



New Estate Tax Rules

Each person can pass up to \$5,490,000 free of Federal estate or gift tax in 2017. The new law would double the 2018 estate and gift tax exemption amount of \$5,600,000 to \$11,200,000. This increased exemption (with future inflation adjustments) is effective for gifts made or persons dying before 2026. The bill does not repeal the estate tax.

Do not abandon keeping your estate plan up to date because the Federal exemption covers your assets. State estate tax exemptions are not yet increasing to match the Federal increases (New York \$5,250,000, Connecticut \$2,600,000, New Jersey has no estate tax effective 2018) and portability does not apply to state exemptions. As a reminder, “portability” between spouses means that any unused federal estate exemption of the first spouse to die can be added to the surviving spouse’s exemption for the survivor’s own gifts or future estate. In contrast, your spouse cannot inherit your state estate exemption. It’s “use it or lose it.” To avoid losing your state estate exemption, a married person’s estate plan must continue to use “credit shelter,” “bypass,” or “exemption” trusts. Moreover, it is very important to note that New York has an estate tax “cliff”: once an estate exceeds a small amount of the New York exemption, there is no exemption at all and the entire estate (not just the excess) is taxed. Compounding this, New York counts in your taxable estate gifts made within three years of death. It’s also entirely possible, and we hope probable for your sake, that you will not die until after 2025, unfortunately when the lower exemption amount comes back. A power shift in Washington could result in a change in this law at some point.

It may also be wise, before the new estate tax exemptions are changed in the future, to lock in the higher exemptions by making gifts using the exemption up.

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We welcome an opportunity to discuss these important issues with you. Please contact [Doris L. Martin](mailto:dmartin@garfunkelwild.com) (516-393-2205, dmartin@garfunkelwild.com) or [Michelle Lewis Salzman](mailto:msalzman@garfunkelwild.com) (516-393-2504, msalzman@garfunkelwild.com) to discuss these ideas further.