

Estate planning strategies and you:

How you can keep control of your financial legacy and navigate an uncertain tax environment

Consider adopting the following goals to help ensure your wishes are carried out as you intend:

- Determine your beneficiaries.
- Plan for special considerations such as children with special-needs or spendthrift ways.
- Account for potential federal and state tax liabilities and probate costs.

These important goals can benefit from proper planning regardless of future tax law changes.

The current situation

The Tax Cuts and Jobs Act of 2017 (TCJA) greatly increased the estate and gift tax exclusions. This increase means federal estate tax will generally only impact larger estates starting at about \$11 - 23 million in value. However, these changes will sunset after 2025 (unless Congress acts) leaving the door open to more changes in the future.

Highlights

- In 2021, the unified estate and gift tax exclusion is \$11.7 million (indexed for inflation), meaning the first \$11.7 million of an estate or lifetime taxable gifts is not subject to federal gift and estate taxes.
- Unused exclusion at the first death of a married couple may be passed to the surviving spouse — meaning married couples may have a combined exclusion of \$23.4 million in 2021 — provided the executor of the first spouse's estate files proper documentation.
- The estate and gift tax rate on the taxable amount above the exclusion is 40%.
- The generation-skipping transfer (GST) tax also has a \$11.7 million exemption and 40% rate.

The only thing that remains certain is that Congress will continue to make changes in tax law – especially given the need to address the budget deficit and increasing expenses. With so many questions and so few answers, what can you do now to address estate issues?

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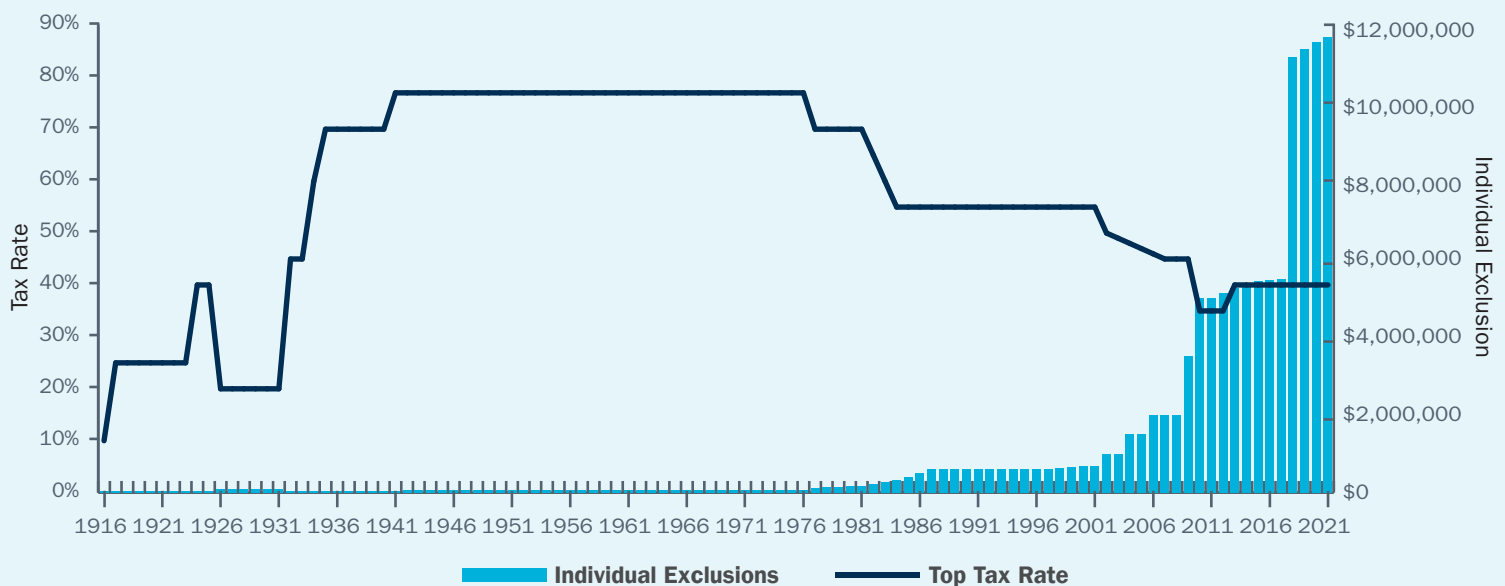
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Did you know?

A brief history of federal estate taxes

- U.S. estate taxes have been around in some form nearly since the country's founding.
- The original asset tax assessed at death, the Stamp Act of 1797, required a stamp on wills in probate — its main purpose was to help pay off debt from a naval conflict with France.
- In 1862, the federal government created an inheritance tax which was repealed in 1870.
- The 16th Amendment to the Constitution enabled the federal government to impose a wider range of taxes and set the stage for the Revenue Act of 1916, which ushered in the era of the modern estate tax — essentially a tax on the privilege of transferring property at death.
- For those who think estate taxes will never go higher, consider that estate tax exclusions and rates have varied widely as shown in the graph below.

