

## 2016 Estate and Gift Update

Articles January 26, 2016

The federal government imposes a gift tax for gifts made during one's lifetime. Likewise, the estate tax is levied on transfers made at one's death.

For 2016, the gift tax annual exclusion remains at fourteen thousand dollars (\$14,000) for gifts made by individual donors to a particular recipient. There are no limits on the number of recipients, and so long as the total amount of the gift is fourteen thousand dollars or less throughout the year, no gift tax is incurred and no return is required. For married couples who use gift-splitting in 2016, the annual limit remains \$28,000 per recipient.

The inflation-adjusted applicable exclusion amount in 2016 is five-million, four hundred fifty thousand dollars (\$5,450,000). This applies to gifts during life that exceed the annual limit of \$14,000, as well as for transfers at death invoking the estate tax. The exemption amount is the same for the generation skipping transfer tax (GST). For amounts passing in excess of the applicable exclusion amount, the federal gift or estate tax as well as the GST will be applied at the maximum rate of forty-percent (40%), as applicable.

The portability election remains for 2016. This allows a surviving spouse to file a federal estate tax return (Form 706) and elect to preserve the unused balance of his or her deceased spouse's applicable exclusion amount, which can then be applied upon the surviving spouse's death. This would allow the surviving spouse to transfer up to \$10,900,000 (2x \$5,450,000) in 2016 free of estate or gift tax.

The Supreme Court's 2015 decision in **Obergefell v. Hodges** provides that same-sex couples shall be legally recognized as married for federal tax purposes in all States. Thus, with respect to the transfer tax system, same-sex married couples enjoy the same benefits afforded opposite-sex couples, such as the unlimited marital deduction, portability and gift-splitting.

If you have any questions on the impact of these changes on your personal planning, or would like additional information, please contact a member of our Estates and Trusts Practice Group today.

*Prepared by new Tucker Arensberg, P.C. Estates and Trusts Group member, Brian J. Kahle.*