

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

IRS Nationwide
2007
2007
Tax
FORMA
111111111111111111111111111111111111111
Partners in Tax
Administration

Assets	Estate	<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

T 7	Estate Tax		
<u>Year</u>	Exemption	Exemption	Tax Rate
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

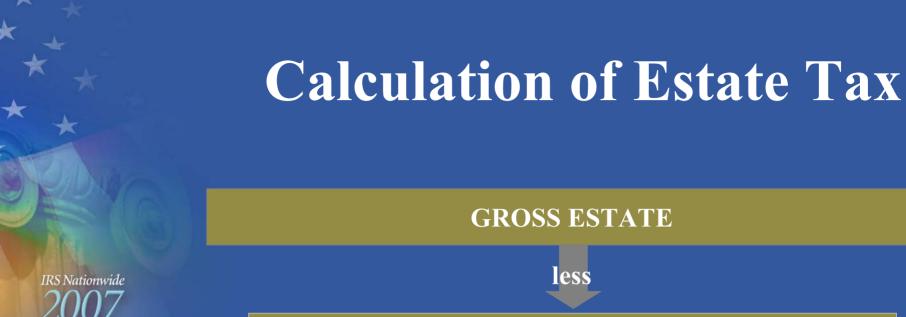


GST Tax

- 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



Unlimited Marital Deduction (restrictions apply)

Charitable Gifts

Debts and Expenses

equals

TAXABLE ESTATE

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

IRS Nationwide
2007
Tax
FORUM
Partners in Tax



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

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

less

\$40,000 Costs

DEATH IN 2008

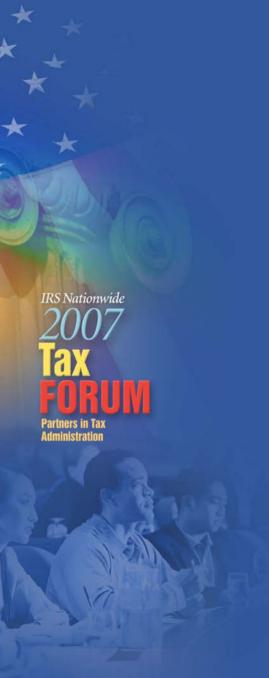
\$864,000 Estate Taxes

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

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

\$40,000 Costs

less

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

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

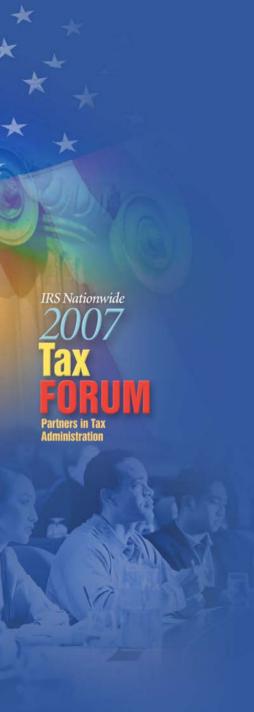
less

\$40,000 Costs

\$0 Estate Taxes

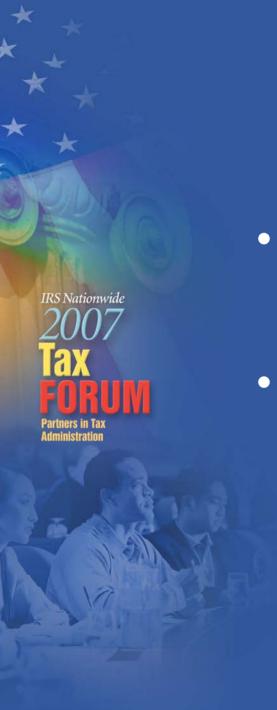
DEATH IN 2008

Children receive \$3,920,000



Equalizing Estates

- Unequal spousal estates can waste transfer tax exemptions
- First spouse to die have must own assets ≥ 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: \$9,618750



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

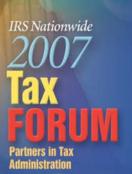
Grandchild Received: \$6,000,000

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

\$0 death taxes

DEATH IN 2066

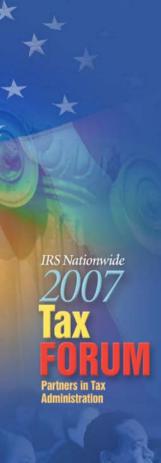
Great-grandchildren inherit: \$18,000,000





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 <u>exclusive</u> and estate taxes are tax <u>inclusive</u>
- \$1,000,000 lifetime gift costs \$1,450,000
 - -\$1,000,000 gift *45% = \$450,000
- \$1,000,000 testamentary gift costs \$1,818,182
 - -\$1,818,182 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