CPS INSURANCE SERVICES

DEATH & TAXES

A MODEST PRIMER

THE FEDERAL ESTATE & GIFT TAX "THE LONG ARM OF THE LAW"

EVERY APRIL 15TH REMINDS US THAT THE GOVERNMENT TAKES A SHARE OF YOUR MONEY WHEN IT IS EARNED. BUT THE IRS ALSO STANDS READY TO TAKE MORE WHEN YOU GIVE YOUR WEALTH AWAY.

What is taxed? Anytime you pass property during life or at death, it is subject to possible taxation. If you are a U.S. citizen or a non-citizen residing in the U.S., property you own anywhere in the world could be taxed.

How severe is the tax? Tax on the fair-market-value of the property is progressive and could be as high as 40%. It is usually due on gifts the following tax year, or on bequests within nine months after death.

With proper planning, what are some of the most common tax breaks available, described by their common names?

- **Unlimited marital deduction.** One spouse can gift or leave as much property as desired to the other without tax.

- **Annual gift tax exclusions.** A taxpayer can leave a present interest gift of $18k (in 2024, adjusted each year) to as many individuals as desired each calendar year without gift tax.

- **Lifetime estate and gift tax exemption.** During life or at death (all transfers combined and aside from any annual exclusions used) a taxpayer can transfer $13,610,000 (in 2024, adjusted each year) without tax.

- **Unlimited charitable deduction.** During life or at death a taxpayer can leave as much property as desired to qualified charities without tax.

Do the states have a transfer tax? Approximately half of the states tax transfers at death, in some cases even when a federal tax is not due.

The Demise of the Current High Lifetime Exemptions – There'll Be Some Changes Made

- **Too generous by half?** Under current law the lifetime exemption amount ($13,610,000 in 2024, adjusted each year) will be reduced by 50% after December 31, 2025.
- **What about now?** Taxpayers can take advantage of the full protection of the current high exemption on transfers up until January 1, 2026.
- **What advantage do married couples have?** Spouses have a combined current exemption of $27,220,000 (in 2024, adjusted each year). If they prefer not to transfer that full amount, they may choose to exhaust one high exemption now and still have the reduced exemption available later.
- **How much can using the full high exemption really save?** Assuming even a conservative growth rate of wealth, full use of a single $13,610,000 exemption can save over $4,000,000 in taxes in 20 years versus the savings from the reduced exemption after January 1, 2026. Full use of both high exemptions can save a married couple almost $9,000,000!
- **Who should be concerned?** Single taxpayers worth above $7,000,000 and married couples worth above $14,000,000 who have done no planning could face significant tax bills after December 31, 2025.

The Most Commonly Asked Questions Regarding High Exemption Planning

- **What if I gift the full exemption amount now and Congress chooses not to have it reduced on January 1, 2026?** A common strategy is to simply loan the assets to an irrevocable trust. This allows the taxpayer to easily reclaim them if the exemption isn't lowered. If the exemption reduction is to occur the debt can be forgiven and the assets become a gift and are removed immediately from the taxable estate.
- **Is there a way I can keep control over gifted property?** Again, a common strategy is to consolidate assets into an entity called a Family Limited Liability Company with voting and non-voting interests. The taxpayer then gifts only non-voting interests and keeps all voting interest thus retaining complete control of the company and its assets.
- **Can I maintain access to the benefits of gifted property if needed later?** Yes, if you are married. One spouse can gift separate property to a trust in which the other spouse has a lifetime interest with broad access to the trust income and principal, if needed, but not have anything in the trust includible in either spouse's estate at death.
- **What about anticipated estate taxes that cannot be avoided?** If insurable, taxpayers often purchase life insurance to pay tax bills due at death, the policies being held outside the taxable estate, usually in an irrevocable trust for the benefit of heirs. If a married couple's anticipated taxes are pushed to the second death, more economical second-to-die coverage on the spouses is usually purchased.

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