

ALERT

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Saving Estate Generation Tax Skipping With Upstream Gifts To The Older Generation MH&H Trusts & Estates Team

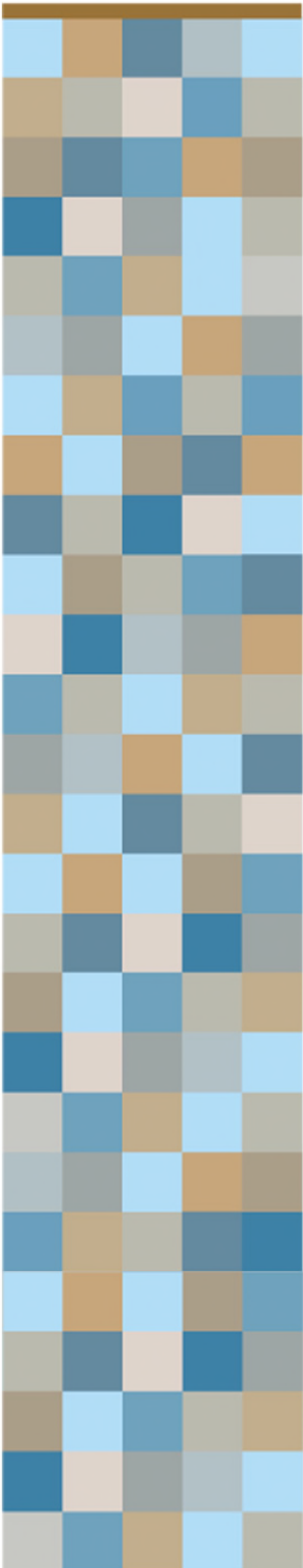
Complex times are times to seek advice and consult your Estate Planner. Federal estate tax laws in place during the 1970s, 1980s and 1990s were very oppressive. These laws were modified to a great extent and now benefit wealthier members of society. Currently, an unmarried US citizen with an estate worth less than \$11,580,000 will not have to pay a federal estate tax. By law, this \$11,580,000 threshold amount (also known as the exemption amount) is set to decrease to \$5,000,000 at the end of calendar year 2025 (subject to adjustment for inflation). For a married couple, the exemption amount is \$23,160,000.

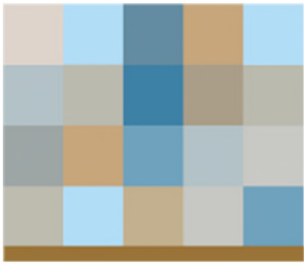
In addition to this statutorily mandated reduction in the exemption amount, the current pandemic is likely to cause the federal government to lower the estate tax exemption (even below the \$5,000,000 planned threshold). The theory is that by reducing the exemption amount, additional taxpayers will be required to file estate tax returns and pay an estate tax. The additional revenue would help reduce the federal deficit caused by the enormous Covid-19 related spending.

In light of this likely change, a unique estate and tax planning opportunity has emerged. For wealthy couples concerned with asset protection, estate tax savings and generation-skipping tax benefits, we have developed a plan enabling wealthy couples to gift assets to one or more aging parents. The parents would also engage in planning to return the gifted assets to the family in an advantageous manner. The example below illustrates the plan.

FACT PATTERN: Mr. & Mrs. Jones are in their fifties and have three children. Mr. & Mrs. Jones have done well financially and have an estate in excess of \$20,000,000. Mr. Jones' father, Mr. Jones Sr., is 82 years old and in failing health. Mr. & Mrs. Jones own Google stock worth \$5,500,000 (appreciated assets which have tripled in value since purchased).

PLAN: Mr. & Mrs. Jones establish and fund a trust for the benefit of Mr. Jones Sr. that provides discretionary income for Mr. Jones Sr. for his lifetime. No principal invasion is allowed. The terms of the trust provide Mr. Jones Sr. a general power of appointment. A general power of appointment is a broad power that gives Mr. Jones Sr. the ability to allocate all or part of his share of the trust among any individuals or organizations selected





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by him). By holding this power, the trust is included in the taxable estate of Mr. Jones Sr. upon his death.

Upon the passing of Mr. Jones Sr., the trust provides that all trust assets be held, in further trust, for the benefit of Mr. & Mrs. Jones and their children. This "sub-trust" is designed to maximize the benefits of generation-skipping transfer tax rules.

- BENEFITS:**
1. Because of the general power of appointment, the assets are included as part of the estate of Mr. Jones Sr. However, **there are no estate taxes due** on the passing of Mr. Jones Sr. as the assets are less than the exemption amount.
 2. The \$5,500,000 **asset gifted receives a "step-up" in basis** for income tax purposes on the death of Mr. Jones Sr.
 3. The \$5,500,000 given away still benefits Mr. Jones and his entire family. Upon the death of both Mr. & Mrs. Jones, **the assets will pass to their children without estate tax consequence.**

If you wish to discuss and learn more about the use of this unique planning opportunity or any other estate plan concern, please do not hesitate to contact us. Our information is set forth below:

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