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THE TAX LAWYER

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### Grab The \$5M Gift And Estate Tax Perk: It's Gone In 2013

It's post-election, nearly year-end, and taxes are on everyone's mind. You may not be able to do much about the fiscal cliff or other imponderables. But you can fix your will and trust or just make a gift by year-end.



**Act now!** Think infomercial. ***This is a special limited time offer!***

Procrastination is understandable, especially about taxes and mortality. Yet it's still surprising most people haven't taken advantage of the incredibly favorable estate and gift tax law expiring in 2012. See [It Pays To Plan For Future Estate Tax Changes](#).

Congress enacted a \$5 million exemption for both gift and estate taxes, but ***only through 2012***. See [Making Tax Decisions In Limbo](#). ***But wait, there's more!*** Indexed for inflation, the exemption is now ***\$5,120,000***. It drops to only \$1 million January 1, 2013. That's a free pass to give away up to \$5,120,000 without tax. If you are married, that's up to ***\$10,240,000 for a married couple*** with no tax.

Such an opportunity may never come again. Lifetime gifts of ***appreciating*** property can allow even more appreciation to escape estate tax. You can even impose conditions and controls so gifts aren't

squandered. Trusts, LLCs, and insurance can increase the amount escaping tax yet allow you to retain control. That way recipients don't have unfettered access to the assets.

Even if you have never done estate planning, this year is a good time to start. Recall that in 2001, Congress increased the estate tax exemption in measured steps until December 31, 2009. Everyone **assumed** there would be comprehensive reform, but Congress failed to act. With superb timing more than a few **billionaires** died in 2010 when there was **no** estate tax. See [Ghoulish Estate Planning Before New Year's?](#)

The only certainty is that the rest of 2012 is a bargain, and you don't have to die to take advantage of it. Post-election, the estate tax remains a political football. Hopeful Mitt Romney had called for death tax repeal. President Obama proposed a 45% rate with a \$3.5 million exemption. See [Death Tax Resurrection](#).

But one thing is as certain as death and taxes. Between now and December 31, 2012, every couple with say \$2M or more of assets should consider this before it's too late.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*