

# **Record-High Lifetime Gift & Estate Tax Exemptions Expected to Sunset in 2026**



**T**he opportunity to take advantage of record-high lifetime gift and estate tax exemptions is closing. In 2017, Congress enacted the Tax Cuts and Jobs Act (TCJA) which nearly doubled the lifetime estate and gift tax exclusion amount from \$5.6 million to \$11.18 million for individuals. The exemption is yearly indexed for inflation, and, as of 2023, the current exemption is now \$12.92 million (\$25.84 million for married couples). In 2024, the lifetime exclusion amount rises to \$13.61 million per person. However, these record high exemptions are likely only temporary.

Unless Congress acts to extend these exemptions, the lifetime and gift tax exemptions are expected to fall in 2026 back to the previous \$5.6 million mark (though likely adjusted for inflation, which would be roughly \$7 million). On top of this, the current 40% maximum gift and estate tax rate is also expected to increase to 45% in 2026.

Whether the exemption amounts are extended or sunset out largely depends on which political party controls the White House and Congress following the 2024 election. The Democratic Party has already

introduced measures to reduce the exemption amounts, while the Republicans have indicated that they would extend the TCJA amounts. Given the political uncertainty and the looming deadlines, the time is now for taxpayers to take advantage of the current exemption amounts to decrease their taxable estate.

How does one take advantage of the exemptions? One straightforward strategy is gifting.

## **Why Gift Assets Away?**

Gifting assets (particularly those with depressed values) permits an individual to transfer property to his or her descendants (or others), thereby removing those assets from one's taxable estate. All future appreciation of the assets then accrues outside of the individual's estate, thereby avoiding the Federal estate tax on accrued value at the giver's death. For instance, say on January 1, 2023, an individual gifts 100 shares of Company X stock to with a value of \$1,000,000 to an irrevocable trust. Then on December 31, 2023, the stock has a value of \$1,200,000. The \$200,000 in appreciated value escapes the estate tax upon the taxpayer's death. For a transfer to be considered a true gift, it must be a complete and irrevocable transfer.

The Federal Government does not allow for unlimited giving without taxation. The gift tax is a federal tax that the IRS imposes on people that gift property. The gift tax is applicable when you receive nothing in exchange, or receive compensation that's less than the property's full value and can have a rate as high as 40%.

Some gifts completely avoid the gift tax such as transfers between spouses (who are U.S. citizens) or to IRS-approved charities.

However, if one simply wants to pass on an inheritance to children, grandchildren, or others, there are limits on what could be done without paying a federal gift or estate tax.

### **What is the Gift Tax Annual Exclusion?**

The gift tax annual exclusion is the amount that an individual can give tax-free each year to any number of individuals and specific trusts and without using one's gift and estate tax exemptions described above. The annual exclusion amount for 2023 is \$17,000 (\$34,000 for married couples) and \$18,000 for 2024. Practically speaking, one can give up to \$17,000 (or a married couple could give a total of \$34,000) in annual exclusion gifts to each of your children, grandchildren, or any other individual, thereby reducing your taxable estate without utilizing your lifetime gift and estate exemptions.

The recipient generally does not owe taxes nor has to report the gift unless it comes from a foreign source. However, if your gift exceeds \$17,000 to any person during the year, you have to report it on a gift tax return as the gift begins to eat into the lifetime gift exemption described below.

### **What is the Unified Gift and Estate Tax Exclusion?**

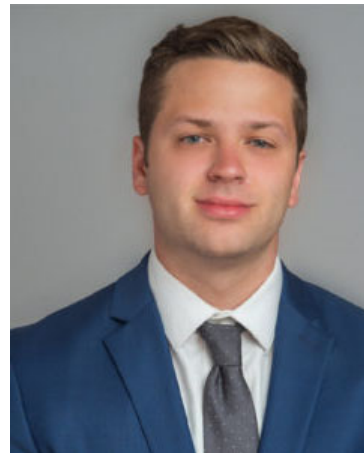
Your gift tax exclusion applies to gifts you give when you're alive, and as long as your lifetime giving stays below the exemption amount, you avoid the gift tax. There's a similar exclusion that applies to assets you leave to beneficiaries when you die, known as the estate tax exclusion. Together, these exclusions are known as the unified tax exemption or unified tax credit. The two exemptions are tied together, so any lifetime gift exemption you use during your lifetime will count against the amount of estate tax

exemption available at death. For 2023, the gift and estate tax exemption is \$12.92 million (\$25.84 million per married couple). So, if an individual uses up \$5 million of lifetime gift tax exclusion during one's life, after death only, there will be \$7.92 million of exemption from federal estate taxes.

Thus, it is a useful strategy to utilize the lifetime gift tax exemption earlier during one's lifetime so that the asset can grow in value outside of one's personal estate for many years. This strategy is particularly time sensitive with the exemption levels set to drop in 2026.

*Note, this article does not take into account state gift or estate taxes.*

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