WILL MY ESTATE BE EXPOSED TO THE ESTATE TAX IN CALIFORNIA?

"Who is exposed to the federal estate tax and who is exempt?"

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If you have been financially successful throughout your life, you may feel as though the heavy lifting has been done. However, accumulating wealth is only part of the equation. You must also preserve wealth that you intend to pass along to your loved ones.

The federal estate tax can take a heavy toll on your financial legacy. At the time of this writing in 2014, the top rate of the estate tax is 40 percent. Clearly, this is a hefty percentage that can have a significant impact.

Who is exposed to the federal estate tax, and who is exempt? Let's look at the answer to this question.

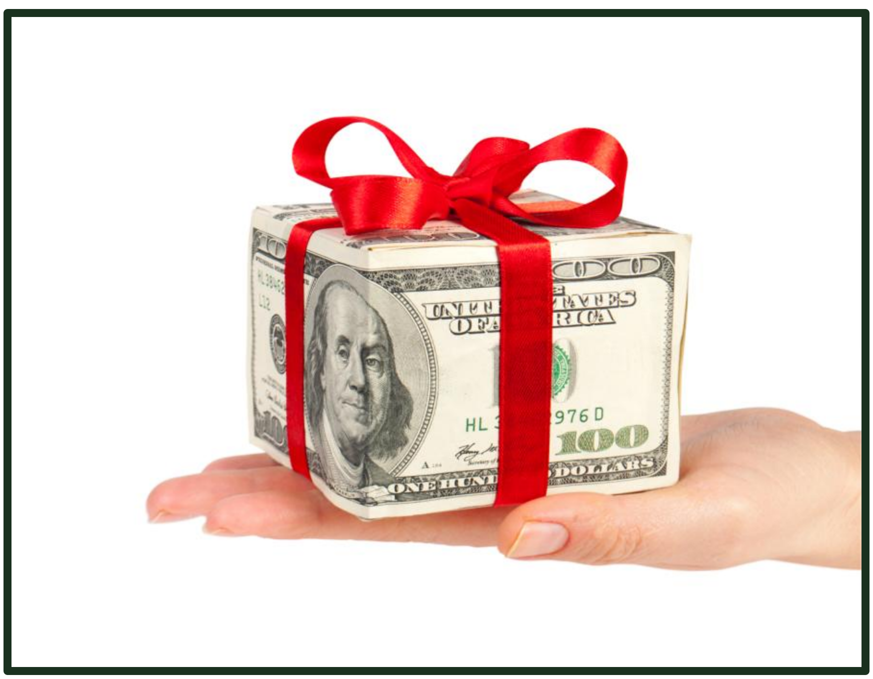
Federal Estate Tax Exclusion

There is a federal estate tax credit or exclusion. This is the amount that you can pass on to your heirs free of taxation. Any portion of your estate that exceeds the amount of the exclusion would potentially be subject to taxation.

In 2014, the exact amount of the federal estate tax exclusion is $5.34 million. This may sound like a rather arbitrary figure, but there is a logical rationale behind it.

A base of $5 million was put into place for the 2011 calendar year, and there have been ongoing adjustments to account for inflation since then. Next year another inflation adjustment could be applied.

Federal Gift Tax



In addition to the federal estate tax, we also have a federal gift tax. This tax is in place to prevent people from giving away assets while they are living in an effort to avoid the estate tax.

The gift tax and the estate

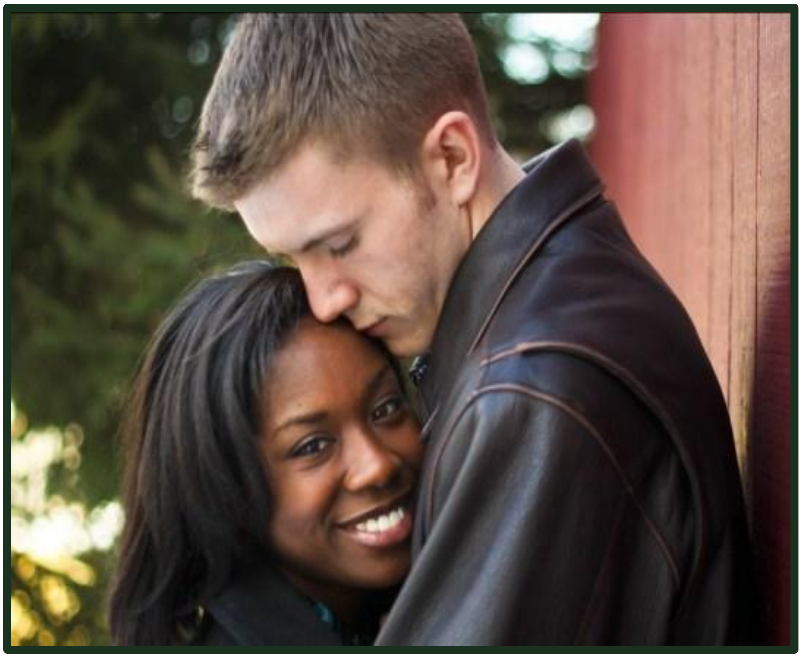
tax are unified. Because of this unification, the $5.34 million exclusion that is in place in 2014 is a unified exclusion. It encompasses taxable gifts that you give while you are living along with the value of the estate that you are passing on to your heirs.

