



# Estate Planning 2023 Federal Tax Update

January 2, 2023

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 2023. 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 2023***

- **Lifetime Exclusion Increased to \$12,920,000:** As of January 1, 2023, the federal gift and estate tax exclusion amount, as well as the exemption from generation-skipping transfer (GST) tax, (collectively, the "lifetime exclusion amounts") have increased to \$12,920,000 (thus a combined \$25,840,000 for a married couple). That is an increase of \$860,000 per donor. This presents additional gifting opportunities for individuals who had previously used their full lifetime exclusion amounts.
- **Lifetime Exclusion Will Decrease:** However, please note that the lifetime exclusion amounts are still scheduled to decrease on January 1, 2026, to \$5,000,000 adjusted for inflation unless Congress acts to prevent the decrease. This is a "use it or lose it" scenario. If you have sufficient assets to gift your lifetime exclusion amounts, you should consider doing so prior to 2026.
- **Annual Exclusion Increased to \$17,000:** As of January 1, 2023, the federal gift tax annual exclusion amount has increased to \$17,000 (thus a combined \$34,000 for a married couple). This is an increase of \$1,000 per gift recipient. The annual exclusion is the amount an individual can gift per recipient per calendar year without using any lifetime exclusion amounts or paying any gift tax.
- **Federal Tax Rates for Estates and Trusts 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 \$14,450 earned in tax year 2023.
- **Federal Estate Tax Portability Unchanged:** 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 (referred to as "**portability**") remains in effect for 2023. The period for a late portability election has been extended to five years after the decedent's death. Making this election following a married individual's death is prudent if the surviving spouse's estate might exceed the survivor's available exclusion amount (considering the pending decrease in 2026). If your spouse died within the last five years and this election was not made, you should contact us about the advisability of making it now.



- **Required Minimum Distributions Changes:** On December 29, 2022, the President signed into law the Secure 2.0 Act, which makes important changes related to retirement plan contributions and administration. Some of the important changes include the following: 1) increases the applicable age for starting required minimum distributions (**RMDs**) to 73 as of 2023 (for individuals who attain age 72 after December 31, 2022) and then to age 75 as of 2033 (for individuals who attain age 74 after December 31, 2032); 2) eliminates pre-death RMDs from Roth accounts in 401(k) and 403(b) plans after 2023; and 3) increases the amount of catch-up contributions allowed by some participants starting in 2025. Many other changes occurred as well. In addition, in 2022, new life expectancy tables, which are used for determining RMD amounts from IRAs and qualified retirement plans, went into effect. You should contact your plan administrator or financial advisor regarding how these changes impact you and how to compute your RMDs for 2023.

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

We encourage you to have your current estate plan reviewed regarding estate tax planning and business succession planning opportunities available in 2023. Such a review can also ensure that your estate plan continues to reflect your intentions and is up to date with your current circumstances. Please contact your Lathrop GPM estate planning attorney to schedule such a review at your convenience. We look forward to hearing from you.