



# Estate Planning 2022 Federal Tax Update

January 4, 2022

As we start the new year, this Federal Tax Update highlights estate planning-related federal tax information that may be helpful as you consider planning options for 2022. Because Congress could pass legislation that changes this information during the year, you should contact your Lathrop GPM estate planning attorney for advice prior to taking any transfer tax planning action.

## ***Key Tax Concepts for 2022***

- **Lifetime Exclusion Increases to \$12,060,000:** As of January 1, 2022, the federal gift and estate tax exclusion amount, as well as the exemption from generation-skipping transfer (GST) tax, (collectively, the "transfer tax exclusion amounts") have increased by \$360,000 from \$11,700,000 to \$12,060,000 (\$24,120,000 for a married couple). Please note, however, that the transfer tax exclusion amounts are scheduled to decrease on January 1, 2026, to \$5,000,000 adjusted for inflation.
- **Annual Exclusion Increases to \$16,000:** As of January 1, 2022, the federal gift tax annual exclusion amount (i.e., the amount that an individual can annually transfer to another individual without using any lifetime gift tax exclusion or paying any gift tax) increased by \$1,000 from \$15,000 to \$16,000 (\$32,000 for a married couple).
- **Applicable Federal Tax Rates for Estates and Trusts are Unchanged:**
  - The highest federal estate tax, gift tax, and GST tax rate remains at 40%.
  - The highest federal income tax rate for estates and non-grantor trusts is 37%. This tax rate applies to taxable income over \$13,450 earned by an estate or non-grantor trust during its administration period.
- **Required Minimum Distributions:** New life expectancy tables used for determining required minimum distributions (**RMDs**) from IRAs and qualified retirement plans went into effect as of January 1, 2022. These changes impact traditional (non-Roth) IRA owners who have reached their Required Beginning Date for taking RMDs, qualified retirement plan participants who have reached their Required Beginning Date for taking RMDs, and beneficiaries of an inherited IRA or qualified retirement plan. Please contact your plan administrator or financial advisor regarding how to compute your RMDs for calendar year 2022 using the new tables.
- **Step-Up in Basis:** Under current federal tax laws, the income tax basis of property acquired from a decedent generally is adjusted to the fair market value of that property as of the date of the decedent's death (often referred to as a "step-up" in basis at death). Although there were proposals in Congress to change this, Congress did not pass those proposals in 2021, so the step-up in basis at death remains in effect for 2022.



- **Federal Estate Tax Portability:** The ability to transfer a decedent's unused federal estate tax exclusion amount to the decedent's surviving spouse by filing a federal estate tax return (often referred to as "portability") remains in effect for 2022.

### **Update on Build Back Better Act**

The House of Representatives passed the Build Back Better Act on November 19, 2021. As of the date of this Federal Tax Update, the Senate has not yet voted on the Act. The House-passed version of the Act does not change the top 37% federal income tax rate on ordinary income, change the top 20% federal income tax rate on long-term capital gains or qualified dividends, change the top 40% federal transfer tax rate, change the federal transfer tax exclusion amounts, or adversely affect the use of grantor trusts for estate planning purposes. However, the House-passed version of the Act, if enacted into law, would impose a new 5% additional federal income tax on modified adjusted gross income in excess of \$10 million for unmarried individuals and for married individuals filing jointly or on modified adjusted gross income in excess of \$200,000 for estates and non-grantor trusts. And, if enacted, another 3% federal income tax (after applying the 5% additional tax) would be imposed on modified adjusted gross income in excess of \$25 million for unmarried individuals and for married individuals filing jointly or to modified adjusted gross income in excess of \$500,000 for estates and non-grantor trusts. A variety of other federal tax law changes are also included in the House-passed version of the Act. Because Congress continues to negotiate the legislation, important federal tax laws could change at any time in 2022. Accordingly, you should contact your Lathrop GPM estate planning attorney for advice prior to taking any transfer tax planning action.

### ***Contact Your Lathrop GPM Estate Planning Attorney for More Information***

In light of the above, estate planning and business succession planning opportunities are available in 2022, and you may wish to have your current estate plan reviewed to ensure that your documents continue to achieve your tax and non-tax planning goals. Please contact your Lathrop GPM estate planning attorney to ensure that your estate plan continues to reflect your intentions and to ask whether any estate planning opportunities are appropriate for you to consider. We look forward to hearing from you.