Generation Skipping Transfer (GST) tax

Assets Subject To Tax

- Personal Property
- Real Estate
- Financial Assets
- Retirement Accounts
- Life Insurance
- Stock Options

Estate & Gift Tax Rates 2007

<u>Assets</u>	<u>Estate</u>	<u>Gift</u>
\$1.0 - \$1.25 million	-	41%
\$1.25 - \$1.5 million	-	43%
\$1.5 - \$2.0 million	-	45%
\$2.0 million+	45%	45%

Future Estate & Gift Tax Exemptions & Rates

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<u>Year</u>	<u>Estate Tax Exemption</u>	<u>Gift Tax Exemption</u>	<u>Highest Tax Rate</u>
2007	\$2 million	\$1 million	45%
2008	\$2 million	\$1 million	45%
2009	\$3.5 million	\$1 million	45%
2010	unlimited	\$1 million	35%
2011	\$1 million	\$1 million	55%

Tax-Free Transfers

- Spouse (US Citizen)
- Qualified Charity
- \$1,000,000 Gift Tax Exemption
- \$2,000,000 Estate Tax Exemption*

* Increasing to \$3,500,000 in 2009

Additional Gift Tax Exemptions

- \$12,000 annual exclusion*
 - Medical expenses (direct)
 - Tuition expenses (direct)
- * indexed for inflation

GST Tax

- **GST Tax is a Flat 45%***
- **\$2,000,000 GST Exemption****
- **\$12,000 Annual Exclusion**
- **Predeceased Child Exemption**

***GST Tax rate is the highest estate tax rate**

****GST Tax exemption equals the estate tax exemption**

Calculation of Estate Tax

GROSS ESTATE

less

Unlimited Marital Deduction (restrictions apply)

Charitable Gifts

Debts and Expenses

equals

TAXABLE ESTATE

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Calculation of Estate Tax

TAXABLE ESTATE

plus

Adjusted Taxable Gifts

x times tax rate (maximum 45%)

equals

Tentative Tax

less

Gift Taxes Payable

Applicable Credit Amount & Other Credits

equals

TAX

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Valuation of Gross Estate

- Date of death value
- May elect alternate valuation date, 6 months after date of death
- Value in hands of decedent, not beneficiaries

Marital Deduction

- **Outright gifts to spouse (if a U.S. citizen)**
- **Transfers to spousal trusts:**
 - **General power of appointment (GPA) trusts**
 - **Qualified terminable interest property (QTIP) trusts**
- **Non-citizen spouses:**
 - **Gift taxes: \$125,000 (in 2007) annual exclusion**
 - **Estate taxes: must make gift to a Qualified domestic trust (QDOT)**

Tax Relief Provisions

- Qualified Family Owned Business Exemption Section 2057
- 6166 Deferred Tax Payments for Closely Held Businesses
- 303 Corporate Redemptions

Simple Wills May Result in Taxes

- **Facts**
 - H & W: \$2 million assets, each
 - Wills give everything to survivor
 - H dies in 2007
 - W dies in 2008
 - Admin. expenses of \$40,000 each
- **Result**
 - No taxes at H's death
 - \$864,000 of taxes at W's death
 - Children receive \$3,056,000

Simple Wills Illustration

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H's estate: \$2,000,000

DEATH IN 2007

less

\$40,000 Costs

W already owns \$2,000,000
and receives \$1,960,000 from H

DEATH IN 2008

less

\$40,000 Costs

\$864,000 Estate Taxes

Children receive \$3,056,000

Wills with Bypass Trusts Can Save Taxes

- **Facts**
 - Same facts except wills create bypass trust for survivor
- **Result**
 - No taxes at H's death
 - No taxes at W's death
 - Children receive \$3,920,000 (versus \$3,056,000)

Bypass Trust Illustration

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H's estate: \$2,000,000

DEATH IN 2007

\$40,000 Costs

less

W's estate:
\$2,000,000

By-pass trust for
W: \$1,960,000

\$40,000 Costs

DEATH IN 2008

\$0 Estate Taxes

less

Children receive \$3,920,000

Equalizing Estates

- Unequal spousal estates can waste transfer tax exemptions
- First spouse to die have must own assets \geq the estate tax exemption
- Solutions:
 - outright gift to poor spouse
 - inter-vivos QTIP
 - revocable trust with general power of appointment

Disclaimers

- Deceased Spouse's estate plan failed to create a bypass trust
- Surviving spouse may disclaim assets to ensure use of deceased spouse's exemption.

No GST Planning Illustration

Parent's Estate: \$2,000,000

\$0 death taxes

less

DEATH IN 2007

Child Received: \$2,000,000

Value at Child's Death: \$6,000,000

\$1,125,000 death taxes

less

DEATH IN 2036

Grandchild Received: \$4,875,000

Value at Child's Death: \$14,625,000

\$5,006,250 death taxes

less

DEATH IN 2066

Great-grandchildren inherit: \$9,618,750

GST Planning Illustration

Parent's Estate: \$2,000,000

\$0 death taxes

DEATH IN 2007

Child Received: \$2,000,000
Value at Child's Death: \$6,000,000

\$0 death taxes

DEATH IN 2036

Grandchild Received: \$6,000,000
Value at Child's Death: \$18,000,000

\$0 death taxes

DEATH IN 2066

Great-grandchildren inherit: \$18,000,000

Annual Exclusion Gifts

- \$12,000 per donor / per donee / per year
- Must be a “present interest”
- Examples:
 - outright gifts
 - “Crummey” trusts
 - Section 2503(c) trusts
 - 529 college savings plans

Lifetime Taxable Gifts to Save Estate Taxes

- Gift taxes are tax exclusive and estate taxes are tax inclusive
- \$1,000,000 lifetime gift costs \$1,450,000
 - $\$1,000,000 \text{ gift} * 45\% = \$450,000$
- \$1,000,000 testamentary gift costs \$1,818,182
 - $\$1,818,182 \text{ estate} * 45\% = \$818,182$

Charitable Gifts: Lifetime v. Testamentary

- Transfers during lifetime
 - Gift tax and income tax deductions
- Transfers upon Death
 - Estate tax deduction only

Basic Estate Planning

- Bypass trusts
- Lifetime annual exclusion gifts
- Payment of medical & educational expenses
- Pre-funding of 529 plans
- Irrevocable life insurance trusts

Moderately Advanced Estate Planning

- Family Limited Partnerships (FLPs)
- Gift or sale of joint property interest in home / other real estate
- Qualified Personal Residence Trusts (QPRTs)

Advanced Estate Planning

- Grantor retained annuity trusts (GRATs)
- Installment sales to grantor trusts
- Charitable trusts
- Charitable foundations