Morgan Stanley

2024 Federal Gift and Estate Tax Exemption

Big Changes Coming in 2026 + Case Study

The federal gift and estate tax exemption amounts for 2024 have been announced and the annual rise in these figures continues. For 2024, the federal estate and gift tax exemption will jump to $13,610,000, an increase of $690,0000 from 2023. This means an individual can leave or gift to non-spouse beneficiaries $13,610,000 without having to pay federal transfer taxes. A married couple will be able to shield $27,220,000.[1] The maximum federal estate and gift tax rate remains at 40% for 2024.

Here's a historical look of how we got to the federal estate and gift tax amounts/rates today:

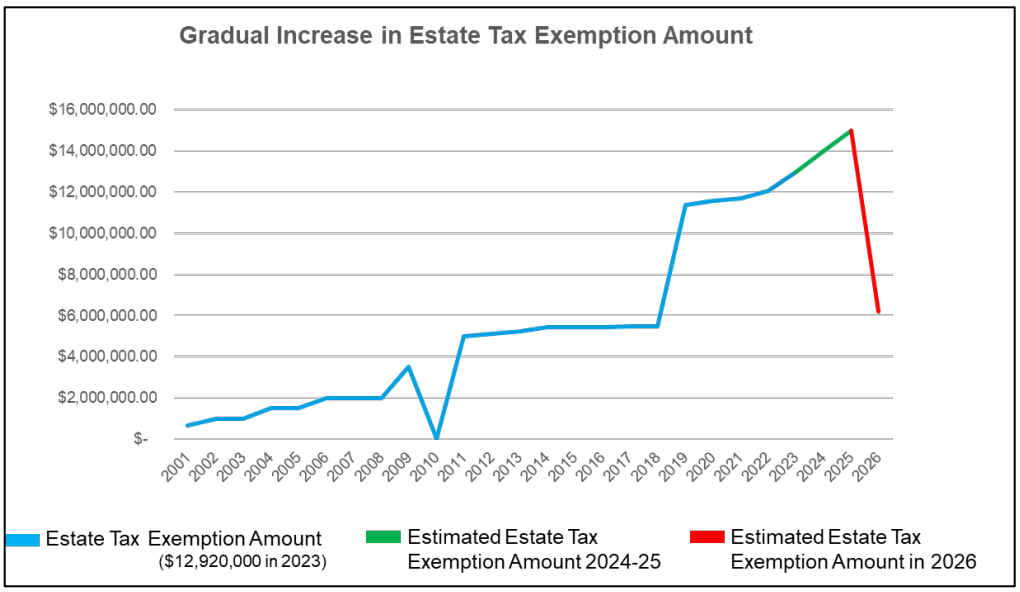
Federal Estate and Gift Tax Rates, Exemptions and Exclusions – 2004-2024[2]

Year	Estate Tax Exemption	Lifetime Gift Tax Exemption	Annual Gift Tax Exclusion	Maximum Estate Tax Rate	Maximum Gift Tax Rate
2004	$1,500,000	$1,000,000	$11,000	48%	48%
2005	$1,500,000	$1,000,000	$11,000	47%	47%
2006	$2,000,000	$1,000,000	$12,000	46%	46%
2007-08	$2,000,000	$1,000,000	$12,000	45%	45%
2009	$3,500,000	$1,000,000	$13,000	45%	45%
2010	Repealed	$1,000,000	$13,000	Repealed	35%
2011	$5,000,000	$5,000,000	$13,000	35%	35%
2012	$5,120,000	$5,120,000	$13,000	35%	35%
2013	$5,250,000	$5,250,000	$14,000	40%	40%
2014	$5,340,000	$5,340,000	$14,000	40%	40%
2015	$5,430,000	$5,430,000	$14,000	40%	40%
2016	$5,450,000	$5,450,000	$14,000	40%	40%
2017	$5,490,000	$5,490,000	$14,000	40%	40%
2018	$11,180,000	$11,180,000	$15,000	40%	40%
2019	$11,400,000	$11,400,000	$15,000	40%	40%
2020	$11,580,000	$11,580,000	$15,000	40%	40%
2021	$11,700,000	$11,700,000	$15,000	40%	40%
2022	$12,060,000	$12,060,000	$16,000	40%	40%
2023	$12,920,000	$12,920,000	$17,000	40%	40%
2024	$13,610,000	$13,610,000	$18,000	40%	40%

1. Provided that both individuals are U.S. citizens. Different rules apply to gifts to a non-U.S. citizen spouse.
2. Source: Morgan Stanley, as of January 2024

Totally separate from the federal lifetime gift exemption is the **annual federal gift tax exclusion**, which will be **$18,000 in 2024**, an increase of $1,000 from 2023. These annual exclusion gifts can be made each year to as many individuals as one likes. And annual exclusion gifts do not use one's federal lifetime gift exemption.