Estate Tax Exclusions and Top Rates, 1916-2021



Source: Based substantially on U.S. Department of the Treasury, Internal Revenue Service; U.S. Department of Commerce, Bureau of Economic Analysis.

Are you prepared?

While you probably can't accurately predict the future tax environment, you can focus on your estate planning goals. Tax planning is only one element of estate planning which should be addressed with a tax adviser or attorney. Similarly, the federal estate tax is only one of the potential tax issues that can arise when transferring assets from an estate. Estates well below the current \$11.7 million federal estate tax exclusion can benefit from estate planning.

Make plans that align with your wishes

- **Planning for life** — If you are currently gifting assets to others, determine if the gifts remain in line with your desire to transfer assets during your lifetime. Work with an attorney to be sure you have a power of attorney and health care directive in place authorizing a trusted person to make decisions on your behalf if you are unable to do so.
- **Planning for beyond life** — Seek legal advice on documents such as wills and trusts to help ensure your assets go as you wish to intended beneficiaries. Review ownership and beneficiary designations on non-probate assets to affirm that the assets will go to the intended individuals as you wish.

Consider key tax saving opportunities

Even with the uncertain tax environment, you have many opportunities to position your estate in tax-advantaged ways. Here are a few examples:

- **Fund trusts** — An opportunity may be to fund trusts for future generations by dedicating financial assets or income-producing property up to \$11.7 million per person or up to \$23.4 million per couple. You can potentially increase this legacy using life insurance if appropriate. For example, a married couple, both age 65 and who are preferred nonsmokers, could fund an irrevocable life insurance trust (ILIT) with a \$2 million one-time gift. The trustee could then use that money to pay a one-time premium into a second-to-die **RiverSource**® *Succession Protector* universal life insurance policy and secure more than \$4.5 million of coverage, guaranteed for life, excludable from any future estate taxes. All guarantees are based on the continued claims-paying ability of the issuing company.
- **Reposition trust assets** — The TCJA establishes the highest marginal federal income tax rate at 37%. This rate impacts trusts with taxable income of \$13,050 or more in 2021, so consider moving a portion of any income producing assets in a trust to a life insurance policy to accumulate assets tax-deferred.
- **Anticipate state estate taxes** — In addition to the federal government, many states levy estate or inheritance taxes. While your estate may not be large enough to be subject to federal estate tax, it may be subject to a state estate tax or inheritance tax. A life insurance policy with an income tax-free death benefit could be used to help pay these taxes at death.
- **Plan for beneficiaries' income taxes** — Be aware of the income taxes your beneficiaries will pay when they access dollars in certain transferred assets such as a 401(k) or IRA account. This issue can impact the financial plans of yourself and your beneficiaries and is tied to income tax law, not estate tax law. Alternatives such as cash value life insurance could provide you with an additional income tax-deferred savings option and your heirs with an income tax-free death benefit that can be used to help pay for potential taxes.
- **Give beneficiaries flexibility** — Allowing disclaimers and other post-mortem decisions can potentially allow beneficiaries to take advantage of current tax laws and have options for future changes in tax laws.

Consider the benefits of life insurance

However estate tax law may change, life insurance can create financial flexibility and security for your estate, assuming you have a life insurance need. With the higher estate tax exclusion, the ownership of life insurance outside of the estate (e.g. irrevocable trust ownership) becomes unnecessary for estate tax purposes for more clients and creates even more flexibility. For example, life insurance can generate an income tax-free benefit at death, usually well in excess of the premium dollars put into the policy.

These policy benefit payments can:

- Be used by an estate and/or heirs to pay potential taxes due by the estate or by the beneficiaries of the assets that have been transferred
- Provide for the ongoing needs of a dependent
- Provide the necessary assets to settle outstanding debts or taxes on a family-owned business, potentially preventing a forced sale of business assets
- Balance the benefits to heirs in situations that may result in certain heirs receiving a larger portion of assets (e.g., children active in a family business receive the business while other children receive residual assets)
- Leverage existing assets to replace assets gifted to charity so family members receive a legacy as well
- Increase your charitable legacy by leveraging premium dollars into a larger gift in the form of a life insurance death benefit

Summary

While there have been many recent changes in estate tax law, this is only part of the story. Looking at your tax situation more holistically with a financial advisor and your tax adviser may uncover opportunities to help you control your tax liabilities and leave more to loved ones.

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