

Major Gift Planning Opportunities for 2023

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The federal gift, estate and generation skipping transfer (GST) tax exemptions for 2023 are historically high and present significant tax-free gifting opportunities next year!

Exemption Amount Increasing to \$12,920,000

The gift and estate tax exemptions will increase to \$12,920,000 in 2023. This means that beginning in 2023, you will be able to transfer \$12,920,000 to beneficiaries during your lifetime and at death without incurring gift or estate tax. If you're married, you and your spouse together may transfer \$25,840,000. If you have previously maximized lifetime gifts under the current limits, additional tax-free gifts may be made in 2023 totaling \$860,000 per individual or \$1,720,000 per married couple.

The GST tax exemption also will increase to \$12,920,000 (\$25,840,000 per married couple) in 2023. Strategic gifts to trusts for the ultimate benefit of grandchildren or more remote descendants may be made in 2023 to leverage the increased GST exemption.

Annual Exclusion Amount Increasing to \$17,000

The annual exclusion amount is also increasing. In 2023, you will be able to make tax-free gifts up to \$17,000 (or \$34,000 for a married couple splitting gifts) to an unlimited number of recipients.

Finally, the special annual exclusion from gift tax on gifts to a non-U.S. citizen spouse will increase to \$175,000 in 2023.

Maximizing Gifts

2023 is shaping up to be a year of exceptional opportunities for gift planning, given the confluence of the increased exemption amounts and the depressed asset values in some sectors.

Without further action from Congress, the current gift, estate and GST exemptions are scheduled to be cut in half at the start of 2026. In other words, you have a limited window of opportunity to take advantage of the higher exemptions.

Contact Information

If you need assistance or have questions regarding this alert, please contact your Akin Gump relationship attorney or one of the authors.

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If you have assets that you think are currently undervalued but have rebound potential, you might consider giving them to family members or trusts for their benefit in order to move the value of the asset and the future income and appreciation from your future estate. Certain estate planning techniques, such as grantor retained annuity trusts (GRATs), can be attractive in a down market, even though interest rates are up.

Incorporating valuation discounts for family limited partnerships and LLCs can “supercharge” the gift by reducing the value of the transferred interests (i.e., you can give more!). Gifting shares of corporations to certain trusts can maximize the per-taxpayer gain exclusion for “qualified small business stock” (i.e., each taxpayer excludes the greater of \$10,000,000 or 10x basis).

What You Should Do Now

With the end of the year in sight, we also would like to remind you that the 2022 annual exclusion amount is currently \$16,000 per recipient. Be sure to make your annual exclusion gifts before December 31, 2022, if you have not already done so.

Please contact our private clients team if you have questions about what these changes mean for you and whether additional gifts can or should be made in 2023.

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