

IS IT TIME TO MAKE A

Large Gift?

WILLS, TRUSTS & ESTATES: PLAIN & SIMPLE

Under the federal tax law enacted in 2017, the amount of each person's federal estate and gift tax exemption was increased to \$11.4 million in 2019 (and scheduled to increase annually for inflation through 2025). This exemption amount applies to the total taxable gifts made during an individual's lifetime and the value of the property transferred at death to someone other than a spouse or charity. Once the gifts and/or transfers at death exceed \$11.4 million, a federal tax of 40% will be imposed on the amount exceeding \$11.4 million.

This "enhanced" gift and estate tax exemption amount of \$11.4 million per person only lasts through December 31, 2025; that is, it "sunset." Beginning January 1, 2026, the federal combined gift and estate tax exemption will go back to \$5 million, indexed for inflation. Individuals using the increased exemption amount prior to 2026 can take comfort. The Internal Revenue Service has issued a directive making clear that gifts made between now and December 31, 2025, totaling no more than the higher exemption amount will not be subject to additional gift and estate taxes after the federal exemption is reduced in 2026.

For example, if a mother made a \$10 million gift in 2019 to her daughter (when the exemption amount is \$11.4 million) and then dies in 2026 (when the exemption amount decreases to \$5 million), the gifts in excess of the \$5 million exemption would not be added to the mother's total lifetime and death transfers, so would not cause an increase in the federal estate tax due on her estate.

Those considering making substantial gifts to children and others may wish to accelerate such gifting before the end of 2025. With the prospect of a new administration in the White House in 2020, which may cause the exemption to be decreased sooner than 2026, one may wish to proceed with large gifts before 2020. For instance, a business owner who has been thinking about gifting a substantial interest in her business may wish to proceed with that gifting sooner, rather than later.

Making large gifts, especially of one's interest in a business, is a multi-faceted decision, involving what is best for the business, the owner's family and the owner. Tax savings, corporate goals, and personal comfort must all be considered before making a substantial gift.

"I'm so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family's future."



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