



IRS CONFIRMS GIFTS USING HIGHER EXEMPTION AMOUNTS WON'T BE “CLAWED BACK” FOR ESTATE TAX PURPOSES AFTER 2025

November 22, 2019

The Treasury Department and the Internal Revenue Service have officially confirmed that in the event the federal gift and estate tax exemptions are reduced in the future, taxpayers will not be penalized with a “clawback” for the use of higher exemption amounts. On November 22, 2019, the Department and IRS issued Treasury Decision 9884 making their prior statements in this regard legally binding. This means that if wealthy individuals use their increased gift tax exemptions (\$11,400,000 in 2019 and increasing to \$11,580,000 on January 1, 2020), they will not be penalized or otherwise lose the benefit of these tax-exempt gifts when the federal gift and estate tax exemptions return to \$5,000,000 (as adjusted for inflation) as they currently are scheduled to do in 2026.

The regulations include clarifying technical language and examples to make it clear that the estate of a taxpayer who uses the higher gift exemption will not be impacted by such gifts if the exemption amount has decreased by the time of the taxpayer's death.

Considering large gifts to family members or others? Contact your Cummings & Lockwood LLC attorney with any questions that you may have.