



Estate planning in 2024

Sunset of the enhanced lifetime exemption looms

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Federal law provides a lifetime exemption that allows you to gift or bequeath a certain amount of wealth without having to pay transfer tax. Under the Tax Cuts and Jobs Act of 2017 (TCJA), from 2018 through 2025, this exemption is doubled to \$10,000,000 from its prior base amount of \$5,000,000. This amount is adjusted annually for inflation. Thus, for 2024, the lifetime exemption amount is \$13,610,000 per person. This means that, except to the extent you have already used this exemption for prior gifting, you may give up to \$13,610,000 of assets (\$27,220,000 collectively with your spouse) in 2024 without incurring a gift or estate tax. The generation-skipping transfer tax exemption is also \$13,610,000 for 2024.

However, as with many of the other individual tax benefits put in place by the TCJA, the increase is scheduled to sunset at the end of 2025, with the exemption reverting to \$5 million per person (as adjusted for inflation) in 2026. Moreover, there is always the possibility that future legislation might be enacted that would reduce the enhanced exemption even sooner. If not used prior to that time, the benefits of the increased exemption may be lost.

The discussion on the right identifies additional reasons you should focus on estate planning in the near term and describes strategies you may want to consider when utilizing the enhanced exemption. Individuals who wait until the last minute may not be able to find an advisor with time to help or may end up rushing through planning that should be more thoughtfully crafted.



Benefits of transferring assets today

In addition to the short-term availability of the larger exemption, there are additional reasons for individuals to focus on estate planning in the near term. These include the:

1

Prospect of **future legislation** that may reduce or eliminate the effectiveness of popular planning techniques (e.g., sales to intentionally defective grantor trusts or grantor-retained annuity trusts)

2

Possibility that the availability of **valuation discounts** for gifting interests in family limited partnerships or other family-controlled entities will be curtailed by Congress or Treasury

3

Ability to **remove future appreciation and income** from an estate

4

Availability of various **non-tax benefits of trusts** (e.g., asset protection, asset management, and control over future disposition)

5

Opportunity to **minimize state income tax** by utilizing non-grantor trusts resident only in a state with no or low income tax.



Potential consequences of waiting

Individuals who can afford to part with \$13.61 million (\$27.22 million for married couples), and in some cases, even those who feel like they cannot, should undertake planning now. Even those who have done extensive estate planning in the past should review their estate plan and see how they might make best use of any remaining exemption. For example, an individual who used all their exemption on gifts in 2023 or before, can still make \$690,000 (\$1,380,000 per couple) of additional tax-free gifts this year using the 2024 inflation adjustment to the lifetime exemption.

Assuming no acceleration of the sunset and moderate inflation over the next year or so, the lifetime exemption could decrease from approximately \$14 million in 2025 to approximately \$7 million in 2026. Making pre-sunset taxable gifts of the enhanced exemption amount would result in estate tax savings of \$2.8 million (based on the current estate tax top rate of 40 percent). Keep in mind that this is just intended to provide a general sense of the benefit at stake; it is somewhat difficult to quantify the value of making pre-sunset taxable gifts while the enhanced exemption is available given the potential variables involved, including (1) the amount of any inflation adjustments to the exemption over time, (2) the timing of the donor's death, and (3) the date of actual sunset in light of potential legislative changes.

In addition to the tax savings attributable to utilization of the enhanced exemption before it sunsets, lifetime taxable gifts may produce an estate freezing benefit as well. This is because post-gift appreciation of and income from the gifted assets will generally not be subject to gift or estate tax in the hands of the donor (or, if a long-term trust is utilized, even in the hands of subsequent generations). As long as the donor does not retain any power over or interest in the transferred assets, additional estate tax savings (to those attributable to use of the exemption before it sunsets) may result, especially if you gift assets with significant appreciation potential. However, you should also be aware that the transfer of assets during your life will mean forgoing the potential step-up in basis to fair market value available for assets owned at death.



Ways to utilize the enhanced exemption

Individuals may wish to consider taking one or more of the following actions in 2024 to utilize the enhanced lifetime exemption:

- Outright gifts to individuals
- Equalizing historic gifts to children or grandchildren
- Forgiveness of outstanding loans to friends, family, and trusts
- Gifts to dynasty trusts or allocation of generation-skipping transfer tax exemption to previously created dynasty trusts
- Gifts to new intentionally defective grantor trusts (IDGTs) in connection with a subsequent sale to the trust for a note—the benefits of this structure can be magnified since the gift of the seed property can be much larger now without any additional gift tax exposure
- Gifts to trusts that have pre-existing sales in place in order to improve the equity to debt ratio
- Gifts to qualified personal residence trusts (QPRTs)
- Gifts to trusts that allow the grantor's spouse to retain some access to the funds (SLATs) if they are otherwise concerned about giving away \$27.22 million of assets
- If remaining generation-skipping transfer tax exemption exceeds remaining gift exemption, excess can be allocated to existing dynasty trusts that are not fully exempt.



Resources

Please contact your local KPMG Private Enterprise tax professional for assistance with making use of your temporarily enhanced lifetime exemption or for estate planning advice more generally.

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