



How Taxes Could Affect Your Estate

While a new administration may raise questions about the future of tax rates and the estate tax exemption, it's important to understand that tax laws are only permanent until Congress passes a new law. Additionally, even with no changes to the current laws, many of the provisions of the 2017 Tax Cuts and Jobs Act are scheduled to sunset at the end of 2025.* Consequently, it's important to review your estate strategy with your legal and tax advisors to determine if any adjustments need to be made. The information highlighted in this report can help you get started.

Estate tax and exclusion amount - The federal estate tax exclusion amount for 2021 is \$11.7 million for all individuals and is adjusted annually for inflation. Therefore, you may be able to pass up to \$11.7 million at death (\$23.4 million for a married couple) free from federal estate tax. For 2021, the maximum federal estate tax rate is 40%.

Gift tax and exclusion amount - The gift tax exclusion amount is coupled with the estate tax exclusion amount, so it is also \$11.7 million for 2021. This means you can use the full \$11.7 million at your passing, or any part of that can be used during your life. Thus, you may be able to gift up to \$11.7 million during your lifetime free from federal gift tax. However, if you make taxable gifts during your life, it will reduce the amount of the exclusion remaining at your passing, dollar for dollar. Just like the estate tax exclusion, the maximum federal gift tax rate is 40%.

Portability provision for married couples - The portability provision states that when a person passes away, the surviving spouse may retain the deceased spouse's unused exclusion amount. For instance, if a husband dies, his wife may be able to use their \$23.4 million exclusion without planning for it. Certain tax-filing requirements must be satisfied to take advantage of this option. You should talk with your qualified tax advisor about your situation.

Generation-skipping transfer (GST) tax and exclusion amount - GST tax may apply when assets are transferred to "skip" people (generally someone more than one generation away from you, such as grandchildren and more remote descendants). The GST tax exclusion amount in 2021 is \$11.7 for all individuals (which is adjusted for inflation annually). For any taxable transfer, the GST tax rate is 40%, which may be in addition to any other estate/gift tax liability due. Unlike estate/gift taxes, there is no "portability" (discussed above) of a spouse's unused exclusion amount for GST tax purposes.

Because of this, gifts made by people who use the portable exclusion to limit or eliminate estate/gift taxes may still be subject to GST tax. You should discuss your situation with your estate-planning attorney or qualified tax advisor to determine whether GST tax may apply.

Strategies to Consider

You should consider time-tested strategies that can help meet your long-term legacy goals, manage possible gift and estate taxes, and remain flexible enough to react to future changes in the law.

1. Review your existing plan.

Consider the following scenario: With a personal estate tax exclusion of \$23.4 million, Bob and Janet (as a married couple) should review their existing estate plan to see if the size of the exclusion affects their legacy goals. After the first spouse dies, trust documents may provide for the creation of a credit shelter trust as a first step. So, if Bob dies, this could mean all of his assets in an estate worth less than \$11.7 million may end up in a credit shelter trust, and Janet won't have complete discretion in using the trust assets. This may or may not be what Bob and Janet intended. Work with your attorney to confirm that your estate plan aligns with your legacy goals.

2. Compare portability to credit shelter trust planning.

You may think the portability provision means you don't need to actively plan to protect your legacy and reduce estate tax. However, that may not necessarily be the case (see the chart below). Although portability, in some situations, may provide significant advantages to married couples over the long term, considering a credit shelter trust could have benefits for you and your family. By taking steps to address your estate now, you can help ensure your wishes will be carried out.

| Portability (Transfer to Spouse) | Credit Shelter Trust |
|---|---|
| Portability allows use of the deceased spouse's unused exclusion amount. | Without portability, if the deceased spouse's estate tax exemption can't be used in full, the unused exemption could be lost. |
| The surviving spouse may have full access and control over all of the assets. | The spouse who sets up the trust designates the beneficiaries of the trust. The surviving spouse and/or other beneficiaries may receive benefits from the assets in the trust during their lifetimes. |
| Growth of the assets may be subject to estate taxes when the surviving spouse dies. | Growth of assets in the trust is generally not subject to estate tax upon the death of the surviving spouse. |
| Assets can be subject to creditor claims. | Assets are typically protected from creditor claims. |
| Assets may be subject to state estate taxes. | Assets may not be subject to state estate taxes. |
| All assets, including those from the first spouse to die, generally get a full step-up in basis (or readjustment of the value) at the surviving spouse's death. | Assets do not get a step-up in basis at the surviving spouse's death. |
| Portable exclusion does not apply to federal GST taxes. | With proper planning, assets may not be subject to federal GST taxes. |

