Tucker Ellis LLP

CLIENT ALERT

TAX CUTS AND JOBS ACT MAKES SWEEPING CHANGES TO ESTATE, GIFT, GST, AND INCOME TAX

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On December 22, 2017, the Tax Cuts and Jobs Act ("the Act") was signed into law, making major changes to the United States Tax Code. Most provisions became effective January 1, 2018. Some provisions are permanent, while others will expire after 2025, unless Congress acts. This client alert briefly describes some of the changes under the Act, with a focus on changes related to individuals and estate planning.

FEDERAL ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX

- **Estate and gift tax:** The federal estate and gift tax exemption amount ("Exemption Amount") doubled under the Act, and is $11,180,000 for individuals who die in 2018. Married couples are now able to shield up to approximately $22,360,000 from estate or gift tax by combining their Exemption Amounts. This increase is temporary and is set to expire after 2025.

  The estate and gift tax are "unified," meaning each individual's Exemption Amount is reduced by the taxable gifts made during the individual's lifetime. As under the previous law, the Exemption Amount is adjusted for inflation each year.

  - ❖ **Consideration:** The increased Exemption Amount may present planning opportunities for clients looking to decrease their estate tax exposure through the use of a client's increased gift tax exemption to pass property and its future appreciation to lower generations. Keep in mind that under current law the increased Exemption Amount is *not permanent*.

- **Generation-skipping transfer tax:** The federal generation-skipping transfer tax ("GST") exemption will also double to approximately $11,180,000 per individual (and will be adjusted for inflation each year).

  - ❖ **Consideration:** For existing trusts that are not fully exempt from GST, consider making a late allocation of GST exemption to those trusts.

- **Annual gift tax exclusion:** Aside from the increase in the Exemption Amount, the gift tax rules remain intact. The annual gift tax exclusion for an individual in 2018 will increase to $15,000 per recipient, per donor. Direct payments of tuition and medical expenses on behalf of a third person are exempt from federal gift tax.
- **Expanded 529 savings plan use:** Section 529 college savings account funds can now be used to pay tuition at elementary or secondary schools (i.e., K–12), but payments are limited to $10,000 per year, per student; however, this change may not apply in all states, as some states do not automatically track the federal law.

INCOME TAXES

- **Individual income tax brackets:** Most marginal individual income tax rates are lowered, including the top marginal rate, which is set at 37% on income exceeding $500,000 for single taxpayers and $600,000 for married couples filing jointly. See the chart below for the 2018 income tax brackets for individuals based on filing status.

	Single Filers	Married Filing Jointly (and Surviving Spouses)	Married Filing Separate	Head of Household
Tax Rate	**Taxable Income Exceeding**			
10%	$0	0	0	0
12%	$9,525	19,050	9,525	13,600
22%	$38,700	77,400	38,700	51,800
24%	$82,500	165,000	82,500	82,500
32%	$157,500	315,000	157,500	157,500
35%	$200,000	400,000	200,000	200,000
37%	$500,000	600,000	300,000	500,000

- **Estate and trust income tax brackets:** The top income tax rate is set at 37% on income exceeding $12,500. Below is a chart highlighting the 2018 income tax brackets for estates and trusts.

Tax Rate	Taxable Income Exceeding
10%	$0
24%	$2,550
35%	$9,150
37%	$12,500

- **Standard deduction:** The standard deduction is increased to $12,000 for individuals (from $6,350 in 2017) and to $24,000 for married couples filing jointly (from $12,700 in 2017).
- **Miscellaneous itemized deductions:** Miscellaneous itemized deductions that were allowable to the extent they exceeded 2% of adjusted gross income have been eliminated.
- **Mortgage interest deduction:** The mortgage interest deduction is retained, but the maximum debt subject to the deduction is reduced to $750,000 (but remains at $1,000,000 for homes purchased before December 15, 2017). The deduction of interest on home equity loans is eliminated, even for existing debt.
- **State and local tax deductions:** Generally, state and local sales, property, and income tax deductions are collectively limited to $10,000.
- **Increase in charitable deduction limit:** The maximum amount of charitable contributions of cash made to public charities (and limited types of private foundations) that an individual can deduct has been increased to 60% of adjusted gross income (increased from 50%). Also, contributions in excess of the 60% limit can be carried forward for up to five years.
- **Individual alternative minimum tax:** The alternative minimum tax exemption amounts (subject to phase-out at higher income levels) are increased to $54,700 for married taxpayers filing separately, $70,300 for single taxpayers, and $109,400 for married couples filing jointly.
- **Kiddie Tax:** For children subject to the Kiddie Tax, such child's unearned income is now taxed at the rates applicable to trusts and estates (as opposed to the parents' rates, which are often lower).

- **Pass-through entity income:** A new, permanent deduction of 20% of "qualified business income" is available for taxpayers owning an interest in a pass-through entity, such as sole proprietorships, partnerships, LLCs, and S corporations. Note that this deduction is subject to limitations based on the type of trade or business, the W-2 wages paid by the entity, the depreciable property owned by the entity, and the taxpayer-owner's taxable income.
- **Corporate tax rates:** The corporate tax rate is permanently reduced to a flat 21% rate for C corporations.
- **Corporate alternative minimum tax:** The corporate alternative minimum tax for C corporations is permanently repealed.

ADDITIONAL INFORMATION

Our estate planning and tax attorneys will be pleased to discuss with you how the recent tax laws may affect your existing estate plan and how your estate planning objectives can be achieved. Please contact:

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