



Estate Planning Tips in a COVID-19 Economy

Taking advantage of present economic opportunities.

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TAKEAWAYS

Now is the time to take advantage of opportunities to save on transfer taxes.

Tax filing deadlines are extended, interest rates and asset values are low, and exemptions from gift, estate and generation-skipping transfer (GST) tax are at an all-time high.

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Note: This alert, originally published on March 25, has been updated on March 30 to take account of further federal and state tax deadline changes.

We recognize that this is a time of great stress for our communities and the country, and we respectfully acknowledge the distress the coronavirus pandemic has caused all of us. At the same time, we find that focusing on matters we can control, such as updating our estate planning documents and even taking advantage of present economic opportunities, can provide some relief from the concerns that we all have. Some of the extraordinary opportunities that exist today are as follows:

- 1. Extension of Federal Income Tax Filing and Payment Deadlines to July 15, 2020.** In response to the COVID-19 outbreak, the Treasury Department and Internal Revenue Service announced on March 21, 2020 in IR-2020-58 that the federal income tax filing due date is automatically extended from April 15, 2020, to July 15, 2020. Taxpayers can also defer federal income tax payments due on April 15, 2020, to July 15, 2020, without penalties and interest, regardless of the amount owed. Penalties and interest will begin to accrue on any remaining unpaid balances as of July 16, 2020.

This deferment applies to all taxpayers, including individuals, trusts and estates, corporations and other non-corporate tax filers, as well as those who pay self-employment tax. This relief also includes estimated income tax payments for tax year 2020 that were originally due on April 15, 2020.

This relief is automatic. Taxpayers do not need to file any additional forms or call the IRS to qualify for this automatic federal tax filing and payment relief. Individuals who need additional time to file beyond the July 15 deadline can request a filing extension by filing Form 4868. Businesses that need additional time must file Form 7004.

The IRS urges taxpayers who are due a refund to file as soon as possible. Most tax refunds are still being issued within 21 days.

This relief also impacts the deadlines for contributions to IRAs and HSA accounts. For a list of IRS questions and answers refer to [this Q&A](#).

2. **Extension of Federal Gift and GST Tax Filing and Payment Deadlines to July 15, 2020.** The Treasury Department and Internal Revenue Service recently expanded the COVID-19 tax relief to include gift taxes in Notice 2020-20. As a result, the due date for filing Forms 709 (United States Gift and Generation-Skipping Transfer Tax Return) and making payments of federal gift and generation-skipping transfer (GST) tax has been automatically postponed to July 15, 2020.

This relief is automatic. Taxpayers do not need to file any additional forms or call the IRS to qualify for this automatic federal tax filing and payment relief. Individuals who need additional time to file beyond the July 15 deadline can request a filing extension by filing Form 8892.

Interest, penalties and additions to tax with respect to Form 709 and payments will begin to accrue on July 16, 2020.

*To date, the IRS has **not** announced any relief applicable to Forms 706 (United States Estate (and Generation-Skipping Transfer) Tax Return) and the payment of federal estate taxes. Accordingly, normal filing and payment due dates continue to apply to estate taxes.*

3. **Extension of State Income Tax Filing and Payment Deadlines.** The relief described above only applies to federal income tax, federal gift tax and federal GST tax, and does not apply to state income tax. Taxpayers will still need to file income tax returns and pay income tax in 42 states plus the District of Columbia. State filing and payment deadlines vary and are not always the same as the federal filing and payment deadlines. The IRS urges taxpayers to check with their state tax agencies for those details. More information is available [at this link](#).

That said, many states are announcing tax relief that mirrors the federal relief described above. For example, the [California Franchise Tax Board](#) has postponed until July 15, 2020 the filing and payment deadlines for all individuals and business entities for (i) 2019 tax returns, (ii) 2019 tax return payments, (iii) 2020 first and second quarter estimate payments, (iv) 2020 LLC taxes and fees, and (v) 2020 non-wage withholding payments. Similarly, the New York Department of Taxation and Finance announced in N-20-2 that New York State personal income tax and corporation tax returns originally due on April 15, 2020, have been extended to July 15, 2020, and that all related tax payments due on April 15, 2020, may be deferred to July 15, 2020, without penalties and interest, regardless of the amount owed.

4. **Low Interest Rates.** There are extraordinarily low interest rates at this time. The required minimum federal interest rate for transfers between related parties (the “applicable federal rate” or AFR) for April 2020 is very low: Short-Term Annual AFR is 0.91 percent; Mid-Term Annual AFR is 0.99 percent; and Long-Term Annual AFR is 1.44 percent.

5. **High Gift, Estate and GST Tax Exemptions.** Exemptions from gift, estate and generation-skipping transfer (GST) tax are at an all-time high and are scheduled to decrease under existing law at the end of 2025. The current gift/estate and GST tax exemption amounts are \$11.58 million per individual.
6. **Low Asset Values.** Asset values are low, making it an opportune time to make transfers such as gifts and leveraged sales.
7. **Potentially Unlimited Duration of GST-Exempt Trusts.** Currently, gifts to GST-exempt trusts can last for an unlimited number of generations. This number may be limited in the future. We advise making transfers—taking advantage of low interest rates and low asset values—to GST-exempt trusts with long durations to take advantage of this extraordinary opportunity.
8. **Opportune Time to Make Transfers Using GRATs.** Now may also be an opportune time to make a transfer using a grantor retained annuity trust (GRAT). This mechanism provides for the transfer of assets to beneficiaries, such as family members or a trust for their benefit, at a reduced transfer tax cost. If you would like to discuss the pros and cons of using a GRAT or a leveraged sale to a trust, please feel free to contact us.
9. **Refinancing Promissory Notes.** For clients who have previously used a promissory note to transfer assets to beneficiaries or to a trust, now may be an opportune time to refinance such a note. Given the extremely low AFR rates, refinancing is a simple way to increase the amount transferred to beneficiaries without incurring additional transfer tax.

Pillsbury's experienced crisis management professionals are closely monitoring the global threat of COVID-19, drawing on the firm's capabilities in supply chain management, insurance law, cybersecurity, employment law, corporate law and other areas to provide critical guidance to clients in an urgent and quickly evolving situation. For more thought leadership on this rapidly developing topic, please visit [our COVID-19 \(Coronavirus\) Resource Center](#).

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TAGS

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