2022 Personal Tax Planning Update

The new year brings with it new tax-savings opportunities, including larger gift and estate tax exemptions and exclusions. Below are charts showing these figures for 2022 as well as this year's federal income tax brackets. A list of strategies and tips to consider in your tax planning this year follows each chart.

Towards the end of 2021, proposed bills would have significantly altered the estate tax landscape, including the House Democrats' proposal to reduce the federal gift and estate tax exemption by fifty percent. However, this proposal did not become law, and we do not know if any tax reform will be enacted this year. We will continue to monitor the situation closely and report any significant changes. In the meantime, below are the 2022 exemption and exclusions figures.

Federal Estate and Gift Tax Exemption/Exclusion Levels*

	2021	2022	2026
Gift and Estate Tax Exemption	$11,700,000	$12,060,000	$6,030,000**
Generation-Skipping Tax Exemption	$11,700,000	$12,060,000	$6,030,000**
Gift Tax Annual Exclusion	$15,000	$16,000	$16,000**
Annual Exclusion for Gifts to Noncitizen Spouse	$159,000	$164,000	$164,000**

*Under current law, the exemption will be decreased by 50% in 2026

**Plus inflation adjustments

Gift and Estate Tax Strategies for 2022

- <u>Make Annual Family Gifts Early</u> - The "annual exclusion" allows you to transfer up to $16,000 ($32,000 for married couples) to any individual in 2022. Making these gifts early in the year often results in more value passing to family members at no additional tax cost. While timing gifts of stock is always difficult, making gifts early will allow any appreciation to pass to the recipients tax-free. The annual exclusion will continue to be adjusted for inflation each year.

- <u>Use Larger Tax Exemption Before It Expires</u> - Both the estate/gift tax exemption and the generation-skipping transfer tax exemption doubled in 2018 and have been modestly adjusted for inflation each year since. Importantly, in 2026 these exemptions are scheduled to be cut in half from their current levels (plus inflation adjustments). Anyone who is in a position to take advantage of these larger exemptions but does not act prior to 2026 will have missed an opportunity to potentially save millions in taxes. While it is possible that the larger exemptions could be made permanent, it is also possible that the exemptions will be reduced prior to the 2026 sunset date. Additionally, the IRS has indicated that it won't seek to "claw back" any use of this additional exemption once it reverts to its old level, so taxpayers who take advantage of the larger exemption now should not face that risk. Details of strategies to use the larger exemption are available here.

- Large Gifts to Spousal Access Trust - One strategy for using the larger exemption for married couples is a specialized type of trust that includes a spouse as a beneficiary called a "SLAT", which preserves the possibility for a spouse to receive distributions (effectively undoing the gift to the trust if circumstances change). This could make it more palatable for some to take advantage of the larger tax exemptions before they are cut in half. It is important to note, however, that these trusts (along with other "grantor trusts") were targeted in the proposed federal tax code changes by the House Democrats in September 2021. Although the changes were not included in the Senate's version of the bill, and the bill itself was not enacted, establishing and funding these trusts soon may allow married couples to utilize this strategy before it is potentially eliminated.

- Capital Gains Tax Savings - In certain situations, it may be possible to use the larger gift and estate tax exemption to reduce or eliminate capital gains tax. Details of this strategy are available here.

Federal Income Tax Brackets for 2022

The income tax rates have not changed for 2022, but the break points of the various brackets have been adjusted modestly for inflation, as shown in the charts below. (Note that lower rates apply to income from qualified dividends and capital gains.)

Single Individuals	
Taxable Income	*Rate*
$0 - $10,275	10%
$10,275 - $41,775	12%
$41,775 - $89,075	22%
$89,075 - $170,050	24%
$170,050 - $215,950	32%
$215,950 - $539,900	35%
$539,900 +	37%

Married Couples Filing Jointly	
Taxable Income	*Rate*
$0 - $20,550	10%
$20,550 - $83,550	12%
$83,550 - $178,150	22%
$178,150 - $340,100	24%
$340,100 - $431,900	32%
$431,900 - $647,850	35%
$647,850 +	37%

Important Facts and Tips for 2022 Income Tax Planning

- Consider Charitable Gifts from an IRA – These gifts may be preferable to gifts from non-IRA accounts. The tax rules allow those who are above age 70½ to make gifts of up to $100,000 directly from an IRA to charities. Unlike gifts from non-IRA accounts, there is no limit on the ability to take a charitable deduction for these gifts. Because your heirs must pay income tax on inherited retirement accounts (unlike other assets), making your charitable gifts from your IRA account can lessen the tax burden for family members. Additionally, the IRA owner's "required minimum distribution" for the year of the gift will be reduced by the amount of the charitable gift. Note, however, with the change in the age by which "required minimum distributions" must begin (to 72 from 70½), there is no "credit" for required minimum distributions for any of these charitable gifts if done before age 72, which might diminish their tax-benefits during that brief period.

- Consider Using Cash for All Charitable Gifts – If you use cash (and only cash) for 100% of your gifts to public charities, the income tax charitable deduction limit is 60% of your adjusted gross income (AGI). Prior to 2018, this limit was 50% of AGI. All other types of charitable gifts, *e.g.* of appreciated securities, continue to be subject to a general limit of 30% of your AGI. Note, however, that giving appreciated securities also avoids incurring capital gains tax on the sale of the securities, so in cases where low-basis stock would be sold to raise cash for charitable giving, transferring the stock itself would likely still produce more tax savings. Moreover, any unused charitable deductions may be carried forward for up to five years, so in some cases the lower (30%) limit on gifts of stock may not ultimately reduce the tax benefit.

- State and Local Tax – As was the case last year, 2022 deductions for state and local taxes (SALT) are capped at $10,000. Some states, like Massachusetts, have made it possible for owners of some "pass-through" entities such as LLCs and partnerships to pay the state income tax at the corporate level. Doing so reduces the amount of income passing through to the owner's federal income tax return by an amount equal to 90% of the tax paid to the state. This strategy therefore achieves 90% of the tax savings from the old deduction for payment of state income tax before that was capped at $10,000.

- Home Mortgage Interest – Generally, for mortgages originated after December 15, 2017, only interest on up to $750,000 of principal is deductible until 2025, at which point the rule is scheduled to revert to the old limit of $1 million of principal. Interest on home equity loans and lines of credit are not tax-deductible (until 2025) unless funds are used to buy, build or substantially improve the home that secures the loan, and only to the extent the cumulative principal of the loans, when added to any mortgage, does not exceed $750,000.

- Itemized Deductions Phaseout – Itemized deductions are not phased out at any level of income for 2022. Prior to 2018, this phaseout would apply at income levels of $261,500 for individuals and $313,800 for married couples filing jointly (adjusted for inflation). Note that other changes, such as the $10,000 cap on SALT deductions, may still limit a taxpayer's itemized deductions even without the phaseout.

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