



Estate Taxes: A Window of Opportunity

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The amount of wealth you can pass on to heirs free of federal estate taxes has risen dramatically since 2000. Back then, it was only \$675,000 per person. By 2017, this amount was up to \$5.49 million (see box below) and starting in 2018 it has doubled — yes doubled — to \$11.18 million (over \$22 million for husband and wife).

This major change presents opportunities for estates valued at more than \$5.49 million. But there are also pitfalls. For one, the increase to the exclusion expires at the end of 2025 if not renewed by Congress. Our best estimate at this time — and the safest course in terms of planning — is that it will be not be renewed.

	2017	2018-2025	2026 (Estimate)
Estate & Gift Tax Exemption: How much you can give away during your lifetime OR upon death	\$5 million per person, inflation-adjusted to \$5.49 million	\$11.18 million per person, and increasing annually for inflation	More than \$5.49 million per person due to inflation adjustments from 2017 to 2026
Generation-Skipping Transfer Tax Exemption: How much you can pass on to grandchildren and their descendants	Same	Same	Same
Estate, Gift and GST Tax Rate	40%	40%	40%

Here are things to consider doing now if your estate is worth more than \$5.49 million:

- 1. Review your will and any trust documents.** This is critical, and we advise not putting this off. Many estate planning documents (both wills and revocable trusts) use formulaic language to distribute assets to beneficiaries that is based on the amount that can be transferred tax free, i.e., the prevailing federal estate tax exclusion. These formulas, if applied using the much higher exclusion now in effect, could lead to outcomes you never intended.

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For example: Ellen’s estate is valued at \$13 million. Her will specifies that at the time of her death, a trust is established for her children into which would go the maximum amount that can pass free of federal estate tax. The rest (minus any estate tax levied by her state) would go to Ellen’s favorite non-profit, a cancer research institute.

The table below shows how the exact same wording will lead to a totally different result in 2018 vs. 2017.

Senario	Assets to Family Family via a Trust*	Assets to Non-Profit*
Ellen passes away in 2017	\$5.49 million	\$6.98 million
Ellen passes away in 2018	\$11.15 million	Zero

*Minus estate taxes levied at the state level.

What to do: To avoid such dramatic and unintended consequences, you may need to revise your will or trust. For example, Ellen’s will could specify a maximum amount that would go in trust for her heirs with the remainder to the non-profit.

2. Maximize gifting. The total you can give away during your lifetime OR pass on to your heirs at death is now \$11.18 million per person. So basically, you have an extra \$5.7 million to give away tax free, at least until the end of 2025. And this extra amount will increase each year with built-in inflation adjustments. Because the law may change for 2026, we advise taking advantage of the opportunity to make gifts now. Gifts can be outright or in trust.

Other benefits of gifts made outright or through a trust during your lifetime: (1) Gifts move property that may appreciate in value out of your estate; and (2) Gifts can lower the estate tax levied by your state. Thirteen states, including Washington, levy an estate tax, in addition to the federal tax. Both Washington and Oregon impose estate taxes on property owned at death but do not tax gifts. So, lifetime gifts reduce the amount those states can tax at death.

Last but certainly not least: when you make lifetime gifts, you get the satisfaction of seeing the people and organizations you care about benefiting from your generosity.

3. Consider establishing a Generation Skipping Trust. There are many reasons to establish a trust, not just to lower estate taxes. It is beneficial to consider doing so at this time because the trust can be funded with a higher level of assets, enough to make large gifts for both children and grandchildren. For example, say you have a sizable estate consisting mostly of real estate that is likely to grow in value, and you want to provide for future generations of your family, not just your children.

A Generation-Skipping Trust (sometimes called a Dynasty Trust) could be funded with up to \$11.18 million in assets. In Washington State trusts can be in place for up to 150 years, so this would allow many generations to benefit from the trust.



What Happens in 2026?

On Jan. 1, 2026, the current estate tax exemption of \$11.18 million will expire, unless Congress acts to renew it. If you would still have sufficient wealth to be financially secure for the rest of your life, you might consider making gifts of up to \$11.18 million now to maximize the gift exclusion. You would get all the benefits from gifting described above and more likely than not, avoid any claw back if the law changes in 2026 or earlier.

For example: Tom’s estate is valued at \$13 million in 2018. Below are two scenarios with varying amount of gifting.

	Using Part of Gift Exclusion	Maximizing Gift Exclusion
Gifts to family 2018 - 2020	\$5.7 million	\$11.2 million
Assets at death in 2026	+ \$7.3 million	+ \$1.8
Total Estate	\$13 million	\$ 13 million
Exclusion at time of gifting:	- \$5.7 million	- \$11.2
Est. inflation increase 2017 - 2026	- 0.8	- 0.8
Likely net taxable estate in 2026	\$6.5 million	\$1 million

4. Consider “upstream” estate planning. At death, the value of most assets that pass on to heirs is stepped-up to the current market value. So if a house was bought for \$200,000 and is currently worth \$2 million, the heirs will inherit at a \$2 million tax basis and can then sell without paying capital gains taxes. Wealthy individuals with appreciated property may want to gift high-value assets to less wealthy elderly parents, so the tax basis can be increased when the parents pass on. With the higher estate tax exclusion, gifts that bring the parents’ estates up to less than \$11.18 million could save significant capital gains taxes in the future. This strategy may require some revision to the parents’ estate plan as well.

The Bottom Line: If your estate would have been subject to estate taxes in 2017 (valued at more than 9 \$5.49 million), now is the time to review and perhaps change some elements of your estate plan. We are here to advise you on what would work best for you and your family given the new tax law.



ABOUT THE AUTHOR

KRISTI MATHISEN is managing director of tax and financial planning at Laird Norton Wealth Management. In addition to being LNWM's in-house expert on tax and estate planning, she provides advice on philanthropic strategies to the firm's client service team and to clients directly. Kristi is an attorney and CPA with more than 25 years of finance-related experience, much of it in accounting. She has a bachelor's degree in business administration with an accounting concentration from the University of Washington and a Juris Doctor from the University of Washington School of Law. Kristi is a member of the Washington State and King County Bar Associations, the CPA Society of Washington State and the American Institute of CPAs.

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