

Looking Ahead to 2023: Tax Planning and Changes on the Horizon

With 2022 almost in the rearview mirror, this is the perfect time to wrap up planning for this year and start preparing for 2023. Matters such as gift tax exemption changes, retirement legislation, interest rate increases, and new reporting requirements for businesses are a few to consider:

Gift and Estate Tax Exemption. The gift and estate tax lifetime exemption amount is indexed annually for inflation and will increase from \$12.06 million to \$12.92 million per person in 2023. For married couples, each spouse can use this exemption amount, resulting in a combined amount of \$25.84 million for 2023 (assuming proper planning and elections are made).

Under current law, the exemption amount will be reduced by half on January 1, 2026 (the exemption amount will continue to increase for inflation, so the exact amount is indefinite). Clients can take advantage of the increased gift tax exemption amount through 2025 by making completed gifts prior to January 1, 2026.

GST Tax Exemption. The generation-skipping transfer (GST) tax exemption is currently set at the same amount as the gift and estate tax exemption and is also indexed for inflation each year. Thus, the exemption amount will increase to \$12.92 million per person in 2023. Under current law, the GST exemption will also be reduced by half on January 1, 2026.

Annual Exclusion. Each year, the Internal Revenue Service permits a donor to transfer a specified amount to a noncharitable donee without using any of the donor's gift and estate tax exemption, which is called the "annual exclusion." Annual exclusion gifts are a great way to pass wealth to the next generation without incurring income or transfer tax liability. The annual exclusion is also indexed for inflation. In 2023, the annual exclusion will increase from \$16,000 to \$17,000 per donor for each recipient for taxable gifts. Accordingly, a donor may gift up to \$17,000 to a donee in 2023 without using any of the donor's gift and estate tax exemption. A married couple can gift up to \$34,000 to each donee for 2023. Gifts above the annual exclusion amount must be reported on a Form 709 (Gift Tax Return). There is still time to make annual exclusion gifts for 2022 for up to \$16,000 per individual and \$32,000 per married couple. Please contact your Reinhart attorney to discuss this further.

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Midterm Elections. The control of Congress is at stake in next week's midterm elections. There has been a myriad of hot campaign topics this cycle, with significant tax changes among them. Democrats currently control the House and the Senate by narrow majorities. Republicans expect to pick up a few seats this election and have the serious potential to flip one or both chambers. If Democrats retain both chambers, they may retry advancing their revenue-generating proposals, which include transfer tax reforms, but the slim majority makes it extremely difficult to advance their objectives. If Republicans gain control over either or both chambers, those proposals will be nonstarters.

Rising Interest Rates. Over the last several years, interest rates have been at historic lows, which have made intra-family loans (including those to trusts) a great way to leverage estate and gift exemptions. Techniques like sales to Intentionally Defective Grantor Trusts (IDGTs) and Grantor Retained Annuity Trusts (GRATs) have benefitted from these low rates. With rates now rising, these techniques are not as beneficial, but techniques such as Qualified Personal Residence Trusts (QPRTs) and Charitable Remainder Annuity Trusts (CRATs) will be more effective.

Retirement Plan Contribution Changes. The Setting Every Community Up for Retirement Enhancement Act ([SECURE Act](#)), enacted at the end of 2019, marked the most significant changes to retirement savings in more than a decade. Additional regulations on required minimum distributions under the SECURE Act have been delayed and will not apply until at least 2023. These additional regulations are expected to be finalized soon but may be affected by similar legislation, such as the "SECURE Act 2.0," which passed the House in April of this year. The SECURE Act 2.0 has yet to pass the Senate. We are closely monitoring the progress of these acts and will provide updates to the extent the legislation progresses.

New Ruling by FinCEN. The Financial Crimes Enforcement Network arm of the U.S. Department of the Treasury issued a final Rule in September 2022 under the Corporate Transparency Act (CTA). The CTA will require certain corporations, limited liability companies and other entities to report to the Treasury about their beneficial owners (i.e., those who ultimately own and/or control the entity). While these reporting requirements are not effective until 2024, business owners should begin compliance preparations in 2023.

At Reinhart, we are vigilant about relevant tax and estate planning developments and related considerations for our clients. If you have questions or concerns



regarding your estate planning for 2023, please contact your Reinhart attorney or a member of our [Trusts and Estates](#) Practice.

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