



**IREON Insights: A convergence of calamities — Same old story — Now is the time for planning with real estate - by Neil Axler and Craig Stephanson, part 1 of 3**

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(This article is the first in a three-set series. This first article introduces certain pending gift and estate tax law changes and touches upon real estate values being in a state of flux and how the current low interest rate environment impacts real estate values. Each of the three-part series articles should be read in conjunction with each other)

As we enter the 2024 new year, there are several financial, legislative, economic, and political undercurrents that are lining up for a perfect storm of opportunity for families with real estate wealth and their estate advisors. All of these happenings are occurring as certain tax cuts are expected to sunset soon and the U.S. faces increasing political uncertainties. However, wherever there is a changing tax landscape and uncertainty, opportunities abound, especially now for real estate owners looking to take advantage of wealth planning, succession planning, and the associated gifting strategies.

Understanding and taking advantage of these opportunities, first starts with a quick refresher on the Tax Cuts and Jobs Act ("TCJA") and its legislative sunset provisions. The TCJA significantly increased the lifetime gift and estate exemption which now stands at \$13.61 million per person, or \$27.22 million per married couple. What this means to individuals with significant wealth is that a married couple can give away (and thus remove assets from their taxable estates) \$27.22 million before that is subject to any gift tax liability. Additionally, the annual exclusion amount (the amount per donee that can be given away each year and still not affect the lifetime exemption amount) now

stands at \$18,000. These high exemption levels have meant that fewer estates have been subject to federal estate taxes and fewer taxpayers have paid federal gift taxes. In the near future, more estate and individuals are likely to be subject to these taxes. This is because the TCJA did not make these increasing exemption amounts permanent. These tax breaks are set to revert or “sunset” back to pre-TCJA levels at the end of 2025 unless further legislative action is taken. Before TCJA, individual lifetime exemptions were approximately \$5 million, therefore it is prudent to prepare for the tax cut sunset and take advantage of the very high gift and estate tax exemption before it is significantly reduced. Additionally, at the end of 2025, the current 40% maximum gift and estate tax rate of 40% will increase to 45%. It is now time to give away assets tax-free before these opportunities change at the end of 2025.

In combination with this opportunity to take advantage of the high gift and estate tax exemption amounts, there are a set of unique occurrences in the U.S. real estate markets that are further enhancing the need for wealthy real estate owners and investors to act soon. Real estate values are in a state of flux right now, with changes likely in the coming year.

The current high interest rate environment will continue to negatively impact commercial real estate. However, real estate investors are beginning to be more confident that the Fed will be more accommodating in 2024, which could positively impact values. According to Capital Economics, CRE had a \$590 billion wipeout in 2023 and is projected to lose another \$480 billion in 2024. This instability makes real estate underwriting difficult and valuations can differ significantly over time. It is imperative to understand the strengths and weaknesses of different property types.

Accordingly, it is important to do your planning now and get ahead of the curve and get into the queue sooner, rather than later. By acting now, you can transfer real estate at currently low values while you have the high gift tax exemption levels. As interest rates fall in the future, the value of the real estate assets can grow outside of your estate, thus saving significant estate taxes down the road. These types of opportunities present themselves only so often and now is the time to act.

Part two will appear in the March 26, 2024 NYREJ edition.

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