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Estate and Gift Tax*

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Introduction

Many individuals do not think about federal gift and estate taxes until it's too late. Farmers, landowners, business owners, and individuals need to consider gift and estate taxes at an earlier age than just at retirement or in their later years. Estate and gift taxes should be considered as part of the long-term tax management strategies for the family, and the operation, in the development of a business succession, transition and estate plan. This publication will break down federal estate and gift taxation into its basic components, which will include estate taxes, gift taxes, lifetime exemption, annual exemption, and portability of the deceased spouse's unused estate tax exemption.

Estate Taxes

Estate tax is a tax based on the fair market value (FMV) of all assets (property) owned and controlled by an individual that has passed away, referred to as the decedent. This total value of all assets is known as the gross estate. The value of the gross estate needs to be determined as of either the date of death, or an alternate valuation date that will allow the value to be determined six months following the date of death. A formal appraisal of all assets is the best and most accurate method to determine the value of the gross estate. An appraisal should include all assets, not limited to:

1. Land (the dirt itself separated from all improvements and buildings on/in the land)
2. Minerals (oil and gas, coal, etc.)

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3. Improvements to the property, including, but not limited to, timber on the stump, groves, orchards, vines, etc.; wells, fences, tiling, etc.
4. Buildings, including barns, sheds, houses, etc.
5. Machinery, equipment, vehicles, etc.
6. Any intellectual property, i.e. patents, etc.
7. Cash assets, such as all cash accounts, investments and similar.

Once the gross estate value is determined, deductions may be used to determine the taxable value of the estate. Deductions to the gross estate may include, but are not limited to, any debt that is still held by the estate and must be paid, funeral expenses, administrative expenses, any marital deduction(s) for assets that are transferred to a surviving spouse, contributions to a qualified charity, and the unified estate and gift tax credit. The lifetime exemption amount in 2026 is $15 million, and will be indexed for inflation in each following year.

Once the net estate value is determined, all deductions and exemptions should be applied to determine the taxable value of the estate. If no tax is due, a *Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return* is not required to be filed within nine months of the date of death, unless there is a desire to make the Portability Election of the unused spouse's estate tax exemption.

Example 1:

Mary, who is divorced and single, passes away at the age of 92 in April of 2026. During Mary's life she donated cash to various qualified charities, but no other gifts were made that would affect her lifetime exemption amount. Mary's net estate value is $10,000,000 and is made up of land, stocks, bonds, and other assets. The single lifetime estate tax exemption for 2026 is $15,000,000. Since the single lifetime exemption amount is higher than the net estate value there will be no federal estate tax applied to the estate.

Lifetime Estate Tax Exemption Values

The lifetime estate tax exemption value increases from year to year. The most up-to-date values can be found on the IRS website and in *Publication 950, Introduction to Estate and Gift Taxes*. These values were doubled beginning in 2018, through the Tax Cuts and Jobs Act that was signed into law in December of 2017, and were set to expire with the 2026 tax year. On July 4th of 2025, The Working Families Tax Cuts Bill (WFTC) was signed and included several tax law changes, increasing the lifetime exemption amount to $15,000,000 in 2026, and indexed to inflation each year after 2026. The maximum estate tax rate can be as high as 40% of the value of the estate in excess of the lifetime estate tax exemption before additional credits are considered.

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Unified Credit

The unified credit is simply the credit applied to net estate value, based on the applicable exemption amount, to determine the estate tax due.

Portability

Portability refers to the present IRC section (IRC § 2010(c)(5)(A)) that allows the unused lifetime exemption amount from a deceased spouse to be transferred to, and combined with, the surviving spouse's lifetime exemption amount. Portability must be elected on the estate tax return for the first deceased spouse. To claim the portability value of the unused portion of the lifetime exemption amount of the decedent to the surviving spouse, *IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return* must be filed.

Example 2:

Alex and Ada had been married for over 75 years when, in February of 2024, Ada passed away. Alex survived until he passed away in June of 2026, with an estate value of $29,610,000 at that time. Ada did not use any of her available estate tax exclusion amount. Alex appropriately filed *IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return* to claim the use of the portability provision, thus allowing Alex to use all of Ada's unused portion of the lifetime exemption amount. This allows Alex's estate to add Ada's exemption of $13,610,000 (2024 lifetime exemption limit) and Alex's value of $15,000,000 (2026 lifetime exemption amount for a total of $28,610,000 lifetime exemption. This amount is used to decrease the taxable value of the estate. The estate's net value of $29,610,000 will utilize all the $28,610,000 lifetime exemption value against the estate net value, to total a taxable estate of $1,000,000 ($29,610,000 - $28,610,000). The Estate Tax liability for the entire estate after applying the lifetime exemption amounts would be approximately $345,800 ($1,000,000 x 40% + additional credits of $54,200). Your tax professional will do the calculation to determine the value of the tax liability, which can be complicated.

