

34th Annual
Tax Symposium

**YOU CAN'T TAKE IT WITH YOU,
BUT UNCLE SAM CAN TAKE HIS CUT**

OVERVIEW OF FEDERAL TRANSFER TAXES

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OVERVIEW

- Three components:
 - Gift tax
 - Estate tax
 - Federal generation skipping transfer tax



OVERVIEW

- These taxes are IN ADDITION to income taxes
- On death, a decedent's assets may be subject to both transfer taxes and income taxes
 - Income in respect of a decedent or “IRD”



OVERVIEW

- GST tax is imposed IN ADDITION to gift and estate taxes
- E.g., a bequest to a grandchild can be taxed at a combined transfer tax rate of 80%



OVERVIEW

- There are exemptions that apply to all three transfer taxes
- Current exemptions are:
 - Gift/Estate \$13.99M
 - GST \$13.99M
- These amounts will be \$15M starting in 2026 and will be adjusted annually for inflation

OVERVIEW

- Gift and estate tax rates:
 - There are brackets depending on amount of gift
 - Rates range from 18% to 40%
 - Out-of-pocket payments are at 40%
- GST tax rate:
 - Equal to highest gift/estate tax rate applicable at the time of transfer (40%)

GIFT TAX

- Applies to any gratuitous transfers
- Does not apply to the extent consideration is received
- Amount of gift is fair market value of asset given



GIFT TAX

- Gift and estate taxes are “unified”
 - This means lifetime gifts count against estate tax exemption
 - E.g., if Barry Big Bucks gives away \$10M during life, his estate will only have \$4M of exemption on his passing

GIFT TAX

- Exclusions – Annual exclusion
 - Currently \$19K per donee, per year
 - Must be a gift of a “present interest”
 - Watch out for gifts made to trusts (need to include those “Crummey” powers)
 - Gifts to 529 accounts can be “superfunded” by making 5 years worth of contributions in Year 1

GIFT TAX

- Exclusions – Tuition
 - Unlimited
 - Must be paid directly to educational institution
 - “Tuition” is narrowly defined, but includes any grade level



GIFT TAX

- Exclusions – Medical
 - Unlimited
 - Must be paid directly to medical provider
 - Includes insurance premiums, prescription drugs, and doctor visits



GIFT TAX

- Deductions
 - Marital (including outright transfer and gift to “QTIP” trust)
 - Charitable (including gifts to certain foreign organizations)



GIFT TAX

- Report taxable gifts on Form 709
- No “step up” in basis
 - Unless one or more “strings” bring the gifted assets back into the donor’s taxable estate

ESTATE TAX

- Unified with gift tax
 - If Danielle Deppockets gave away \$14M during her life, no exemption remaining on her death



ESTATE TAX

- Deductions (similar to gift tax)
 - Marital (outright gift or QTIP trust)
 - Charitable



ESTATE TAX

- More deductions
 - Debts of the decedent
 - Claims against the decedent/estate

ESTATE TAX

- More deductions
 - Funeral expenses
 - Administrative expenses (this is more complicated than it seems, and no double dipping allowed)



ESTATE TAX

- Report on Form 706
- Step up in basis for most assets (not IRD)
- With portability, “DSUE” may be available to surviving spouse

GST TAX

- Applies to gratuitous transfers to recipients who are 2 or more generations below the donor
 - Exception for predeceased parent
- Applies to gratuitous transfers to recipients who are more than 37.5 years younger than the donor
- Applies to lifetime transfers and transfers at death

GST TAX

- Similar exclusions to gift tax:
 - Annual exclusion (but be careful because the rules are different)
 - Tuition exclusion
 - Medical expense exclusion

GST TAX

- Tax is triggered by:
 - Direct skips
 - Taxable distributions from trusts
 - Taxable terminations within trusts
- Report GST events on Form 706 or Form 709



SUMMARY

- Transfer taxes can take a big bite
- Issues get very complicated, very fast
- Use the Maddin Hauser team to ensure proper planning is in place



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THANK YOU



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