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The *Taxpayer Relief Act of 1997* (H.R. 2014) was signed by President Clinton on August 5, 1997. The key provisions that we believe will affect gift and estate calculations are listed below.

(Editor's note: Many provisions of the Taxpayer Relief Act of 1997 were superceded by The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and/or The Jobs and Growth Tax Relief and Reconciliation Act of 2003 (JGTRRA)).

New Capital Gains Rates

For property held longer than 18 months, there is a new 20% capital gains tax rate (10% for taxpayers in the 15% ordinary income tax bracket). In addition, gift planners face the challenge of making sense of the many other provisions affecting capital gains, with different rates for different types of property and holding periods, and a new $250,000 ($500,000 for joint returns) exclusion for sales of principal residences.

Minimum Remainder Value for Charitable Remainder Trusts

For transfers in trust after July 28, 1997, the remainder value of a charitable remainder annuity trust or unitrust must be at least 10%. If the remainder value is less than 10%, the gift will not qualify as a charitable remainder trust.

The Maximum Payout for CRTs is 50%

The 50% ceiling on charitable remainder annuity trust and unitrust payout rates applies to transfers in trust after June 18, 1997. If the trust payout rate exceeds 50%, the gift will not qualify as a charitable remainder trust.

Excise Taxes on Retirement Plan Distributions and Lifetime Accumulations Repealed

This 15% excise tax (which had been temporarily waived for lifetime distributions through 1999) is permanently repealed, effective back to December 31, 1996, both for distributions during lifetime and after death.

Gift and Estate Tax Provisions

The unified credit for gift and estate taxes will be raised from $600,000 to $1,000,000 over 10 years. The schedule of increases appears below:

Year	Exclusion amount	Credit Amount
1997	600,000	192,800
1998	625,000	202,050
1999	650,000	211,300
2000-2001	675,000	220,550
2002-2003	700,000	229,800
2004	850,000	287,300
2005	950,000	326,300

2006+	1,000,000	345,800

In addition, the $10,000 annual gift tax exclusion will be indexed to inflation for gifts made after 1998.

Generation Skipping Transfer Tax Provisions

The $1,000,000 GST exemption will be indexed to inflation for years after 1998.

In addition, there is a provision makes it easier to fund charitable and other trusts for grandchildren whose parents predecease them. In this situation, these grandchildren are not subject to GST tax.

What Else?

The provision that expired on May 31, 1997 and enabled a deduction based on full fair-market value rather than tax basis for gifts of appreciated property to private foundations, is extended (retroactively to May 31) through June 30, 1998 (ed. note: the Budget Bill of 1998 made this provision permanent).

Donors of outright gifts to charity do not have to file a gift tax return. This filing exemption does not extend to split-interest gifts, so a gift tax return continues to be required for these types of gifts.

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