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Level #1: Transfers Not Subject to Tax

There are several transfers that fall outside federal gift taxation. You can make the following transfers without facing a gift tax:

- Anything given to a U.S. citizen spouse as long as the transfer qualifies under the marital deduction¹
- Donations to qualified charitable organizations made in a manner qualifying for the charitable deduction
- Political donations
- Tuition payments made directly to an educational institution for someone else
- Funds paid directly to a medical institution or health insurance provider on behalf of another

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Level #2: Annual Exclusion Gifts

Under the annual exclusion an individual can make so called “present interest” gifts of up to \$15,000 to an unlimited number of recipients per year without needing to file or report the gifted amount. A couple can give up to \$30,000 per beneficiary per year. **Consequently, a significant amount can be given away over a number of years where there are multiple beneficiaries.**

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Level #3: Gifts Sheltered by Exemption

In addition to annual exclusion gifts, an individual can make lifetime gifts with cumulative total up to the exemption amount without paying tax but will need to file a gift tax return. For 2021 the exemption is \$11.7 million. However, the current exemption is scheduled to expire on January 1, 2026 decreasing to \$5 million per person (indexed) and may expire sooner if President Biden is able to achieve his campaign proposal.

Fortunately, gifts today that are greater than the exemption amount available at death are grandfathered. **Thus, wealth individuals should give serious consideration to making large exemption gifts.**

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Level #4: Gifts Subject to Tax

Once an individual’s cumulative lifetime gifts exceed the exemption amount federal gift tax will be due. Gift and estate tax rates are the same, but gifts will often result in heirs receiving a larger inheritance because a gift transfer:

- Removes both the appreciation and income from being subject to federal and state estate tax
- Eliminates property from being subject to state death tax, where applicable, without subjecting the property to a state level gift tax²
- Is subject to less tax because property used to pay the tax is not subject to gift tax, while property used to pay estate tax is subject to estate tax

¹ No unlimited marital deduction is allowed for gifts to a noncitizen spouse. However, there is a limited exemption if the transfer would otherwise qualify for the marital deduction. For 2020 a maximum of \$157,00 per year (indexed) spousal gifts can be given to a noncitizen spouse without being subject to gift tax.

² Only one state has a state level gift tax – Connecticut.

This material does not constitute tax or legal advice. Clients should consult their own advisors. As always, financial professionals and their clients are strongly encouraged to work with the client’s attorney and CPAs to review financial, estate and business planning strategies when considering the potential impacts of the new law and determining the appropriate action based upon the client’s specific facts and circumstances.