

# The \$7 Million Question

## Navigating the Looming Reduction in the Federal Estate and Gift Tax Exemption

Wealth Planning | Estate and Tax Planning

The federal estate and gift tax exemption will soon be in flux. In 2024, an individual can give up to \$13,610,000 during life or at death without any federal estate or gift tax consequences.<sup>1</sup> This figure will be adjusted annually for inflation through 2025. Absent superseding legislation, the heightened exemption will revert to inflation-adjusted 2017 levels beginning in 2026. This is commonly referred to as the Sunset. A reasonable estimate for the exemption beginning in 2026 is \$7 million per person.

Given this information, you may be asking what you should do prior to the Sunset to take advantage of the higher exemption amount. The more precise question is, “How much do I need to gift<sup>2</sup> to truly take advantage of the higher exemption amount?” The answer is that you must gift more than the expected 2026 exemption of \$7 million to take advantage of the heightened exemption, and the closer the gift is to the current exemption, the greater the tax advantage.

### Basic Examples

Lifetime gifts of any amount can be a valuable estate planning tool, as they remove future appreciation on the gifted asset from the individual’s estate. This is true before and after the scheduled Sunset. However, if you want to take advantage of the current heightened exemption before the Sunset, gifts of \$7 million or less will not achieve the objective. The following basic examples help illustrate this concept.

#### Example 1

A single individual dies on January 1, 2026, with a \$21 million estate and having made no lifetime taxable gifts.<sup>3</sup> Here is the basic estate and gift tax calculation:

Net Worth at Death	\$21 million
2026 Estate Tax Exemption	\$7 million
Taxable Estate	\$14 million
Estate Tax at 40%	\$5.6 million

#### Example 2

We use the same facts as in Example 1, except the individual made a \$7 million taxable gift the day before she died.<sup>4</sup> Here is the basic estate and gift tax calculation:

Net Worth Prior to Gift	\$21 million
Gift at End of 2025	\$7 million
Net Worth at Death	\$14 million
2026 Estate Tax Exemption	\$0 <i>exemption fully used by 2025 gift<sup>5</sup></i>
Taxable Estate	\$14 million
Estate Tax at 40%	\$5.6 million

Despite the individual making a gift in Example 2, the estate tax liability is the same as in Example 1 because she failed to take advantage of the higher exemption amount.

#### Example 3

Now consider the impact of a larger gift. In this example, the same individual made a \$14 million gift<sup>6</sup> the day before she died. Here is the basic estate and gift tax calculation:

Net Worth Prior to Gift	\$21 million
Gift at End of 2025	\$14 million
Net Worth at Death	\$7 million
2026 Estate Tax Exemption	\$0 <i>exemption fully used by 2025 gift</i>
Taxable Estate	\$7 million
Estate Tax at 40%	\$2.8 million

Taking full advantage of the higher exemption cut the estate tax bill by \$2.8 million.

To crosscheck our analysis, the taxable gift in Example 3 is \$7 million more than the gift in Example 2. The estate tax savings on \$7 million at 40% is \$2.8 million. The estate tax liability in Example 3 is \$2.8 million less than in Example 2 (\$5.6 million less \$2.8 million = \$2.8 million). This confirms the estate and gift tax savings of the larger taxable gift.

## Examples for Married Couples

To take advantage of the higher exemption amount, married couples should consider having one spouse make a lifetime taxable gift of up to \$14 million before the other spouse makes a gift.

### Example 4

A married couple both pass away on January 1, 2026, with a \$21 million estate and having made no lifetime gifts. Here is the basic estate and gift tax calculation (assuming each spouse takes the necessary steps to fully utilize his or her estate tax exemption at death):

Net Worth at Death	_____	\$21 million
2026 Estate Tax Exemption	_____	\$14 million
		<i>\$7 million per person</i>
Taxable Estate	_____	\$7 million
Estate Tax at 40%	_____	\$2.8 million

### Example 5

Consider if the same couple had made a \$7 million taxable gift the day before they passed away (December 31, 2025). It does not matter in this example whether one spouse made the entire gift or whether the spouses split the gift. Here is the basic estate and gift tax calculation:

Net Worth Prior to Gift	_____	\$21 million
Gift at End of 2025	_____	\$7 million
Net Worth at Death	_____	\$14 million
2026 Estate Tax Exemption	_____	\$7 million
		<i>2025 gift used half of couple's combined exemption</i>
Taxable Estate	_____	\$7 million
Estate Tax at 40%	_____	\$2.8 million

Despite the couple making a gift in Example 5, the estate tax liability is the same as in Example 4 because they failed to take advantage of the higher exemption amount.

### Example 6

Now consider if the same couple gifted a total of \$14 million the day before they died with each spouse gifting \$7 million. Here is the basic estate and gift tax calculation:

Net Worth Prior to Gift	_____	\$21 million
Gift at End of 2025	_____	\$14 million
Net Worth at Death	_____	\$7 million
2026 Estate Tax Exemption	_____	\$0
		<i>each spouse used full \$7 million exemption</i>
Taxable Estate	_____	\$7 million
Estate Tax at 40%	_____	\$2.8 million

Despite the larger taxable gift, the estate tax liability remains the same as in Examples 4 and 5 because neither spouse made a lifetime total taxable gift over \$7 million.

