



An important wealth planning law update from the law firm of Jackson Walker.

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## Gift Tax Opportunity Expiring at the End of 2012

## and 2012 Inflation Adjustments for Items Affecting Estate Planning

By [Matthew S. Beard](#)

### Gift Tax Opportunity Expiring at the End of 2012

A significant gift tax planning opportunity exists for the next 14 months. The amount you may give away free of gift tax remains historically high and the rate charged if you must pay gift tax remains historically low through the end of 2012.

The amount you may give away free of gift tax (the "gift tax exemption amount") will be \$5,000,000 for the remainder of 2011 and, as noted below, \$5,120,000 for 2012. The maximum gift tax rate charged on gifts over the gift tax exemption amount will be 35% for 2011 and 2012.

Beginning on January 1, 2013, however, current law provides that the gift tax exemption amount will be decreased to \$1,000,000, and the maximum gift tax rate will be increased to 55%.

The gift tax exemption amount is important for gift tax planning because a taxpayer can make cumulative lifetime taxable gifts up to the gift tax exemption amount without paying gift tax. With proper planning, substantial gifts may be made in 2011 and 2012 with no or relatively low gift tax compared to gifts made after 2012.

**EXAMPLE:** Assume that grandparent wants to make gifts to her children and grandchildren totaling \$4,000,000 and has made no other taxable gifts during her lifetime. If she makes the gifts in 2012, then her corresponding gift tax liability should be zero. If she makes the gifts in 2013, then her corresponding gift tax liability could be approximately \$1,500,000. She can thus save approximately \$1,500,000 of gift tax by making the gift in 2012 rather than 2013.

If you are interested in making gifts to take advantage of this opportunity, you should first consult with your attorney or accountant to make sure you understand how any such gift would affect your personal tax situation.

### 2012 Inflation Adjustments for Items Affecting Estate Planning

The IRS recently announced a number of inflation-adjusted items for 2012 that may impact your personal estate planning. The following is a summary of selected items:

The federal estate, gift, and generation-skipping transfer tax exemption amount is increased from \$5,000,000 to \$5,120,000 per

person. NOTE that this limit is per donor or decedent, not per beneficiary.

The first \$139,000 of gifts to a spouse who is not a U.S. citizen is excluded from taxable gifts made during that year.

The maximum aggregate decrease in the value of real property used in a closely held business or farm resulting from the election of special use valuation for estate tax purposes is \$1,040,000.

Gifts from foreign persons may need to be reported if the total value of gifts received in a taxable year exceeds \$14,723.

The amount used to determine the "2-percent portion" of the estate tax payable in installments in the case of estates that include closely held business interests (for purposes of calculating the favorable interest rate on the installment payments) is increased to \$1,390,000 for estates of decedents dying in 2012.

Income tax rates for estates and trusts for 2012 are:

<i><b>If Taxable Income Is:</b></i>	<i><b>The Tax Is:</b></i>
Not over \$2,400	15% of the taxable income
Over \$2,400 but not over \$5,600	\$360 plus 25% of the excess over \$2,400
Over \$5,600 but not over \$8,500	\$1,160 plus 28% of the excess over \$5,600
Over \$8,500 but not over \$11,650	\$1,972 plus 33% of the excess over \$8,500
Over \$11,650	\$3,011.50 plus 35% of the excess over \$11,650

There is no change in the amount of the nontaxable gift tax annual exclusion amount, which remains at \$13,000 for gifts to any person during the calendar year. In addition, the maximum estate, gift, and generation-skipping transfer tax rate remains at 35%.

If you have any questions regarding these items, please contact **Matthew S. Beard** at 214.953.5848 or [mbeard@jw.com](mailto:mbeard@jw.com), **Tom Groves** at 214.953.5813 or [tgroves@jw.com](mailto:tgroves@jw.com), **Michael Kaufman** at 214.953.5734 or [mkaufman@jw.com](mailto:mkaufman@jw.com), or any member of the Jackson Walker **Wealth Planning and Transfer** group.

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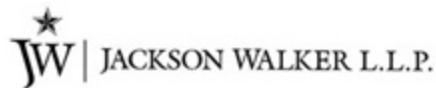
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