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Estate Planning with the Increased Federal Exclusion Amount



Prior to 2018, the federal estate and gift tax exclusion amount (i.e., the amount that an individual can give during life or at death without incurring federal transfer taxes) was \$5 million, adjusted annually for inflation. The Tax Cuts and Jobs Act of 2017 temporarily increased the exclusion amount. Including the inflation adjustments, the exclusion amount in 2020 is \$11.58 million. Unless further legislation is passed, the exclusion amount will revert to \$5 million (plus inflation) on Jan. 1, 2026.

Fortunately, the U.S. Treasury has signaled through proposed regulations that there will no "clawback" of any portion of the increased exclusion amount that is used between 2018 and 2025. This means that an individual who makes an \$11.58 million taxable gift prior to Jan. 1, 2026, will not incur gift tax (assuming no prior taxable gifts have been made) and will not incur gift or estate tax if the exclusion amount reverts to the lower level.

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