



## 2009 Changes in Estate and Gift Tax

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The 2009 year brought increases in both the federal estate tax exclusion amount and the annual gift tax exclusion amount. These changes, summarized below, may eliminate or significantly reduce federal estate and gift tax liability for many clients.

### **FEDERAL ESTATE TAX**

Under federal tax law, each individual can transfer property at death free from federal estate tax up to the "estate tax exclusion amount" (also commonly referred to as the "applicable exclusion amount"). For decedents dying in 2009, the federal estate tax exclusion amount increased from \$2 million to \$3.5 million.

The federal estate tax is scheduled to disappear completely in 2010, and then return in 2011 with an estate tax exclusion amount of only \$1 million. However, most commentators expect that Congress and President Obama will enact new legislation in 2009 to revise these dramatic changes to the federal estate tax. President Obama has previously supported retaining the 2009 federal estate tax exclusion amount of \$3.5 million for future years.

### **FEDERAL GIFT TAX**

Each year, an individual has the ability under the federal gift tax laws to gift a certain amount to others without incurring gift tax liability and without filing gift tax returns. This amount is referred to as "annual gift tax exclusion" and is indexed for inflation. In 2009, the Internal Revenue Service announced that the annual gift tax exclusion amount is increased from \$12,000 to \$13,000 per recipient.

An individual can gift up to the annual gift tax exclusion amount each year for an unlimited number of recipients. If married, both you and your spouse can each gift up to the annual gift tax exclusion amount each year. You are only liable for gift taxes if the total amount of annual gifts to a single recipient exceeds the annual gift tax exclusion amount.

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In addition, an individual can gift a certain amount of property during his or her lifetime that exceeds the annual gift tax exclusion without incurring gift tax liability. This amount is referred to as the "lifetime gift tax exemption amount" and is currently \$1 million. Unlike the estate tax exclusion amount, the lifetime gift tax exemption is not set to change in future years (except for periodic inflation adjustments). If used, this lifetime gift tax exemption amount offsets the estate tax exclusion amount available at death.

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