WHY YOU SHOULD PLAN NOW

Whittier Trust

For a Big Tax Event in 2025

FORBES BRAND VOICE 2020

1. The Current Law May Affect Your Estate
2. Planning Now Gives You Time and Flexibility
3. Don't Fear the "Clawback"
4. Stress-Test How Your Options Affect Your Heirs
5. Consult the Pros with Questions

The next few years are an opportunity to maximize wealth transfer to the next generation.

Here's an incentive to move estate planning to the top of your to-do list: The next few years are an opportunity to maximize wealth transfer to the next generation.

The Tax Cuts and Jobs Act of 2017 increased the federal gift and estate tax basic exclusion amount (BEA) to $11.58 million per individual, or $23.16 million per couple, adjusted for inflation. But this increase doesn't last forever—and in 2025, the exclusion is, as of now, supposed to go back to 2018 levels.

"Under the current tax law, the BEA automatically revert back to $5 million (adjusted for inflation) on January 1, 2026," said Thomas Frank, executive vice president and Northern California regional manager at Whittier Trust.

For those with estates valued in excess of the current $23.16 million per-couple exemption, it may make sense to consider making lifetime gifts now, before a possible drop, he added. Here's why you should discuss the opportunity with your advisor—and how it can benefit you and your heirs.

1. The Current Law May Affect Your Estate

While the law may seem most germane to individuals who have estates in excess of $11 million ($22 million for couples), it's also relevant for individuals who have estates in the $6 million to $11 million range (double that for couples). That's because, if the BEA were to fall back in 2025, you may find yourself with an estate that is subject to taxation. Considering gifting now can be a smart strategy to ensure that your estate won't be taxed upon your death.

2. Planning Now Gives You Time and Flexibility

"People often wait until the last minute, but it can be smart to start strategizing, even if you're unsure of your gifting plans," said Frank. Lifetime gifting may bring up additional complexities to explore.

Many states have their own estate tax laws, most with much lower exemption amounts, added Frank. So while an estate may be tax-free at the federal level, it may be subject to taxes at the state level. Getting your ducks in a row and assessing several "what if" scenarios about lifetime gifting allows you flexibility and time to make sure your plans make the most sense for you and your beneficiaries.

3. Don't Fear the "Clawback"

When the BEA was increased, some individuals worried that the BEA would be "clawed back" if the exemption were to drop before the estate owner died. But IRS regulations clarify that the higher BEA will shield gifts made during this time period, regardless of the date of death.

"Moving assets out of an estate during lifetime not only removes the assets from estate taxation, it also removes any future appreciation on the assets from your taxable estate," said Frank.

4. Stress-Test How Your Options Affect Your Heirs

As you consider lifetime gifting, it's important to assess several strategies to figure out the option that makes the most sense for you and your heirs. The current law allows a "step up" in tax basis for all assets included in an estate. "The new basis becomes the value of the asset at the date of death, which helps heirs avoid capital gains taxes on appreciated assets upon the death of a benefactor," said Frank. "Because of this, lifetime gifting of highly appreciated assets is discouraged."

Since you can't predict the future, it's best to assess several gifting options now and weigh the pros and cons of each. In the case of highly appreciated assets, the cost of capital gains taxes may be more than your heirs would save on estate taxes. A professional can walk you through options to help you find the smartest strategy.

5. Consult the Pros with Questions

"I like to say, 'Don't try this at home,'" said Frank.

Your unique situation—the mix and allocation of assets in your estate and the laws in your state—will affect how wealth transfer occurs. And the best plan is to have a plan. Speaking with an attorney, accountant or financial professional can guide you through all aspects of the process, so there are no surprises—or unexpected tax bills—along the way.

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