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Estate Planning Update – What's New in 2017?

March 2017 • [Kristin A. Piñeiro](#)

The short answer is that nothing much is new in the estate planning world – for now, anyway. While few changes have taken place recently regarding federal estate tax laws, attention is now focused on potential legislation to eliminate the estate tax in 2017. President Trump and the House Republicans have both indicated that estate tax repeal is a priority.

In the meantime, there has only been a slight increase in the basic exclusion amount for gifts and estates, and the exemption amount for generation-skipping transfers. For 2017, that amount is \$5.49 million (up from \$5.45 million in 2016). This means that an individual can make taxable gifts during his or her lifetime and transfer estate property to beneficiaries up to the basic exclusion amount. This amount is indexed for inflation every year. For a complete list of adjustments for 2017, [click here](#). And, for decedents dying and gifts made in 2016 and 2017, the maximum estate and gift tax rate and the generation-skipping transfer tax rate is 40%.

For married couples, the basic exclusion amount listed above can be doubled to \$10.98 million in combined assets for 2017. On January 2, 2013, President Obama signed the American Tax Relief Act (ATRA), and portability of the estate tax exemption between married couples was made permanent. This allows both spouses to get the full benefit of their respective exclusion amount by allowing the surviving spouse to use any unused portion of the decedent spouse's exclusion amount.

In addition, some states have their own estate or inheritance taxes, many of which are very different from federal estate tax laws. However, in recent years, some states have modified or even eliminated their state estate tax laws. Colorado has no estate tax for decedents whose date of death is on or after January 1, 2005. In addition, Colorado does not collect a state inheritance tax. It is important to check in each relevant state to determine what, if any, estate or inheritance taxes are applicable.

As far as gifting is concerned, an individual can make annual exclusion gifts to as many different people as he or she would like each year. For 2017, the annual exclusion amount remains at \$14,000, meaning that gifts up to such amount may be made to a donee without having to pay gift tax or file a gift tax return. However, some gifts may exceed this amount without incurring any gift tax. For example, if you pay for educational or medical expenses directly for the benefit of someone else, it generally won't be treated as a taxable gift. And, in most instances, you can make unlimited amounts of gifts to your spouse (if he or she is a U.S. citizen) without it being treated as a taxable gift.

While the future of estate planning seems somewhat uncertain under the Trump administration, so far this year there have not been any significant changes. Traditional estate planning strategies will likely continue to be utilized, at least for the time being. Implementing a proper estate plan is a good idea in any event. It avoids legal disputes and costly fees, and most importantly, it gives you peace of mind that your loved ones will be protected if something should happen to you.

Ottens Johnson's attorneys have substantial experience with helping clients navigate issues like those highlighted in this alert. For more information, or for help evaluating your current situation contact any of the attorneys in the [Business Transactions & Tax Group](#).

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