

Larry's Tax Law

## **One Big Beautiful Bill Act, H.R. 1 – 119th Congress (2025-2026): Part II – Estate and Gift Tax**

By David Knutson and Larry Brant on 7.10.25 | Posted in Federal Law, Legislation, Tax Laws

In this second installment of our multi-part series on the One Big Beautiful Bill Act (the “Act”), my colleague [David Knutson](#) and I discuss the changes made by the Act to the federal estate and gift tax regime.

### **Background**

The federal government taxes wealth transfers in three ways:

1. Estate tax is imposed on the value of estates at death;
2. Gift tax is imposed on the value of gifts made during life; and
3. Generation-skipping tax is imposed on the value of a bequest/gift made to a person two or more generations younger than the taxpayer.

No tax is due on the above wealth transfers until the value of the aggregate gifts/bequests exceeds an applicable exemption. This basic structure has been in place for decades. The exemption amounts and the tax rates, however, have changed over the years.

At the end of President Obama’s second term in office, the federal estate and gift tax exemption was \$5 million per person (\$10 million for a married couple). During President Trump’s first term in office, it was doubled to \$10 million per person (\$20 million for a married couple). The exemption has been indexed for inflation.

The \$10 million per person threshold was set to sunset at the end of 2025, resulting in a reinstatement of the \$5 million per person threshold (indexed for inflation) for 2026 and beyond.

With the adjustment for inflation, the exemption was increased to \$13.99 million per person (\$27.98 million for a married couple) in 2025. However, if the law were allowed to sunset at the end of this year, it would revert to \$5 million per person with the adjustment for inflation, leaving the exemption at \$7.14 million per person (\$14.28 million for a married couple).

With the exemption drastically decreasing at the end of 2025 absent legislative action, estate planners have been scrambling to take appropriate actions to anticipate the potential change in the law, including encouraging those taxpayers who can fully use the \$13.99 million exemption per person via lifetime gifts to do so before the end of 2025.

### **The Act**

The Act was signed into law by President Trump on July 4, 2025. Lawmakers, like emergency responders, saved the estate and gift tax exemption from severe injury.

The Act increases the estate and gift tax exemption to \$15 million per person (\$30 million for a married couple), indexed for inflation (using 2025 as the base year). Even better news is that this change in the law is a so-called permanent change in the law. There is no sunset. Consequently, absent future legislative action, this estate and gift tax exemption is here to stay. This law change creates some certainty for taxpayers and their estate planners.

Again, as a result of the Act, in 2026, an individual may gift and/or leave at death up to \$15 million (\$30 million for a married couple) free from federal estate and gift taxes. The exemption is indexed for inflation.

It is important to note that the Act does not alter the rules pertaining to portability of the unused estate and gift tax exemption. Consequently, the law continues to allow an election by a surviving spouse to use any of the unused estate and gift tax exemption of the decedent spouse.

Further, it is important to note that the Act does not change how a taxpayer's generation-skipping transfer exemption is computed. Consequently, the unused portion of the generation-skipping tax exemption continues not to be portable to the surviving spouse.

According to the Joint Committee on Taxation and the Congressional Budget Office, this so-called permanent change to the Code comes with a 10-year cost of \$212 billion, primarily arising from a decrease in federal tax revenue.

### **Conclusion**

Aside from providing taxpayers with a larger estate and gift tax exemption, by not allowing the law to sunset, lawmakers have provided taxpayers with more certainty. This is a welcome change to the federal estate and gift tax laws for many taxpayers and their advisors. However, taxpayers should not procrastinate or become complacent in their estate and gift tax planning efforts. Even permanent changes to the Code can be repealed and/or altered in the future by lawmakers.

We need to keep in mind that this change to the Code only impacts federal estate and gift taxes. Most states have their own estate and inheritance tax regimes. Some of these states, including Washington, Oregon, Hawaii, New Jersey and Kentucky, have regimes containing high estate tax rates. While taxpayers subject to state estate and gift tax laws can celebrate the federal estate and gift tax relief provided by the Act, they must remain vigilant with respect to state laws and consider them in their estate plans.

Stay tuned for more installments breaking down other major provisions of the Act!

**Tags:** estate & gift tax, federal estate tax, federal gift tax, generation-skipping transfer tax, OBBBA, Taxpayer, The One Big Beautiful Bill Act