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Delaware's New Beneficiary Well-Being Trust Law

Accounting for Success

Guiding Clients Through the TCJA Sunset: Gifting a Business for Tax Savings

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As the key provisions of the Tax Cuts and Jobs Act (TCJA) approach their sunset on December 31, 2025, business owners face a critical planning opportunity to transfer wealth to family members while minimizing tax burdens. One of the most impactful strategies for high-net-worth individuals is gifting a business to the next generation of family members. Bankers, working alongside Certified Public Accountants (CPAs), Certified Valuation Analysts (CVAs), and estate planning attorneys, can play a pivotal role in guiding clients through this complex process.

The TCJA Sunset: What It Means for Clients

The TCJA, enacted in 2017, temporarily doubled the federal estate and gift tax exemption, allowing individuals to transfer up to $13.61 million (or $27.22 million for married couples) without triggering federal estate or gift taxes. However, this increased exemption is set to expire at the end of 2025. When the TCJA sunsets, the exemption will revert to its pre-2018 level—around $6 million per individual, adjusted for inflation.

This change presents a limited opportunity for business owners to gift their business, or a portion of their business, to family members under the enhanced tax exemption. After 2025, any gifts exceeding the lowered exemption could be subject to a 40% federal estate and gift tax rate.

For business owners with substantial assets, the potential tax savings from acting before the TCJA sunsets could be significant.

Why Gifting a Business is an Effective Strategy

Gifting any portion of a business to family members before the TCJA sunsets can be a powerful way to minimize estate and gift taxes. With the current exemption levels, business owners can transfer substantial assets without triggering federal taxes, preserving wealth for future generations.

For example, consider a business valued at $10 million. If the business is gifted to family members now, under the current exemption, no federal gift tax would be due. If the same transfer occurs after 2025, when the exemption drops to $6 million, the remaining $4 million would be subject to the 40% gift tax rate, resulting in a tax liability of $1.6 million.

This strategy not only offers immediate estate tax savings but also allows the transfer of ownership in a business to the next generation to aid in ensuring a smooth transition and continued family ownership.

How Bankers Can Support Clients Through the Process

Bankers are uniquely positioned to help clients navigate these complex tax and estate planning decisions. To do this effectively, they must work closely with a client's broader advisory team, including CPAs, CVAs, and estate planning attorneys. Here's how bankers can help:

1. Educate Clients on the TCJA Sunset
Many clients may not be fully aware of the tax implications of the TCJA sunset. Bankers should be proactive in informing clients about the changes to the estate and gift tax exemption and how the reduced exemption after 2025 could result in significantly higher tax liabilities.

By explaining the financial impact of these changes, bankers can help clients understand the urgency of making decisions now. Time is of the essence, and acting before the TCJA sunsets can mean the difference between saving millions in taxes and facing hefty tax bills down the road.

2. Collaborate with CPAs for Tax Planning
Bankers should work hand in hand with CPAs to help clients structure gifts in a way that minimizes tax burdens while aligning with broader financial goals. CPAs provide essential insights into a client's overall

financial situation, ensuring that the gifting strategy complements the client's long-term financial plans.

Working together, bankers and CPAs can ensure that clients maximize their use of the current gift and estate tax exemptions, structuring transfers in the most tax-efficient way possible.

3. Partner with CVAs for Accurate Business Valuations
An accurate valuation of the business is critical to ensuring the gift is structured correctly and defensibly from a tax perspective. Certified Valuation Analysts (CVAs) can provide reliable, defensible business valuations that help avoid disputes with the IRS over the value of the transfer.

Bankers should encourage clients to work with a CVA to establish the fair market value of their business before gifting it. This ensures that the gift is properly valued and reported, reducing the risk of audit or additional taxes later on.

4. Involve Estate Planning Attorneys for Legal Structure
Gifting a business is not just about taxes—it also involves legal considerations that must be carefully structured. Estate planning attorneys play a vital role in ensuring the transfer of the business is legally sound and aligned with the client's broader estate plan. Attorneys can help set up trusts, family limited partnerships, or other structures that provide additional tax benefits or protections for the business and the family. Bankers should collaborate closely with attorneys to ensure all aspects of the business transfer are handled appropriately.

The Importance of Acting Now

The countdown to the TCJA sunset is on, and the time to act is now. Gifting a business and taking advantage of the current, higher estate and gift tax exemption requires careful planning and collaboration between a client's team of advisors.

Bankers should emphasize the importance of beginning this process early. Complex estate plans involving large businesses take time to finalize, and waiting until the last minute could result in missed opportunities or rushed decisions that aren't fully optimized for tax savings.

The clock is ticking on this limited-time opportunity, and bankers who help their clients act now will strengthen their relationships and add significant value to their clients' financial futures.