Business News

Know your annual exclusion gifts facts

INSIDE BUSINESS

By Steven A. Jung

Most estate planning is not driven by the calendar. If you do not have a will or living trust, you should get one as soon as possible, regardless of the date.

If you have an existing estate plan, you should dust it off every three or four years and review it with your lawyer to make sure it still works for you. The need to review or revise your estate plan can also be triggered by birth of children, divorce, death of a family member and other life changes. Otherwise, your only "deadline" is making sure that your estate plan is in place before death or disability strikes.

There is one notable exception and it presents a tremendous planning opportunity for estates potentially subject to estate tax. It is the exception for annual exclusion gifts permitted under the Internal Revenue Code, and this exception provides an easy and virtually risk-free way to get assets down to the next generation estate tax free.

Currently each person has a $1Êmillion exemption that allows them to pass $1 million in property to their nonspouse beneficiaries. This limitation applies whether the transfers are made during life or at death. So a taxable gift of $500,000 to your children now means that, at current rates, you can only pass an additional $500,000 to your children at death before your estate becomes subject to estate tax.

However, the tax laws allow a person to make gifts of up to $11,000 per recipient per year without using up any of the $1 million exemption. These gifts are called annual exclusion gifts. This means that every year, a person with five children could give each of them $11,000 - a total of $55,000 in gifts - without reducing his or her $1 million exemption.

If you want to make annual exclusion gifts this year and have not done so already, here are some suggestions:

- Start early. Make sure the recipients receive the check and promptly deposit them in their bank accounts before the end of the year.
- Get into the habit of making those gifts in January instead of December. If you pass away during the year, you have not lost the benefit of the annual exclusion gifts for that year.
- Consider gifts of partial interests in real estate or other assets. You may be entitled to discounts that allow you to pass down more than $11,000 in underlying value of the property. However, you will need to obtain an appraisal and a gift tax return is recommended.
- Double up gifts. If an appraisal is required, make gifts of an interest in a property in December and then make additional gifts of the same property in January as next year's gifts.
- One spouse has all the money: The spouse with the money can give $22,000 per recipient if the other spouse agrees on a gift tax return to be treated as having made half of the gift.
- Be careful with trusts. Generally, a gift into a trust does not qualify for the annual exclusion unless the trust has certain special provisions.
- Gift into Section 529 Plans. These plans present opportunities for making gifts that qualify for the annual exclusion, and you can "prepay" five years' worth of annual exclusion gifts.
- Leverage your gift. Make gifts into a trust and use the money to buy life insurance that will pass outside your estate to your children at your death.

Whatever you do, if you want to take advantage of this year's annual exclusion, be sure to do it soon, and consult your lawyer or CPA when necessary.

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