



# Make the Most of the Estate Tax Exemption Before 2026

A proactive plan is essential.



Tax law changes due to take effect in January 2026 will impact high-net-worth individuals with around \$7 million and married couples with around \$14 million or more in assets.

Failing to prepare ahead of time for scheduled changes in estate taxes could cause these families to miss out on substantial tax savings. The Tax Cuts & Jobs Act (TCJA) that the U.S. Congress passed in 2017, calls for the higher estate tax exemptions that it put in place to sunset on December 31, 2025.

The TCJA raised the estate tax exemption to record highs, doubling the basic exclusion amount for tax years in 2018 through 2025, with the annual adjustments to account for inflation.<sup>1</sup>

## The Impact Per Family

For instance, married couples with estates worth up to \$27,220,000, currently do not incur any federal estate tax liability. But as of January 1, 2026, “only about \$14 million of that same couple’s estate would be exempted from federal estate tax, so they would owe about \$5.2 million in taxes, based on a federal estate tax rate of 40%,” said David Work, Managing Director of Hightower Advisors’ Estate and Financial Planning Group.

While it may seem that there is ample time to prepare, Work cautions against waiting until the middle or latter part of 2025 to engage an estate planning attorney. Almost three million individuals in the U.S. will be impacted by this change, therefore a proactive plan is essential to maximizing the exemption without getting stuck in the backlog of affected households.<sup>2</sup>

Unless Congress moves to extend the estate tax exemptions at their current level, high-net-worth couples and individuals will want to discuss possible tax strategies with their financial, legal, and tax professionals. There are a myriad of estate planning strategies that protect assets, but the successful creation and implementation of a plan may take several several months to execute.

## Strategic Thinking

Individuals should be discussing different strategies and outcomes with their advisors to identify gaps and opportunities that utilize their exemption while complimenting their existing plans and legacy goals. Below are some strategies to consider:

- 1. Lifetime Gift Tax Exemption:** Gift up to the maximum amount allowed under the exemption to make full use of the exemption before the sunset and decrease your tax burden.  
Consideration: Work with your financial advisor to ensure that you retain enough assets in your estate to support your lifestyle and other financial goals.
- 2. Spousal Lifetime Access Trust (SLAT):** This irrevocable trust is used to transfer money and property from one spouse's estate into a trust benefiting the other spouse. As an estate planning tool, each spouse can create a SLAT that holds the maximum amount of funds allowed under the exemption, naming the other spouse as the beneficiary and potentially the trustee. This provides each spouse with limited access to funds while removing assets outside of their taxable estates.  
**CONSIDERATION:** Establishing SLATs involves complexities associated with time, determining appropriate assets to use, administration and tax implications. Also, the documents "must be drafted by an experienced attorney, to avoid the pitfalls of the reciprocal trust doctrine, which would cause the value of each trust to be included and taxed in the estate of the spouse who created the trust, and therefore subject it to estate tax when that spouse dies," Work said.
- 3. Irrevocable Life Insurance Trust (ILIT):** These trust structures are used to control life insurance policies while protecting the death benefit proceeds from estate taxes.  
**CONSIDERATION:** This trust can leverage annual gifting exclusions and a portion of the current exemption while creating liquidity to pay future estate taxes.
- 4. Private Placement Life Insurance (PPLI):** This single solution strategy combines the income tax benefits associated with an ILIT with the opportunity to invest in asset classes such as alternative investments.  
**CONSIDERATION:** This is a complicated structure so it is critical to work with knowledgeable financial, legal, and tax professionals to ensure that it fits within the greater estate plan.

These are just some of the strategies that can be used to make the most of the estate planning exemption before the sunset of the TCJA. Each tactic involves varying degrees of complexity and must be used on a case-by-case basis. "We don't know what the future holds, but there is never a downside to reviewing your existing plan and evaluating the right course of action before it's too late," Work said.

Hightower Advisors' Estate and Financial Planning Group helps craft proactive plans that carefully consider all of the critical details and the latest legislation.

Reach out to your advisor to get started.



## FOOTNOTES

<sup>1</sup> irs.gov, "Estate and Gift Tax FAQs," Page Last Reviewed or Updated: 05-Dec-2023

<sup>2</sup> ubs.com, "Global Wealth Report 2023," 2023



## DISCLOSURES

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