



NARAL
Pro-Choice America

FREEDOM OF CHOICE

LEGACY CIRCLE NEWSLETTER

An Overview of Estate Taxes

Federal, state and local governments raise revenue by levying taxes. Some taxes affect only those individuals who purchase or use certain items — for instance, meal taxes, luxury taxes and the like. Others have an impact on a broader range of individuals. One of these is the gift and estate tax.

The gift tax covers transfers of assets made during your life; the estate tax catches transfers made at your death. In addition, the generation-skipping transfer tax hits hard against transfers to individuals in a generation more than once removed from yours ... for instance, to grand- and great-grandchildren. This has resulted in double and triple taxation of the same assets.

In this newsletter, we will focus solely on federal law. Know, however, that your state and perhaps even your local government may have applicable death taxes.

While the estate tax is not directly linked to the overall value of your assets (your “estate”), it *is* influenced by it. The tax rate increases as the

fair market value of your estate increases.

At your death, your estate has to be valued. In the case of smaller estates, this does not have to involve an official

appraisal. Larger estates, which are more likely to be subject to tax, *will* require professional appraisals for certain types of property.

— continued on page two



Nancy Keenan, President of NARAL Pro-Choice America, congratulates (l to r) Congresswoman Gwen Moore, Susan F. Wood, Ph.D., and Shelby Knox as honorees of the 2006 *Roe v. Wade* Dinner held in Washington, DC. Award-winning actress Stockard Channing served as mistress of ceremonies and the featured speaker was former Secretary of State Madeleine K. Albright.

In 2010, the estate tax law is *supposed* to be repealed; however, the measure must be voted on again by Congress in 2010, before the repeal will become permanent. Regardless, the repeal *will* be in effect for one year: 2010.

Tax is Levied on “Taxable” Estate

The estate tax applies to everything you own at your death, and even a few items you may have given away during your lifetime.

If you die without a Will — what the law refers to as dying “intestate” — your estate must go through “intestacy proceedings.” Through this, your assets are distributed to family members determined strictly under applicable state law.

If you *do* have a Will, your executor (named in your Will to administer your estate after you’re gone) inventories your estate, pays all necessary fees and taxes and then distributes your property in the way you instructed. Presumably, your attorney will have advised you of the applicable laws and created your Will in strict accordance.

Whether or not you have a Will, though, your estate must be valued. Included in your estate is the value of

➤ *all property you own at your death, including your share of any property owned jointly with others;*

- *all property transferred during your lifetime that meets any of these requirements: (1) you retained a lifetime interest in the asset, such as the right to the income or use of the property; (2) the transfer was revocable (you could revoke, alter or amend the transfer at any time); or (3) you retained a reversionary interest (valued under IRS tables) worth five percent at the time of your death;*
- *life insurance policies, if (1) you had an “incident of ownership” at your death, or (2) the proceeds are payable to your estate;*
- *trust assets over which you had a general power of appointment; and*
- *the value — as of the date of the gift — of any gifts made during your lifetime (more about this later).*

These items compose your gross estate. Before the tax is computed, certain items are deducted, including

funeral expenses, your executor’s and attorneys’ fees, administration and probate costs, and debts.

Your estate is also reduced by the value of any bequests to your spouse that qualify for the marital deduction (defined later) and any property transferred to the government and qualified nonprofit organizations.

The result is your taxable estate, and it is on this figure that the estate tax is computed. Once the tax is calculated, your estate receives a credit for any gift taxes previously paid, your remaining unified credit (defined later) and a few miscellaneous items.

Deductions, Credits, Exemptions Help Buffer Estate Tax

Taxation could be devastating to a smaller estate, and loved ones could suffer

Tax Rates Drop to 46 percent This Year

Technically, your estate is subject to taxation regardless of its size. In reality, however, there are credits that offset the estate tax until the estate’s taxable value exceeds \$2 million (in 2006-2008). The top estate tax rate this year is 46 percent.

In 2007-2009, the highest rate will be 45 percent.

Even if the estate tax is indeed repealed in 2010, the gift tax will remain in effect, and the top rate will be 35 percent — the same as the top individual income tax rate at that time.

needlessly. So there are various deductions, exclusions and exemptions that shelter certain transfers and offset part of the tax itself.

THE MARITAL DEDUCTION

This is the most significant tool used in estate planning for married individuals. The amount of the deduction is unlimited, but not all transfers qualify for it. Transfers that *do* qualify include:

- *property given outright*
- *life insurance proceeds payable to the surviving spouse*
- *property jointly owned between spouses*
- *certain transfers in trust including a QTIP (qualified terminable interest property) trust and a general power of appointment trust.*

The benefits of the marital deduction are limited if your spouse is not a U.S. citizen.

THE ESTATE AND GIFT TAX UNIFIED CREDIT The unified credit is the final safeguard against estate erosion from taxation.

For every dollar of gift/estate taxes computed, there is an offsetting dollar-for-dollar credit against that tax (the credit changes each year). So no federal gift or estate taxes will be due if the tax on your cumulative lifetime gifts or taxable estate totals less than the current credit amount.

