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NEW TAX EXEMPTION AMOUNTS 2022 | ESTATE PLANNING

The IRS adjusts the federal transfer tax exemption amounts for inflation each year. As of January 2022, the unified estate and gift tax exemption* and the generation-skipping transfer tax exemption amounts are \$12,060,000 (increased from \$11,700,000 in 2021). The unified estate and gift tax exemption is the maximum amount a person can give during life, or transfer from an estate at death, without paying gift or estate taxes. A deceased spouse's executor may elect to transfer any unused estate and gift tax exemption amount to the surviving spouse, which effectively doubles this exemption for married couples. The generation-skipping transfer tax exemption applies to gifts made to third generation (or beyond) family members or unrelated individuals who are at least 37.5 years younger than the grantor, but is not portable between spouses like the unified estate and gift tax exemption.

Additionally, the gift tax annual exclusion is \$16,000 (increased from \$15,000 in 2022) to an unlimited number of people each year. If an individual gift over \$16,000 to the same person in the same calendar year, a federal gift tax return (Form 709) should be filed to account for the excess which deducts against the individual's remaining unified estate and gift tax exemption amount. Any gifts in excess of the applicable exemption amount are taxed at a maximum 40% gift tax rate.

Further, tuition payments made directly to an educational organization on behalf of a person and payments for a person's medical care made directly to the provider are not considered gifts. This exclusion from gifts is important as such payments would otherwise utilize all or a portion of the annual gift tax exclusion available to such person. Additionally, such payments are exempt from the generation-skipping transfer tax. These annual, tax-free gifts are useful for spending down one's taxable estate during life to minimize tax liability upon death.

It is important to note that absent Congressional action, the federal transfer tax exemption amounts are scheduled to be reduced to pre-Tax Cuts and Jobs Act amounts (approximately \$6,500,000 after being adjusted for inflation) beginning January 2026. Once the exemption amounts drop, taxpayers that have not utilized the currently available exemption amounts will likely have lost the opportunity to do so.

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*The estate tax basic exclusion amount as defined in Internal Revenue Code Section 2010 and the lifetime gift tax exemption amount derived from the unified credit against gift tax defined in Internal Revenue Code Section 2505.

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