GODFREY & KAHN S.C.

Estate Planning Flash

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Estate planning impact of the Tax Cuts and Jobs Act

Under the Tax Cuts and Jobs Act signed into law on Dec. 22, 2017, the exemption from federal gift, estate and generation-skipping transfer tax is increased to $10 million, indexed for inflation, for decedents dying, gifts made and generation-skipping transfers made after 2017 and before 2026. This provision effectively raised the exemption on Jan. 1, 2018, to approximately $11.18 million per person, which is the largest exemption from gift, estate and generation-skipping taxes in the history of the federal transfer tax system.

The increased exemption amount expires on Dec. 31, 2025, after which the exemption will return to $5 million per person, indexed for inflation. For 2026, the amount is estimated to be approximately $6.5 million. Future legislation, however, could change the exemption prior to 2026.

The temporary substantial increase in the exemption amount for gift and generation-skipping transfer tax purposes presents significant wealth transfer opportunities for clients who own assets whose value is anticipated to appreciate, such as closely-held business interests. The increase in the exemption amount may also impact the disposition of assets under formula provisions in existing estate plans resulting in unanticipated alteration of a client's estate. In light of the increase, you should contact a member of the Estate Planning team to discuss whether you are able to take advantage of the increased exemption amount with respect to your estate plan.

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