The $13.6M gift tax exemption: Use it before you lose it

The largest-ever federal tax exemption for estates and gifts sunsets at the end of 2025. Learn how to make the most of it now.

Key takeaways

- The Tax Cuts and Jobs Act delivered a sizable increase in the tax exemption limit for estates and lifetime gifts — up to $13.61 million per person in 2024.
- However, this opportunity could go away on January 1, 2026, if the exemption is allowed to sunset.
- Anyone with an estate or lifetime gifting that exceeds the significantly reduced exemption cap in 2026 could end up owing a 40% tax on the amount over the limit.
- Now is the time to make the most of the current exemption — for example, through additional gifting, a trust or another strategy.

As we all know, the federal government giveth, and the federal government taketh away. At the beginning of 2026, a valuable tax exemption is slated to go away — so now is the time to prepare.

Exemption increased under the Tax Cuts and Jobs Act

The lifetime gift and estate tax exemption protects most Americans from federal taxes on gifts and estates. In 2017, the Tax Cuts and Jobs Act (TCJA) increased this exemption from just under $5.5 million to (with inflation indexing) $13.61 million for individuals and $27.22 million for married couples in 2024. This means that you can transfer up to $13.61 million per person without incurring federal taxes. This is a lifetime limit, meaning the limit applies to accumulated gifts over time.

This all-time-high exemption, however, will end soon. The Act applies only to tax years up to 2025, and it requires the elevated exemption to sunset on December 31, 2025. Without any changes to the law, the estate and lifetime gift tax exemption will plummet to $5 million per person (with an adjustment for inflation) on January 1, 2026.

Federal estate tax rates

Amount over the exemption limit	Tax owed
$0 to $10,000	18% of taxable amount
$10,001 to $20,000	$1,800 plus 20% of the amount over $10,000
$20,001 to $40,000	$3,800 plus 22% of the amount over $20,000
$40,001 to $60,000	$8,200 plus 24% of the amount over $40,000
$60,001 to $80,000	$13,000 plus 26% of the amount over $60,000
$80,001 to $100,000	$18,200 plus 28% of the amount over $80,000
$100,001 to $150,000	$23,800 plus 30% of the amount over $100,000
$150,001 to $250,000	$38,800 plus 32% of the amount over $150,000
$250,001 to $500,000	$70,800 plus 34% of the amount over $250,000
$500,001 to $750,000	$155,800 plus 37% of the amount over $500,000
$750,001 to $1,000,000	$248,300 plus 39% of the amount over $750,000
$1,000,001 and up	$345,800 plus 40% of the amount over $1,000,000

Source: Internal Revenue Service

How the estate and gift tax works

Whatever the estate and lifetime gift tax exemption amount, individuals still have to pay federal taxes on any gifts over the exemption limit. The amount of the tax depends on the current value of the assets — not the value at the time they were purchased. (Also, remember that surviving spouses usually aren't affected by the estate tax thanks to the unlimited marital deduction.[1])

In general, the amount of the tax is determined using the rates to the left. As always, you should consult your tax advisor for guidance on your unique tax scenarios.

An individual can gift up to

$18,000

and married couples can gift a combined

$36,000

in 2024 without incurring a gift tax.

The effect on you

As you can see, if this exemption is allowed to sunset, it could have a big impact on people with sizable estates. Anyone with an estate or lifetime gifting that exceeds the new reduced exemption cap could end up owing a hefty 40% tax on the amount over the limit. To cover that tax, you may feel the need to liquidate assets — potentially disrupting long-term investment strategies or family inheritance plans.

How to plan ahead

Talk with your financial professional now about ways to make the most of the historically high exemption limits while they last. Potential strategies include:

- **Annual gifting:** Use the annual gift tax exclusion to its fullest. For example, an individual can gift up to $18,000 in 2024 without incurring a gift tax. Married couples can gift a combined $36,000 in 2024.
- **Family limited partnership (FLP) or family limited liability company (LLC):** These entities allow parents to transfer wealth to their children while still retaining control over the transferred assets. FLPs and LLCs can offer significant valuation discounts, reducing the value of the taxable estate.
- **Charitable remainder trust (CRT):** Assets can be placed into a CRT and then generate an income stream for a certain period of time. After this period, the remaining assets go to a charitable organization. This strategy reduces a taxable estate and provides tax advantages and income during your lifetime.
- **Irrevocable life insurance trust (ILIT):** An ILIT holds a life insurance policy outside of an estate. Upon the insured's death, the proceeds from the policy are paid into the trust and aren't subject to estate taxes.
- **Grantor retained annuity trust (GRAT):** With a GRAT, assets are transferred into a trust, which then generates an annuity payment for a set period. After that period, the remaining assets pass to the trust beneficiaries, often with little or no estate tax.
- **Qualified personal residence trust (QPRT):** A QPRT allows individuals to transfer their primary residence or vacation home to an irrevocable trust — while retaining the right to live in it for a certain period. After this period, the residence passes to the trust beneficiaries.

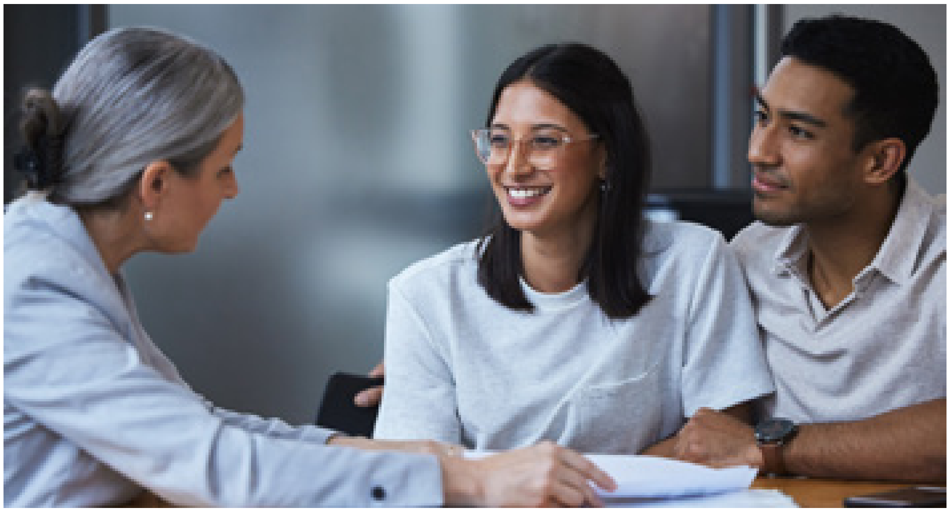
[1] "Frequently asked questions on estate taxes," irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-estate-taxes (Nov. 21, 2023).

Don’t forget about states with estate taxes

Many states have their own separate estate tax laws. If you are a resident of one of those states, you'll need to consider separate strategies to minimize the state-specific estate taxes.

Take action while there's time to execute a plan

It’s possible that new legislation could extend the estate and gift tax exemption. But there’s certainly no guarantee — and those who decide to wait it out may lose a once-in-a-lifetime opportunity to save on estate taxes. Talk to your financial professional now to see whether one or more of the strategies discussed above would be advantageous for you.



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