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How Tax Reform Made Your Estate Plan Obsolete

[ESTATE PLANNING, TAX REFORM](#)
BY [MICHAEL DARPINO](#)

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If you are among the many taxpayers who had wills and other estate planning documents prepared prior to this year, don't be too eager to delete your estate planning advisor from your rolodex. Thanks to changes to the federal estate, gift and generation-skipping tax exemptions made by the recent Tax Cuts and Jobs Act ("TCJA"), these documents may now be obsolete.

Before the TCJA, the first \$5 million, or \$10 million per married couple (as adjusted for inflation), of transferred property was exempt from federal wealth transfer taxes. For decedents dying and for gifts made from 2018 through 2025, the TCJA doubles the amount that can be excluded from these taxes. Indexing for post-2011 inflation, this means that individuals can transfer up to \$11.2 million, and married couples up to \$22.4 million, on a tax-free basis.

This increased exemption amount may trigger the need for you to re-draft some important documents, including wills and trust agreements. Many estate plans that were prepared under prior law provided for the automatic creation of a "credit shelter" trust in order to fully utilize the exemption amount of the first spouse to die. The changes to the law made by the TCJA may cause the credit shelter trust to be unnecessary in many cases. Furthermore, an unnecessary credit shelter trust may also forfeit the benefit of the basis step-up at the death of the second spouse.

You should contact your estate planning advisor as soon as possible to discuss the impact that the TCJA may have on your current estate plan.

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