

Annual Exclusion Gifts

Take-Away: Perhaps it is time to reexamine the annual exclusion gift, both as to its amount, and how it is reported by a donor.

Background: This past week I started to look more closely at the proposed Regulations on the new Trump accounts to determine if one of the oversights of the One Big Beautiful Bill Act (OB3) was addressed, which is that a contribution to a Trump account is, practically speaking, a *future* interest gift, meaning that a donor's contribution to a Trump account will require the filing of a federal gift tax return [Form 709.] Recall that when IRC 529 accounts were created, also a gift of a *future* interest, Congress added IRC 529(c)(2)(A) to the Tax Code that permits a gift to a 529 account to be treated as a *present interest* gift which falls under IRC 2503(b) as an annual exclusion gift for which no federal gift tax return is required. I could not find this OB3 oversight addressed in the just released proposed Regulations for Trump accounts.

While looking into this question of whether a gift to a Trump account would qualify for the federal gift tax annual exclusion I ran across an interesting blog by Professor Annette Nellen entitled "Time to Increase the Annual Exclusion Amount?"

Professor Nellen's Blog Observations: Several practical insights are provided in this blog.

99.8% Will Never Pay Estate Taxes: She first points out that in 2026 the annual exclusion gift amount is still at \$19,000. The OB3 increased the applicable exclusion amount to \$15 million per person, yet only one-third of 1% of Americans will die with over \$15 million in assets.

Common Example of IRS Busywork: Professor Nellen makes the example:

Charlie, a widower, gifts \$20,000 to his adult granddaughter in 2026 to help her purchase a car to drive to and from college. Charlie must file a gift tax return for the \$1,000 above the annual gift exclusion amount. While Charlie owes no federal gift tax, he must still file and report that he used \$1,000 of his \$15 million applicable exclusion/gift exemption. For the

roughly 99.8% of people who will never have over \$15 million of assets, what is the point of filing a Form 709? And filing a Form 709 also means that Charlie will have to report all of his charitable contributions, which have no effect on his \$15 million exemption- just a requirement under Form 709. Restated, all of this extra processing for an understaffed IRS with no tax effect on the bulk of the returns.

Percentage Increase Disparity: The federal estate and/or gift tax exemption has increased significantly over the last couple of decades, but the annual exclusion amount has lagged far behind. In 2000, the estate tax exemption was \$675,000 and the annual gift exclusion was \$10,000. In 2026, the estate tax exemption is now \$15 million, while the annual gift exclusion stands at \$19,000. Using simple math, the estate exemption increased 2,122% since 2000 while the federal gift tax annual exclusion increased a mere 90%.

Who Owes Estate Taxes: The IRS has data compiled under its Personal Wealth Study, that is prepared every three years using Form 706 data to 'estimate the wealth of the living population.' Using the most recent data of 2019, when the estate exemption was \$11,400,000, only about 206,000 individuals were estimated to have gross assets worth more than this amount: 113,249 were estimated to have wealth between \$11.4 and \$20 million, 72,012 with wealth between \$20 and \$50 million, and 20,209 with wealth of \$50 million or more. As another source of information on American wealth, the U.S. Census Bureau's 2023 report on median household wealth was \$191,100, while one in 10 households had wealth greater than \$1.8 million.

Solution? Professor Nellen casually suggests that a simple solution would be to allow a donor who makes a gift, either to a 529 account, or to a Trump account, or an amount larger than \$19,000 to add a line to a Form 1040 to report his/her gift on their annual income tax form as opposed to filing a separate Form 709, unless there were other gifts besides the annual exclusion gifts.

Conclusion: We often take the annual exclusion gift opportunity for granted, until we remember that only *present* gifts qualify (hello Trump account contributions.) It is also surprising to look at the increase in the annual exclusion amount over the past 25 years when compared to the dramatic increase in the applicable exclusion amount. If the IRS is understaffed, why are we making it process federal gift tax returns that report only nominal

gift amounts that exceed the \$19,000 statutory limit? Is it too much to ask Congress to take a look at streamlining and increasing the annual exclusion amount?

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