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\$5M Tax-Free Gifts? Going, Going, Gone

With all the talk of fundamental tax reform—especially about income tax rates—it's easy to overlook the obvious. The gift and estate tax debate gets lost in the shuffle. Yet if you are like most people, you have not yet taken advantage of the incredibly favorable estate and gift tax law for 2011 and 2012. See [It Pays To Plan For Future Estate Tax Changes](#).



Act now! This may sound like an infomercial, but this is a special limited time offer! At the very end of 2010 Congress patched the estate and gift tax with a \$5 million threshold for both, but only through the end of 2012. See [Making Tax Decisions In Limbo](#). With indexing for inflation, the exemption is now \$5,120,000.

The assumption was that well before the end of 2012 there would be a comprehensive and permanent measure enacted. Unfortunately, Congress has a bad track record with this sort of thing, especially concerning estate and gift taxes. In 2001, Congress increased the estate tax exemption progressively until December 31, 2009, by which time **everyone assumed** there would be comprehensive estate and gift tax reform.

There **had** to be, since starting in 2010, there would be no estate tax. What happened? You guessed it, Congress failed to act so 2010 went by **without** an estate tax. Of course, a number of **billionaires** died in 2010, their last act of superb market timing.

Yup, no estate tax was due for these whopping estates, much to the chagrin of the IRS. [See Ghoulish Estate Planning Before New Year's?](#) We face another tax bargain for the rest of 2012 and you don't have to die to take advantage of it. Between now and December 31, 2012, it's possible to give away \$5,120,000 without gift or estate tax. That's a per person limit, so up to \$10,240,000 per couple can be given tax-free.

Unless Congress acts in time—which at this point seems unlikely—the exemption amounts drop to only \$1 million per person starting January 1, 2013. As tempting as it is to procrastinate about estate planning, therefore, most advisers urge clients to act soon so you don't leave it too late.

You may already take advantage of tax-free annual gifts of \$13,000 per person, per recipient. That won't change, but the opportunity to give away up to \$5,120,000 without tax (up to \$10,240,000 for a married couple) may never come again. Those who have the resources should at least consider making gifts to loved ones by year end.

How to do it? Properly managed, lifetime gifts of **appreciating** property are best. That way the additional appreciation post-gift is **also** not included in the donor's estate. What's more, gifts need not be outright with no strings attached. By using trusts, LLCs, insurance, and other vehicles, donors can often increase the size of the gift escaping tax and simultaneously retain controls so donees don't have immediate and unfettered access to the money or assets.

Don't wait too long.

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