To provide clarity by way of example, if you were to give away $5.34 million in tax-free gifts while you are living, you would have used the entirety of your unified exclusion. As a result, there would be nothing left to apply to your estate after you pass away.

Unlimited Marital Deduction

There is an unlimited marital transfer tax deduction. You can utilize this deduction to transfer unlimited assets to your spouse free of taxation, either while you are living or after you pass away.

You are not using any of your unified transfer tax deduction to give tax-free gifts or bequests to your spouse, assuming your spouse is a citizen of the United States.



The unlimited marital transfer tax deduction is not available to non-citizen spouses.

However,there are tax efficiency solutions that can be implemented if you are married to someone from another country. Qualified domestic trusts are often utilized under these circumstances. This is a matter that you should discuss with a licensed estate planning attorney.

State-Level Estate Tax

The federal estate tax is applicable in all 50 states, but there are a number of states that levy state-level estate taxes. We practice law in the state of California. There is no state estate tax to contend with in the Golden State.

However, if you own valuable property in a state that has a state-level estate tax, there could be estate tax exposure, even if you do not reside in that state.

Summary

Most American families are not exposed to the federal estate tax, because there is a relatively high credit or exclusion. If the assets that are being transferred do not exceed the amount of this exclusion, the estate tax is not applicable.

At the present time, the precise amount of the federal estate tax exclusion is $5.34 million. There are annual adjustments to account for inflation, so you could see a slightly larger number each year.

Because of the existence of the unlimited marital deduction, you do not have to use any of your exclusion to transfer assets to your spouse tax-free if your spouse is an American citizen.

If you are exposed to the federal estate tax, there are legal steps that you can take to gain estate tax efficiency. The optimal course of action will depend upon the circumstances in question.

To gain an understanding of your options, schedule a consultation with a licensed estate planning attorney.

References

Forbes
http://www.forbes.com/sites/janetnovack/2012/10/14/the-forbes-guide-to-estate-planning/

IRS
http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Estate-and-Gift-Taxes

Collaborative Research Project
http://lobby.la.psu.edu/027_Estate_Tax/frameset_estate.html

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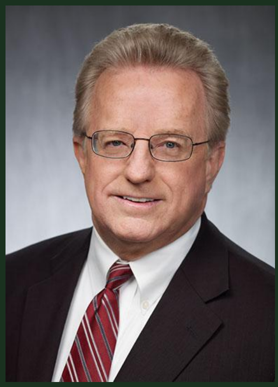

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Timothy P. Murphy is an estate planning and elder law attorney whose practice emphasizes helping people to build, preserve and pass on their wealth. He works with his clients to accomplish their goals while avoiding unnecessary court proceedings and minimizing or eliminating exposure to death taxes. Mr. Murphy also assists families facing the myriad of problems associated with dealing with a loved one's declining health and rising needs for care. He has practiced law in the Sacramento area for 29 years, first with a large firm, and then with his own firm since 1987.

Tim has written a regular column on legal issues for Senior Magazine. He also was a regular featured guest on the Money Experts radio program heard locally on KFBK (AM 1530). Tim has been featured in the Sacramento Bee, Sacramento Business Journal, Sacramento Magazine, Comstock's Magazine and other publications on estate planning and related topics. He also assisted local Channel 3 (KCRA) in an investigative report on the trust mill problem in the Sacramento area and was featured on Channel 10 (KXTV) in its series on personal financial planning.

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