Tax Basis

A very important part, and often forgotten piece, of recordkeeping is the need to track tax basis on all assets acquired. The tax basis of an asset is dependent on how those assets are acquired, whether through a purchase, inherited through an estate, or received as a gift.

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1. **Purchase**. Tax basis in an asset is based on the purchase price paid by the donor for the asset, plus any improvements made to the property, less any tax depreciation taken.
2. **Gifting.** The holding period of the property/asset that is gifted does not change as the asset changes hands. To determine the donor's tax basis, the fair market value on the date of transfer and the amount of any gift taxes paid must be kept, as this information will be needed should the asset be sold at a later date, to determine the amount of taxable gain. Whatever the tax basis and the amount of time that the asset was held for by the gifting individual, will be the same for the person that has received the gift. If Alex purchased property in 1960 for $100,000, and gives that land to his son Jerry in 2024 (no gift tax was owed by Alex). Jerry's tax basis in the property will be $100,000, with a holding period of 64 years. If the fair value on the date of transfer was $75,000, Jerry's basis will be $75,000.
3. **Inherited Through an Estate**. If assets are received from an estate, the assets will receive a "step-up" to fair market value at the decedent's date of death or alternate valuation date (or six months after the date of death). This means that if Alex, in the above example, had a tax basis of $100,000 of property/asset(s) with a FMV of $500,000, and those assets are passed through Alex's estate following his death to his son Jerry, Jerry's tax basis in the property will be $500,000.

Gift Tax

Gifts of assets including cash (money), services, land and other assets may be subject to a gift tax. Gift tax is applied to the donor or giver and not to the recipient. There are multiple variables that will come into play to determine if there is a tax liability for the gifting of cash or other assets.

First, there is a 2026 annual gift exemption amount per individual donor of $19,000. The annual exemption amount is adjusted each year for inflation; please review the *IRS Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return* Instructions for the most up-to-date values and exemption amounts. You may gift up to the current annual exemption amount to anyone without any gift tax liability being triggered. If an individual is married, the married couple may use gift splitting and gift up to the current amount, which is $38,000 in 2026, in cash or FMV of other assets, to any individual. You may gift up to that amount to any number of individuals in a single year without any gift tax liability being triggered.

Second, just because the annual exemption amount for 2026 is $19,000, it does not necessarily mean that if you provide a gift higher than that value, the gift tax will be triggered. The lifetime estate and gift tax exemption would need to be fully used before an actual gift tax payment would be due, as discussed below.

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Taxable Gift

When the value of a gift is greater than the annual exemption, the amount of the gift in excess of the annual gift tax exemption is subject to the gift tax. In most cases, the gift may not result in a gift tax being due; rather, the unified estate and gift tax credit will be used to offset the amount of the gift tax due. In other words, a portion of the $15,000,000 (for 2026) unified credit is used to offset the gift taxes due. For example, if a couple makes a gift of $100,000, the amount of the taxable gift is $62,000 ($100,000 – $38,000). The couple then utilizes a portion of the estate tax credit to reduce the gift tax to zero. When both spouses have passed away, their estate tax lifetime exemption value will be reduced by the $62,000.

Gifts to a spouse, a political organization, a charity, or used to pay college tuition or medical expenses (direct to the hospital or institution) are not subject to the annual gift tax exemption. Thus, the only time a gift tax return will be due is when a gift is larger than the annual exemption, and the only time gift tax will be owed is when the total amount of the unified credit is less than the total value of the estate and or gifts given.

It is again important to note that the tax basis and proof of how long the asset has been held by the gifting individual be provided to the receiver. Please see the above "Tax Basis" section of this publication.

Gift Tax Return

When gifts are made with a value greater than the annual exemption amount, a gift tax return will need to be filed using *IRS Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return*. This form is due by April 15th and is filed with the gift giver's individual tax return.

Gift Recipients

An individual receiving a gift needs to begin to track their tax basis in the asset received. The recipient of assets via a gift or as an inheritance through an estate do not owe any of the estate, gift, or income tax liability. Those taxes are to be paid by the gift-giver or estate of the decedent. Each state has its own laws surrounding tax liability dealing with inheritance, estate, gifts, and the like. It is up to the receiver to review the laws in their specific state of residence, and the state of residence of the giver, for any local tax liabilities that may be owed by the giver and receiver of the property.

IRS Publications

To access IRS forms, schedules, and publications, go to www.irs.gov and type the publication, form or schedule number or title in the search box.

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The following may be of particular interest:

- *IRS Publication 950, Introduction to Estate and Gift Taxes* (https://www.irs.gov/pub/irs-prior/p950--2011.pdf)
- *IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return* (https://www.irs.gov/forms-pubs/about-form-706)
- *IRS Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return* (https://www.irs.gov/forms-pubs/about-form-709)

Additional Topics

This fact sheet was written as part of Rural Tax Education a national effort including Cooperative Extension programs at participating land-grant universities to provide income tax education materials to farmers, ranchers, and other agricultural producers. For a list of universities involved, other fact sheets and additional information related to agricultural income tax please see RuralTax.org.

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