Here are the equivalent amounts that can be transferred free of tax:

2006-2008 **\$2 million**
2009 **\$3.5 million**

This credit does not include any gifts made under the annual exclusion or any qualified charitable gifts.

Annual Exclusion Is Part of Good Planning

The annual exclusion allows you to make lifetime gifts of up to \$12,000 each to as many beneficiaries as you wish per year. A provision of the tax law allows you to make — jointly with your spouse — gifts of up to \$24,000 per beneficiary per year.

Only gifts of a “present interest” in property can qualify for the annual exclusion. For example, if you give your grandson \$12,000 in cash outright, the gift is considered a “present

interest.” You cannot, on the other hand, claim an exclusion today for \$12,000 placed in trust for your grandson, and from which he may receive no benefits until future years.

Here’s an important distinction: the annual exclusion governs gifts to individuals, not families. So you can increase the power of the exclusion by giving \$12,000 each (for example) to your daughter, her husband and their children. As we mentioned earlier, gifts covered by the annual exclusion are not included later in your taxable estate.

Don’t Overlook the Charitable Deduction

The exclusions, exemptions, etc., available under the law are superb. But there’s

More on the Unified Credit

We have described this credit so far in terms of the dollar amount you can transfer tax-free; the IRS actually thinks of it in terms of the tax assessed. When you make a gift during your lifetime (a non-charitable gift that doesn’t fall under the annual exclusion), you have to file a gift tax return the following April when you file your federal income tax return. Theoretically, you incur tax each time you file a report. The unified credit, however, shelters (from gift tax) your cumulative gifts up to \$2 million (in 2006- 2008). If you were taxed on that \$2 million — either during your lifetime under the gift tax or at your death under the estate tax — you would pay \$780,800. The unified credit figuratively gives you \$780,800 to offset that tax, dollar for dollar, as you incur it. So as you go through life making gifts, a little more of that \$780,800 tax credit is whittled away, until it’s depleted. Then and only then does tax money change hands.



NARAL Pro-Choice America

A gift to **NARAL Pro-Choice America**, a 501(c)(4) organization, **is not** tax-deductible. Gifts to this entity allow us to develop and sustain a constituency that uses the political process to guarantee every woman the right to make personal decisions regarding the full range of reproductive choices, including preventing unintended pregnancy, bearing healthy children and choosing legal abortion. To determine how you can provide support to NARAL Pro-Choice America, see the contact information below.

A gift to **NARAL Pro-Choice America Foundation**, a 501(c)(3) organization, **is** tax-deductible. Gifts to this entity allow us to support and protect, as a fundamental right and value, a woman's freedom to make personal decisions regarding the full range of reproductive choices through education, training, organizing, legal action and public policy. To determine how you can provide support to NARAL Pro-Choice America Foundation, see the contact information below.

Please note that the information contained within this newsletter does not constitute legal advice and that we recommend that you seek your own attorney, financial advisor or financial planner when establishing a Will or a charitable gift to ensure that your income, gift and estate tax objectives are met.

If you would like additional information on making a charitable gift to NARAL Pro-Choice America using various assets, please contact:

Steve I. Schneider, Esq.
Planned Giving Advisor
NARAL Pro-Choice America
1156 15th Street, NW, Suite 700
Washington, DC 20005
Telephone: 202 530 4160
Fax: 202 973 3098
Email: SSchneider@ProChoiceAmerica.org

another provision worth consideration: the charitable deduction.

This comes into play when you make a charitable gift to a qualified nonprofit organization such as NARAL Pro-Choice America Foundation, either during your lifetime or at your death. Making such a gift allows you to support worthy programs while you minimize the effects of taxation.

In this newsletter, we've focused on the estate tax. A charitable gift, however, affects other taxes as well. When you make a lifetime gift, you're entitled to an immediate income tax deduction. If you give appreciated assets, you may also avoid the tax on any capital gain you might have realized had you sold the assets rather than donating them.

The estate tax deduction is slightly different from the income tax deduction. For income tax purposes, you may deduct the full value of the gift up to 30 percent of your adjusted gross income (AGI) for gifts of appreciated assets, or up to 50 percent of your AGI for gifts of cash. With the estate tax deduction, there is no such limit. When you make a

charitable gift, the full value of the contribution is removed — dollar for dollar — from your taxable estate. You may make an outright gift of cash or property, or you may employ one of the gift options known as "planned gifts."

In this category, you'll find charitable remainder trusts, charitable lead trusts (especially advantageous for large estates), gift annuities, bargain sales, life estates and more. We have space to describe only two such options.

CHARITABLE REMAINDER TRUSTS

You contribute assets to a nonprofit organization such as ours to create a charitable trust; in return, the trust pays you an income at least annually for either your life or a specific term up to 20 years. At the termination of the trust, the principal passes to NARAL Pro-Choice America Foundation.

CHARITABLE LEAD TRUSTS Lead trusts function in a reverse fashion. You donate assets to a charity to establish a trust; however, the charity receives income from the trust for a term of years. At the termination of the trust, the principal passes to a non-charitable beneficiary you name.



NARAL Pro-Choice America supporters rally in front of the Supreme Court, showing their support for women's reproductive freedoms.