"Step-up" or "step-down" in cost basis remains at death

Cost basis generally is the price you paid for an asset. If you buy a stock for \$5 per share, your "basis" is \$5. If you still own that stock at death, your estate may get a "step-up" or "step-down" in basis to reflect the stock's fair market value at your death. For example, if the stock's fair market value at your death is \$10 per share, your estate holds the stock with a \$10 value and \$10 basis. This allows your estate to pass assets to your beneficiaries at the new basis or to sell the asset, potentially without capital gain. This typically means less income tax burden for your beneficiaries as they inherit your assets.

Important: Edward Jones, its employees and financial advisors do not provide estate-planning or tax advice, so it's important to discuss your situation with your estate-planning attorney and tax professional.

3. Consider taxable lifetime gifting.

For people who can afford to part with their assets, lifetime gifting can be an effective strategy to move assets, and the future appreciation and income stream, to beneficiaries. With the ability to shift \$11.7 million, you can transfer significant assets during your lifetime. Instead of just a portion of a business or a family vacation home, all of your holdings may be transferable. It's important to note, though, that if you gift during your lifetime, you also give the beneficiary your cost basis for the asset, which could cause income tax consequences down the line. Also, the lifetime gift credit reduces, dollar for dollar, the estate tax exclusion.

4. Other estate reduction strategies remain.

Other estate reduction strategies also can help you meet your legacy goals. Items to consider when consulting with your tax and legal professionals may include the following:

- **Consider annual gifts during your lifetime.** You may gift up to \$15,000 per person per year in 2021 (\$30,000 if a married couple elects to “gift split”) to decrease your overall estate, which reduces your potential estate taxes. This amount also will increase with inflation over time.
- **Consider being charitable.** Giving to charities during your lifetime not only can help potentially reduce your taxable estate, but also may create an income tax deduction. If you choose to leave assets to a qualified charity when you die, you'll receive a dollar-for-dollar deduction on your estate tax return for the value of those charitable gifts.
- **Discuss additional estate strategies.** Certain “transfer tax management” techniques will continue to be appropriate for high net worth clients. For example, an irrevocable life insurance trust (ILIT) is an irrevocable trust created to hold life insurance. With proper planning, the assets used to buy the policy and the insurance policy's death benefit may be excluded from your estate because they are held in the ILIT. The policy's proceeds can then provide available funds for your estate to help pay the estate tax. Several other techniques may apply. For each of these techniques, it's important to work closely with your tax and legal advisors, who may offer other options to address estate tax concerns.

5. Periodically review your strategy.

Taking the time to review your plan can better ensure your strategy remains aligned with your goals and the ever-changing tax environment. Even if you completed a large lifetime gift that used the full exclusion amount, you may still be able to gift more without an estate tax liability. With increasing exclusion amounts, you should periodically review what federal exemption amount is available.

Your tax and legal professionals and your Edward Jones financial advisor can work with you to determine what's best for your situation. Further changes or extensions could be coming, so it's important to review your situation periodically with your financial advisor to help ensure your legacy goals can be achieved.

Qualified Charitable Distributions

A qualified charitable distribution (QCD) allows you to give directly from your IRA to a charity that meets certain IRS guidelines. This donation may satisfy your required minimum distribution (RMD) requirements.

- To make a QCD from a traditional IRA, you must be 70½ or older when the distribution is issued. This includes inherited traditional IRAs.
- The donation must be made directly from your IRA to a qualified charity. Gifts to donor-advised funds and charitable giving funds will **not** qualify for QCD treatment.
- The maximum annual amount that can qualify for a QCD is \$100,000 per person.
- The distribution must be taken on or before Dec. 31 of the current tax year.

*This report generally covers only federal estate tax law. Many states have their own estate or inheritance taxes. Work with your estate-planning attorney to determine whether you need to address state tax liabilities.

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