

Transfer Tax Planning Considerations for 2022

Last year, multiple proposals were introduced in Congress that would have significantly altered transfer tax planning for wealthy individuals and business owners. The proposals fell flat due to razor thin majorities the Democrats hold in Congress. Even if no changes occur in the near term, on January 1, 2026, current law automatically "sunsets," which will result in estate tax exemptions being halved.

The following is a review of a few significant transfer tax planning considerations you should consider in 2022:

1. Gift and Estate Tax Exemption. The gift and estate tax exemption amount has been increased from \$11.7 million per person to \$12.06 million per person this year. Married couples can combine the use of each spouse's exemption, resulting in a combined 2022 exemption amount of \$24.12 million (assuming proper planning and elections are made). As noted above, the exemption amount is scheduled to be reduced to approximately \$6 million per person beginning in 2026 per the 2017 Tax Cuts and Jobs Act. A reduction in the exemption amount may come sooner than 2026 if the Democrats do well in the upcoming mid-term elections, as reducing the exemption amount is a priority.
1. GST Tax Exemption. The generation-skipping transfer (GST) tax exemption currently tracks the gift and estate tax exemption and is also indexed for inflation each year. Accordingly, the GST tax exemption amount is now \$12.06 million per person. Similar to the gift and estate tax exemption, the GST tax exemption will be reduced to approximately \$6 million in 2026 (if not sooner).
1. 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 or estate tax exemption, known as the "annual exclusion." The annual exclusion is also adjusted based on inflation and increased from \$15,000 to \$16,000 this year. Therefore, a donor may gift up to \$16,000 to a donee without using any of the donor's gift and estate tax exemption. A married couple may combine their annual exclusions and gift up to \$32,000 to each donee. Annual exclusion gifts are a great way to

POSTED:

Jan 21, 2022

RELATED PRACTICES:

[Trusts and Estates](#)

<https://www.reinhartlaw.com/practices/trusts-and-estates>

RELATED SERVICES:

[Trust Services](#)

<https://www.reinhartlaw.com/services/trust-services>

RELATED PEOPLE:

[Matthew J. Ackmann](#)

<https://www.reinhartlaw.com/people/matthew-ackmann>

incrementally pass wealth to the next generation without incurring income or transfer tax liability.

1. Mid-Term Elections. We are in yet another election year. The results of the mid-term elections will likely either provide the Democrats with a mandate to push through their stalled tax reform proposals or usher in a Republican majority in one or both chambers of Congress, potentially resulting in further gridlock. If the Democrats gain seats, tax reform may move quickly so steps should be taken as the election nears in order to act swiftly when the new Congress is sworn in. For example, consider exploring opportunities to leverage your increased exemption now by creating an irrevocable trust for your spouse and/or family. By establishing such a trust now, you can quickly fund it later this year depending on the election results.
1. Build Back Better. As noted, President Biden's "soft" infrastructure plan, the Build Back Better Act, and the related tax reforms to fund it are stalled in the Senate. Last fall, the Act included some significant transfer tax reforms that would have rewritten the estate planner's playbook. Specifically, it was proposed to halve the estate tax exemption, include assets within a new "grantor trust" in a grantor's taxable estate, increase capital gains rates and eliminate valuation discounts for transferred business interests. To the relief of many taxpayers (and their advisors), those reforms have since been removed from the Act. The Act may still be enacted into law, as it only needs a simple majority in the Senate to pass. However, quick passage in the near term appears unlikely as the focus in Washington has shifted to voting rights.

Finally, as we mark the start of a new year, now is a great time to confirm your estate plan and beneficiary designations on retirement assets, life insurance and other accounts to ensure they are still aligned with your wishes. If you would like more information regarding transfer tax planning opportunities and strategies this year, please contact [Matthew Ackmann](#), your Reinhart attorney or a member of Reinhart's [Trusts and Estates](#) Practice.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing



these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.