

# 'Permanent' Transfer Tax Relief At Last

For the first time in more than a decade, we have a permanent set of estate, gift and generation-skipping transfer tax rules. While Congress can always change the law, there is no automatic "sunset" or change built into the current law. So you can now engage in more thoughtful long-term planning for lifetime gifts or sales of assets to children or trusts, charitable gifts and estate transfers, free of the threat of constant shifts in the rates and ground rules. But, as always, we urge you to plan sooner rather than later. Who knows what changes the further budget negotiations might bring?

## In a nutshell, the new transfer tax law provides:

- \$5 million exemption for gift, estate and generation-skipping tax, adjusted for inflation after 2011. The 2013 exemption amount is \$5,250,000.
- Exemption is applied both to lifetime gifts and to transfers at death, and also applies for generation-skipping transfers.
- Marginal tax rate on transfers above the exemption amount is 40%.
- Portability is made permanent. This allows a surviving spouse to use the "unused" gift and estate tax exemption (but not generation-skipping tax exemption) of the first spouse to die for the survivor's lifetime gifts and transfers at death, with certain restrictions.
- Several helpful generation-skipping tax technical provisions were made permanent.

## Other items to consider:

- The gift tax annual exclusion for 2013 is \$14,000, up from \$13,000, and is increased to \$143,000 for gifts to a non-U.S. citizen spouse.
- Direct payment of tuition and medical expenses remains gift-tax free in unlimited amounts.
- The new, higher income tax rates also apply to trusts, which will focus increased attention on income tax planning for trusts.
- Remember to contact your tax preparer about filing a gift tax return for 2012 gifts.

The members of the Sheppard Mullin Trusts & Estates Group are happy to advise you on all of these matters. We look forward to hearing from you.

## Questions? Call our Trusts & Estates Team

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