

March 24, 2021
Beware Potential 2021 Gift Tax Trap

For 2021, the gift and estate tax exemption under current law is \$11.7 million per person. Many pundits and articles have warned people about making gifts in 2021 that could become taxable if tax reform legislation is made retroactive to January 1, 2021. However, there is a trap lurking if the legislation is not made retroactive but becomes effective during 2021.

Under the Internal Revenue Code, the gift tax exemption is determined by the exemption amount on the last day of the year. So, even if the effective date for the legislation is for example, October 1, a May 30 gift could become taxable if the exemption is rolled back to \$3.5 or \$5.0 million since the exemption on the last day of the year was the lower amount.

There are ways to make transfers now under the temporarily high exemptions, but wait to finalize the gift until December 31 when the gift tax exemption and the consequences for any gifts for the whole year will be known. Contact us to find out how.

If you have questions about this Alert, to discuss any of these techniques in detail, or how these recommendations apply to a particular circumstance, please us at 316.631.3131.

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