New Tax Rates And Exemptions

You can give an unlimited amount to your spouse, during life or through your estate plan (provided she or he is a U.S. citizen) with no tax applied. For transfers to other people, these are the exemption amounts and maximum tax rates in 2011 and 2012.

Gift tax exemption*	$5 million**	35%
Total gift and estate tax exemption	$5 million**	35%
Generation-skipping transfer tax exemption	$5 million**	35%

**The estate tax exemption amount is reduced for lifetime taxable gifts.*
***Indexed for inflation after 2011*

Widows and widowers get a special new break – they can add the estate tax exemption of the spouse who died most recently to their own (this is called portability). But keep in mind this important requirement: the executor handling the estate of the spouse who died will need to transfer the unused exemption to the survivor. This requires filing an estate tax return, even if no tax is due.

To-Do List

Key life events can make it necessary to change your estate plan. Let advisers know if you:

- Are getting married or divorced
- Have lost your spouse
- Have a new child or grandchild
- Have substantially more or less money than when you last created an estate plan
- Have been diagnosed with a serious illness
- Are approaching age 70½
- Recently received a large inheritance or learned about one you may receive in the future
- Are thinking of selling your company
- Want to make a significant gift to charity
- Plan on moving to a different state

Estate Planning SMARTS

Adapted from the book *Estate Planning Smarts: A Practical, User-Friendly, Action-Oriented Guide*, by Deborah L. Jacobs. Copyright © 2010 DJWorking Unlimited Inc. www.estateplanningsmarts.com

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Look Out for Formula Clauses

The new tax law raises the exemption from federal estate tax to $5 million a person ($10 million per couple) for 2011 and 2012. As a result, fewer families will pay federal estate tax. But that doesn't eliminate the need for careful planning.

If you haven't revised your estate plan in a number of years, make sure it still reflects your intent. Instead of naming a specific sum that will go into a trust, many documents refer to an amount up to the exemption or express the sum as a percentage of whatever the limit happens to be when the person dies.

Skim your will and living trust for phrases like "that portion," "that fraction" or "that amount" (without specifying how much). These formula clauses are signs of lawyers trying to take maximum advantage of the estate tax exemption, which kept increasing.

This was good standard practice, but it's possible that under your current arrangement, less money would now go to your spouse than you would like, or too much would go to your grandchildren. Consult your lawyer about whether amendments may be necessary.

Take Care of Those You Love

Be sure you have all the basic estate planning documents in place, in order to leave your assets to the people or charities that you wish to benefit. If you have a spouse or partner, provide for your mate financially. Name a guardian for children who are minors or have special needs, and leave funds for them in a trust in case something happens to you.

If you want to leave retirement assets to family or friends, consider converting a traditional IRA to a Roth IRA. You owe income tax on the amount you convert, but no tax is assessed when heirs withdraw the money, so income can compound tax-free.

Think about the legacy you would like to leave – for example, by providing everyone in your family with the best possible education, developing a succession plan for the family business, keeping a vacation home in the family or making meaningful gifts to charity.

It's Not Just About Taxes

Dramatic changes in the law give us all a reason for an estate plan check-up. Whether estate taxes are a concern or not, take these steps:

- Confirm that you have a durable power of attorney appointing a family member, friend or adviser as an agent to act on your behalf in financial and legal matters should you become physically or mentally unable to.
- Make sure that beneficiary designation forms, which cover the transfer of retirement assets, name both primary and alternate beneficiaries. Do not name your estate as beneficiary – that could cause your heirs to lose important income tax benefits.
- Watch out for the separate estate tax that about half the states have. It applies not only if you live in one of these states but also if you own real estate there.
- Use trusts as needed. For many people, trusts serve non-tax purposes: holding money for minors, forestalling spendthrift family members or protecting assets from former spouses or creditors, for example.