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Balance sheet

Gifting, Estate Exemption, and When do I need a Trust

By Angela Bursby, CPA

Have you ever considered what your options are to protect your assets so the assets can be passed on to your loved ones at death? If there is no planning done, there is a possibility that federal estate tax will be owed and your loved ones will not receive as much as you expected upon your death. However, there are a few options for you to consider that may assist in protecting those assets.

First, an individual can gift up to $15,000 every year to unlimited recipients without any tax consequences. For married couples, they each are entitled to make the $15,000 gift and it could be to the same recipient, if desired. Gifts of $15,000 or under are exempt from any gift or future estate tax. Gifts over the $15,000 can be sheltered from tax by applying the excess amount towards the lifetime estate tax exemption which was increased to $11,180,000 per person for 2018. However, tapping into the estate tax exemption now does reduce the amount of the exemption that will be available later for the estate. Typically, gifts from one spouse to the other spouse, gifts to a qualified charitable organization, gifts made directly to a health care provider for medical reasons, and gifts made directly to an education institution for a student's tuition are exempt from gift tax, no matter the amount. In effect, if an individual gifts a granddaughter an amount directly to the school for college tuition, the individual can still gift the granddaughter $15,000 without being subject to any tax.

Upon death, an individual will owe federal estate tax at a rate of 40% of the excess of the value of the estate over the estate exclusion amount of $11,180,000 per person. For estates that are lesser than the exclusion amount, there will not be any federal estate tax due. If you estimate that the value of your future estate will be over the $11,180,000, then using the gift tax exclusions as well as possibly using specially designed trusts can help to reduce the taxable estate value.

There are various types of trusts that can be used to remove assets from the estate to reduce possible estate taxes that will be due, however the trust needs to be designated "irrevocable". This means that the assets that are put into the trust are no longer owned by you, they are owned by the trust and can only be used according to the stipulations in the trust agreement. Although you no longer have ownership of those assets in the trust, you can still benefit from them during your lifetime if the trust is set up accordingly. Due to the estate tax exemption being increased to $11,180,000, most individuals no longer need trusts to protect their assets and reduce the size of the estate. The typical reason for a trust in this day and age is to retain control over the assets and how they will be used, such as for a child to receive specific amounts at certain points in their lives.

Please contact us if you have further questions on the above or would like our assistance with gifting, estate planning, or determining if you need a trust.