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# Bush Ross Private Wealth

# Estate and Tax Planning Newsletter

**June 2020**

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Welcome to the June 2020 issue of the Bush Ross Private Wealth Estate and Tax Planning Newsletter. Although our office is currently closed to the public, we are happy to share we have been fortunate to provide uninterrupted services throughout the past several months. In addition to our normal activities, we are actively monitoring the legislative developments surrounding COVID-19. If you would like assistance reviewing and updating your estate plan or navigating any of the new legal developments arising from COVID-19, we are prepared and happy to assist you. Below you will find useful information regarding recent tax law developments that may impact your estate plan.

## IRS Confirms there will be No "Claw-back" of Taxable Gifts

Key Points:

- Individuals can currently transfer $11.58MM ($23.16MM per married couple) tax free. That amount is scheduled to drop to $5MM (as adjusted for inflation) after 2025, provided the current rules remain in place.
- Persons taking advantage of the increased exemption will not be penalized for gifts greater than $5MM if they die after 2025.
- This presents a limited window of opportunity to transfer a significant amount of assets in a tax efficient manner.

Currently, each individual can transfer up to $11.58 million free of gift and estate taxation upon death. This exemption is set to revert to $5 million (as adjusted for inflation) at the end of 2025. This reversion raised the question: If a taxpayer's gifts between 2018 and 2025 exceed $5 million, would those excess gifts be "clawed-back" into the estate and subject to a 40% estate tax if the taxpayer died after 2025. The IRS announced there would be no claw-back and taxation of these excess gifts. For many individuals, proper planning to transfer assets out of their estate and utilize the current exemption will allow them to reduce (and potentially avoid) transfer taxes. For others, it may be best to retain assets in their estate in order to take advantage of certain income tax benefits (basis step-up) available when assets are included in the gross estate. Please keep in mind that the timing and application of the above rules are subject to change with new legislation, etc. Therefore, now is a good time to evaluate any significant gifts you may be considering. Bush Ross can review your estate plan, and assist you in evaluating options that may improve your estate plan.

## TAKE A LOOK AT YOUR RETIREMENT BENEFICIARY DESIGNATIONS

Key Points:

- Most beneficiaries of inherited retirement accounts must now withdraw 100% of the account within 10 years.
- The 10 year condensed withdrawal can lead to increased income taxes (compared to prior rules) and the unintended transfer of significant wealth to beneficiaries not yet capable of managing the funds.
- If a trust is currently your beneficiary, understand whether the new legislation will cause the trust to distribute the entire retirement account to its beneficiaries during a 10 year period and whether action should be taken to avoid this result.
- There may be opportunities to mitigate the impact of this legislation.

The SECURE Act ("Act") became effective January 1, 2020 and, among other things, limited the "stretch IRA." Consequently, most inherited retirement accounts can no longer be distributed by way of Required Minimum Distributions ("RMD") paid according to the beneficiary's life expectancy. Instead, the accounts must now be fully withdrawn within a condensed 10 year period starting at the original owner's date of death. This potential bunching of income may result in a significantly higher tax impact to the beneficiary than under the prior RMD model.

The 10 year payout rule altered the results for trusts as well. Consequently, the trust beneficiaries could be required to receive the entire inherited account in 10 years. This may be less than ideal for non-tax purposes; and certain trust amendments may be appropriate. We are happy to discuss the impact of this new legislation and any changes to your estate plan that may be appropriate.

## THE NUMBERS

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| Gift Tax Annual Exclusion: | $15,000 |
| Cumulative Lifetime Exemption: | $11,580,000 (for 2020) |
| Estate Tax Rate: | 40% |
| June AFR (mid-term; annual) | .43% |
| Highest Marginal Income Tax Rate | |
| Trusts: | 37% on amounts over $12,950 |
| Single Individuals: | 37% on amounts over $518,401 |
| Married Filing Jointly: | 37% on amounts over $622,051 |
| Married Filing Separately: | 37% on amounts over $311,026 |

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