

WEALTHY & WISE

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Are Big Estate Tax Changes Coming?

KEY TAKEAWAYS:

- Currently, some big estate tax provisions of the 2017 Tax Cuts and Jobs Act are set to expire at the end of the year.
- Strategies to consider include accelerated gifting, stress testing an estate plan and certain trusts.
- Other possible changes on the horizon mean now could be a good time to review your overall wealth plan.

Around this time next year—January 1, 2026, to be exact—we will see some very big changes to laws and rules governing estate and gift taxes.

Well, maybe. Or maybe not.

What's clear is that many key components of the Tax Cuts and Jobs Act are currently scheduled to expire at the end of 2025. It's less clear, however, whether things will stay that way by the time the calendar turns over to 2026. The resulting changes, should they occur, could have big wealth transfer implications for many families with significant wealth—as well as families seeking to join the ranks of the ultra-wealthy and take care of their heirs financially.

The keys to planning for these potential changes are to pay attention and begin your efforts earlier rather than later, as amending wealth transfer plans may take a significant amount of time and effort. With that in mind, here's a look at some possible developments on the horizon—and some ideas you might want to consider during the coming months.

2017 Law May Sunset

Back in 2017, the Tax Cuts and Jobs Act was passed by Congress and signed into law. Among many other things, it doubled the lifetime gift and estate tax exemption, indexed for inflation (while keeping the top estate tax rate at 40%) from \$5.6 million for single filers to \$11.2 million and from \$11.2 million to \$22.4 million for married couples filing jointly. In 2024 the individual exemption limit stood at \$13.61 million.

At the end of this year, however, that exemption will sunset unless Congress extends it—resulting in an exemption limit that is expected to be around just \$7 million in 2026 (and adjusted for inflation moving forward).

The upshot: Families with a net worth of more than \$7 million (around \$14 million for married couples) could find themselves facing—virtually overnight—the prospect of a large estate tax bill. The estate amount over the exemption amount is subject to a 40% federal estate tax.

That said, much uncertainty remains about the ultimate direction and magnitude of any estate tax law changes. For example, Congress could act to extend the law as is, arrive at a new agreement, or do nothing at all (in which case the above scenario will come to pass).

Planning in an Uncertain Environment

Given the many question marks that currently exist, you might wonder why you should be thinking about doing anything at all to your estate plan.

One big reason: When it comes to tax laws and rules, perfect clarity is rarely achieved. It seems there are always new guidelines from the IRS or proposals from Washington, D.C., that could shift the tax landscape. In other words, if you waited for absolute certainty to make your wealth transfer plans, you probably wouldn't have any such plans—which could, in turn, result in less of your wealth going where you want it to go.

The good news is that you don't need 100% certainty to evaluate options and make informed considerations about your wealth. An estate plan—or any component of an overall wealth plan, for that matter—that is set up to be dynamic and flexible can be well positioned to evolve along with new developments in the financial and tax arenas.

Ideas to Consider

Here are some ideas to consider as 2025 progresses. Keep in mind that there's no one-size-fits-all approach to wealth transfer planning—and that this in-no-way-comprehensive list of possibilities likely includes some ideas that are worthy of your attention along with others that could be irrelevant given your particular situation. The key, ultimately, is to discuss your situation with your trusted advisors to determine which steps—if any—could potentially position you for better outcomes.

Consider Accelerating Your Outright Gifting Schedule

Given the current high exemptions and the possibility of much lower ones on the way, affluent individuals could choose to gift more of their assets today—removing those assets from their estate for tax purposes—than they might have originally planned to. This might involve transferring stocks or income-producing property to family members who could be in lower tax brackets. One caveat: If you transfer an appreciated asset to an heir, they will generally pay capital gains tax on the original cost basis of the asset. In contrast, if that asset passes after death, it will benefit from a step-up in cost basis. Choosing which assets to gift pre-death should be part of the estate planning process.

Making large gifts now won't harm estates after 2025

The IRS in 2019 formally clarified that individuals taking advantage of the increased gift tax exclusion amount currently in effect will not be adversely impacted if the exclusion amount falls in 2026.

Look into a SLAT

Some married couples might benefit by creating a spousal lifetime access trust, or SLAT, in today's high exemption environment. A SLAT is an irrevocable trust for your spouse into which you gift assets and use your exemption amount. Unlike some other trusts, however, a SLAT can allow access to the funds in it if certain conditions are met (such as withdrawals for health or educational reasons). However, SLATs are complex and there can be risks—such as losing the money in a divorce or if the beneficiary spouse dies unexpectedly.

Consider Maxing Out One Spouse's Lifetime Exemption

A married couple can opt to fully use one of their lifetime exemptions completely by gifting assets but preserve the other spouse's exemption. If the current exemption rules do end with the sunset of the Tax Cuts and Jobs Act, one spouse's exemption would still be usable in 2026.

Engage in Scenario Planning/Stress Testing

You might not know exactly how things will shake out, but you can model different potential scenarios to see how various changes to the tax laws and rules might impact your outcomes. Armed with that information, you might decide to make changes now—or simply be ready to implement new solutions if certain trigger points occur.

In recent years, we've seen stress testing become an increasingly common action step taken by wealthy families and their advisors. At its core, stress testing is a formal process designed to put a wealth plan (or certain components of it) "through its paces." That means evaluating and assessing it to see if the strategies being used are likely to achieve a wealthy family's key financial goals and objectives.

Often that's done by examining how a wealth plan would likely behave in a variety of scenarios—both positive and negative—that would have an impact on it. The goal is to ensure that the plan doesn't spring any unpleasant surprises on the family. But stress testing also seeks to identify any strategies or opportunities that are currently being overlooked in the plan but that could add significant value to the family's financial life.

Revisit Your Plan Anyway

How long has it been since your estate plan was drafted—and have you looked at it once since then? If your estate plan is more than a few years old, it's probably a good idea for you and your trusted advisors to review it. Regardless of whether current tax laws change, there's a decent chance that your life, your goals and your net worth have evolved in the past few years—and those developments might mean that it's time to alter your plan to reflect your current situation or your revised goals for the future of your family.

Don't Overreact

When big changes that could impact your wealth appear likely, it's easy to get excited and let your emotions override your logic. Yes, the estate tax landscape might look very different in 2026. But your goals should drive your decision-making at least as much as external changes do. Discuss your priorities with your team of professionals so that you're all clear on what you're hoping to accomplish with your generational wealth planning. Then assess how you might create or revise a plan based on the information you know while building in a level of flexibility (to the extent possible) to help address new developments.

THE BIGGER PICTURE

If you're evaluating your estate plan in light of these upcoming potential changes, keep in mind that other provisions of the Tax Cuts and Jobs Act are set to expire, too. If they do, we'll see results such as higher marginal tax brackets, a lower standard deduction and many others.

THE UPSHOT: A broader, bigger-picture look at your overall wealth plan might be in order. While trying to predict what Congress will do next can seem like a fool's errand, we believe that thinking carefully about how you're positioned for the future is never a bad idea.



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