### Example 7

To examine the impact of a larger taxable gift structured differently, we use the same facts as in Example 6, except one spouse made the entire \$14 million gift the day before the couple died. Here is the basic estate and gift tax calculation:

Net Worth Prior to Gift	_____	\$21 million
Gift at End of 2025	_____	\$14 million
		<i>one spouse made the entire gift</i>
Net Worth at Death	_____	\$7 million
2026 Estate Tax Exemption	_____	\$7 million
		<i>non-gifting spouse still had the full exemption amount</i>
Taxable Estate	_____	\$0
Estate Tax at 40%	_____	\$0

In this example, one spouse made a lifetime taxable gift over \$7 million, thereby generating estate and gift tax savings. Because one spouse made a lifetime taxable gift up to the 2025 estate and gift tax exemption limit, the savings were maximized with respect to the gifting spouse while the non-gifting spouse retained his or her full unused \$7 million exemption at death.

If you compare the estate tax due between Examples 2 and 3 and also Examples 6 and 7, you will note that the difference in each instance is \$2.8 million. So, here's another way to think about the difference between a \$14 million and a \$7 million exemption: a 40% estate tax rate on the \$7 million difference is \$2.8 million. In other words, if you take full advantage of the higher exemption amount, you will not only save \$2.8 million in estate taxes per person but also save 40% on any appreciation which accrues following the date of the gift.

## Spousal Lifetime Access Trusts<sup>8</sup>

Generally, spouses who are U.S. citizens can gift freely between one another without any estate or gift tax consequences. This is known as the unlimited marital deduction. As a result, outright gifts to a spouse will not help utilize the current heightened estate and gift tax exemption prior to the Sunset. Gifts intended to address the Sunset must pass to an individual or entity other than a spouse. While such gifts can benefit married couples (as demonstrated in Example 7), they may not be palatable to those who are unwilling to lose access to and benefit from the asset. If you share these concerns, consider working with an attorney to create a spousal lifetime access trust (SLAT).

A SLAT is often preferable for married couples who wish to minimize estate tax exposure while maintaining the ability to access the trust assets if necessary. With a SLAT, one spouse establishes an irrevocable trust for the benefit of the second spouse. The first spouse uses part or all of his or her estate and gift tax exemption by gifting assets to the SLAT. The second spouse often establishes a second SLAT for the benefit of the first spouse.

Note that Examples 5 through 7 also apply to SLATs. Accordingly, to take advantage of the higher exemption amount, one spouse needs to consider funding one SLAT with as close to the current exemption as possible before the second spouse considers making a gift to a second SLAT. Accordingly, spouses who have sufficient net worth may consider potentially maximizing their respective \$14 million gifting exemptions into each SLAT, for a total amount gifted to the SLATs of \$28 million.

## Conclusion

January 1, 2026, will be here before we know it. If you are willing and able, now is the time to begin working with your Stifel Financial Advisor, attorney, and tax advisor to determine how best to take advantage of the current heightened estate and gift tax exemption before the Sunset. Your Stifel Financial Advisor can coordinate with your team of professionals to help you answer the \$7 million question.

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<sup>1</sup> For ease of discussion, we round upward and refer to this exemption as \$14 million throughout this article.

<sup>2</sup> For purposes of this article, we define a gift as a transfer to an individual other than a spouse (a gift to a spouse generally qualifies for a separate marital deduction as explained later in this article) or to an entity (e.g., an irrevocable trust).

<sup>3</sup> Gifts equal to or less than the annual exclusion threshold of \$18,000 per recipient are gift tax free. Taxable gifts represent any gifts that exceed this annual exclusion amount and utilize your federal estate and gift tax exemption as described further in Endnote 5.

<sup>4</sup> For purposes of this and all subsequent examples, we ignore the consequences of any lookback period that could cause the gift to be included in the individual's estate.

<sup>5</sup> Taxable gifts generally reduce an individual's remaining federal estate and gift tax exemption on a dollar-for-dollar basis. Accordingly, the \$7 million lifetime gift in Example 2 reduces the individual's exemption at death by \$7 million, resulting in no estate tax exemption remaining.

<sup>6</sup> The IRS has stated that it would not claw back any gifts made prior to the Sunset valued at over the post-Sunset exemption. This IRS guidance is what creates the opportunity to take advantage of the current heightened federal estate and gift tax exemption.

<sup>7</sup> If one spouse is able to make a gift of this size, his or her share of the couple's net worth must be at least \$14 million. For purposes of this example, we assume this to be true.

<sup>8</sup> For a more detailed discussion regarding SLATs, ask your Stifel Financial Advisor for a copy of our article titled *Using a Spousal Lifetime Access Trust for Flexible Estate Tax Planning*.

*Stifel does not provide legal or tax advice.*

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