INSIGHTS + NEWS

Katherine Dorval Writes "Amending The IRS's Anti-Clawback Provision On Gifting" for Financial Advisor

BY KATHERINE R. DORVAL • JUNE 1, 2022

The U.S. Treasury Department is on the verge of making changes to a taxpayer-friendly regulation regarding federal estate taxes. The amendment is intended to fix loopholes in a 2019 regulation, which is sometimes referred to as the "anti-clawback regulation." This lucrative law temporarily doubled the value of the estate and gift tax exemption, but the IRS recognized opportunities for abuse, which is why it is proposing an amendment. Katherine Dorval discusses the regulation, the temporary increase and the anticipated changes in *Financial Advisor*. Here is an excerpt:

> The amendment provides some clarity regarding gifts that are not truly gifts, because the donor retains some benefit or control over the so-called "gift." The goal of the amendment is to bar such artificial gifts from benefiting from the anti-clawback regulation. It is now clear that taxpayers cannot use tricks such as giving the gift of a promissory note (worth $12.06 million) to lock in the high exemption and leaving it unpaid until death. They are not actually giving anything away until they die, and therefore the promissory note will be part of their taxable estate and bound by the estate tax exemption amount existing when they die.

Continue reading the full article "Amending The IRS's Anti-Clawback Provision On Gifting" on the *Financial Advisor* website.

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