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NEW OHIO LAW WILL PERMIT OFFICERS TO STOP DRIVERS HOLDING CELL PHONES

Under current Ohio law, a driver may be charged with Driving While Texting if the driver is stopped for another offense and the officer discovers the driver was texting while driving. However, a police officer is not permitted to initiate a traffic stop based on the officer's suspicion that a driver was doing so. As of April 3, 2023, officers will be authorized to stop a vehicle if the driver is using, holding, or physically supporting an electronic wireless communications device.



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section makes it unlawful to drive a motor vehicle while using a handheld electronic wireless communications device to write, send, or read a text-based communication. The law has exceptions which include texting during emergencies, texting while stationary and outside the lane of travel, and hands-free texting. The current statute

specifically states law enforcement officers may not stop an automobile, "for the sole purpose of determining whether a violation of [this law] has been or is being committed".

The New Law

The new law, part of Senate Bill 288, makes substantial changes to section

4511.204. Rather than prohibiting only texting, the revised statute prohibits, "using, holding, or physically supporting with any part of the person's body, an electronic wireless communications device." There are 13 exceptions to this prohibition, including using a device: for emergencies, while stationary, to make hands-free calls, and for hands-free navigation.

The most significant revision to the statute is the removal of the language which prohibits officers from stopping a vehicle "for the sole purpose of determining whether a violation of [this law] has been or is being committed". That paragraph is deleted in the new law. Instead, the law says officers may not stop a driver for violating this law unless the officer, "visually observes the

operator using, holding, or physically supporting with any part of the person's body, the electronic wireless communications device."

The Penalties

Violating the current version of R.C. 4511.204 is a minor misdemeanor, punishable by a fine of up to \$150. Violating the new version of R.C. 4511.204 will be an unclassified misdemeanor, punishable by a fine of up to \$150, two points on the person's driver license, and community control (probation) for up to five years. In addition, the sentence can be enhanced if the driver has prior convictions for violating this law within two years and if the offense is committed in a construction zone. ■

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2023 BRINGS THE HIGHEST-EVER EXEMPTION AMOUNTS FOR GIFT AND ESTATE TAXES

For 2023, the IRS announced increased exemption amounts for gift, estate, and generation-skipping transfer taxes. Because of inflation, these increases are the largest-ever and offer tremendous wealth transfer planning opportunities.

The gift tax annual exclusion increased this year by \$1,000 to \$17,000. This exclusion is the amount an individual may give per person without incurring a gift tax or reporting obligation. Thus, any gift of \$17,000 (or less) does not need to be disclosed to the IRS and will not be taxed or serve to reduce the donor's lifetime exemption.

For married couples who elect gift-splitting (which requires a gift tax filing), this annual exclusion can be combined for up to \$34,000 per person. Therefore, parents are now able to give each child \$34,000 without any gift-tax impact.

The IRS also increased the estate tax lifetime exemption to \$12,920,000. This is an \$860,000 increase. The lifetime exemption is the amount an individual can transfer upon death (or during life), without incurring any estate tax (or gift tax). As a result, married couples can now transfer up to \$25,840,000, tax-free. This is a \$1,720,000 increase from 2022.

The generation-skipping transfer ("GST") tax exemption is also now \$12,920,000. The GST tax is assessed when a gift or bequest skips a generation, such as a grandparent transferring property to a grandchild. GST tax is designed to prevent the avoidance of estate tax for one or more generations by taxing certain gifts and distributions to grandchildren or great-grandchildren.

Without further action by Congress, time is limited to take advantage of these higher limits. The current law providing these larger estate and gift-tax exemptions will sunset after 2025, at which point the exemptions are scheduled to return to pre-2017 levels.

If that happens, the exemptions will be roughly cut in half.

We continue to monitor IRS announcements and new legislation. In the meantime, many wealth transfer tools can continue to be utilized to potentially reduce transfer taxes, including spousal lifetime access trusts (SLATs), grantor retained annuity trusts (GRATs), family limited entities, and valuation discounts for certain closely-held business interests. Now may be the best time for families to take advantage of this favorable transfer tax landscape. ■

By the Bailey Cavalieri Estate Planning and Tax Group: Harlan S. Louis, Robert R. Dunn, Jonathan M. Murphy, Brittany P. Stephen, David A. Onega

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