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Changes in Federal Estate Tax Exemptions (2018)

*Adapting Your Estate to Maximize Exemptions Under the
Tax Cuts and Jobs Act of 2017*

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No Legal Advice Intended:

This information is not intended, and should not be taken, as legal advice on any particular set of facts or circumstances about the topic. For information on specific legal problems, please contact an attorney.

THE TAX CUTS AND JOBS ACT OF 2017



Significant Changes to Estate and Gift Tax

Prior Legislation

- Tax Rate
 - 40% for all qualifying estates/gifts
- Basic Exclusion Amount
 - \$5,000,000.00
- As Adjusted For Inflation
 - \$5,490,000.00
- Total Married Persons Exclusion
 - \$10,980,000.00

Current Law

- Tax Rate
 - 40% for all qualifying estates/gifts
- Basic Exclusion Amount
 - \$10,000,000.00
- As Adjusted For Inflation
 - \$11,200,000.00
- Total Married Persons Exclusion
 - \$22,400,000.00

Unchanged Features

- Although the TCJA introduced sweeping changes, the following elements remain unchanged:
 - **Portability Election.** Enables surviving spouse to use deceased spouse's unused federal estate and gift tax exemptions.
 - **Sunset Provision.** As of January 1, 2026, the increased exemptions will return to pre-TCJA amounts. Essentially, the new law grants an 8 year window of increased exemptions from gift and estate tax.
 - **Step-Up Basis.** The provision enabling an appreciated asset's assessed value, for tax purposes, to be determined based on the value of the asset at the time of donor's death, will remain in effect.
 - **Tax Rate.** As shown earlier, the estate tax rate (40%) will continue unaffected by the new law; however, the assets subject to this rate will be significantly limited.

Guided Illustration

As an example, a married couple has assets of \$30 million and, due to income and growth, forecast an increase in the total amount of assets to \$40 million in 2026. If they die in 2026 (assuming Congress also for exemptions to “sunset”), then they could owe over \$11.5 million in estate taxes.

However, if in 2018 they gift \$11.2 million to their children (gift tax free) and \$11.2 million to a trust for their grandchildren (generation skipping – tax free), then their estate is effectively reduced to \$7.6 million by the end of 2018. Should they die in 2025, their estate tax will be roughly \$7 million.

This equates to a savings of approximately \$4.5 million which would otherwise be assessed against the estate.