Big Changes Coming in 2026[2]



Over the last couple years, it was expected that Congress and the President would lower the federal gift/exemption amount. That didn't happen. This may indicate that Congress will let the current law expire or "sunset." The current law, the **Tax Cuts and Jobs Act of 2017**, expires on January 1, 2026, unless the Congress and the President work together over the next couple years to change the law. Without a change, the federal exemption amounts will revert back to the 2017 levels, which is $5,000,000 (but it will be indexed for inflation to approximately $6,000,000 to $7,000,000). The bottom line is that the current lofty federal exemption amounts are expected to be halved starting in 2026.

For the wealthy client, advanced planning to take advantage of the currently high federal gift tax exemption amounts can begin now. Many are using the lifetime federal gift tax exemption amount to fund irrevocable trusts now, prior to the future lowering. The beneficiaries of these irrevocable trusts are usually the client's children and grandchildren.

Attorneys and trust companies will be extremely busy as we get closer to the current law expiring. It's prudent for wealthy clients to start planning well before the last-minute crush.

3. A U.S. citizen may give unlimited amounts to a U.S. citizen spouse, but a U.S. citizen who makes gifts to a spouse who is a not U.S. citizen is limited to $185,000 and any gifts that exceed this amount will use some of the donor's federal lifetime gift exemptio
4. Source: Morgan Stanley, as of January 2024

Case Study

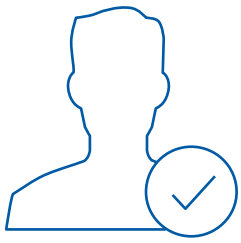
As mentioned above, each dollar an individual owns above $13,610,000 will be subject to the federal estate tax and be taxed up to the maximum federal rate of 40% if the individual dies in 2024. The only exception to this is if the assets are passed to a U.S. Citizen spouse or to a charity. Obviously, a surviving spouse or single individual can only leave assets to a charity free of federal estate taxes.

But what if a married couple doesn't want to leave assets to charity? What if they seek to support children or grandchildren? One way to help minimize future estate taxes is to consider setting up Spousal Lifetime Access Trusts (SLATs). A SLAT is an irrevocable trust created by a spouse to benefit the other spouse (or descendants, if desired). One spouse is the grantor of the trust and he/she transfers assets to the SLAT using his/her available federal gift tax exemption. Thus, the trust now owns the asset and the donor spouse has given up access and control of the asset. The other spouse is a beneficiary, so he/she maintains access to the assets according to the provisions in the trust document.

With the current high federal gift/estate exemption amounts, some wealthy clients are using their exemption to set up and fund SLATs now. And they are often setting up two SLATs, one for each spouse.[5] By creating and funding SLATs, a married couple could reduce their taxable estates by $27,220,000 (plus any future appreciation on those assets) if done in 2024. Why is this important? Because, as mentioned, if the married couple were to wait to use their federal gift/estate exemption amounts in 2026, they would only reduce their taxable estate by about $12,000,000 (plus any future appreciation on those assets) or about half of what they could do next year (this assumes no further changes to the law are made and the existing law is set to expire).

Consider the following:

- Mary and Jim are a happily married couple who are both U.S. Citizens in their early 50s with three teen-aged children who reside in a state that does not have a state, estate or lifetime tax
- Their net worth is approximately $75 million, with about $30 million in a family business, $15 million in real estate and $30 million in investable accounts
- Despite the positives and happiness that their wealth brings them, Mary and Jim realize they have an estate tax problem; obviously, they want to minimize future estate tax liabilities upon their passing
- Mary and Jim would like to pass as much of their wealth to their children and future grandchildren as possible but they would also like to possibly benefit from the assets during their lives if need be
- Mary and Jim meet with their estate planning attorney who introduces them to the concept of a SLAT for each of them
- For the first SLAT, Mary is the grantor and Jim is the sole current beneficiary; here are the components of the first SLAT:
    - Mary funds this SLAT with approximately $12 million, which is comprised of both real estate and investable assets
    - Mary names Jim as trustee; in this role, Jim has investment authority and distribution authority



5. However, married couples who wish to set up two SLATs should consult with their tax advisors to ensure that the SLATS are not reciprocal.

- For the second SLAT, Jim is the grantor and the current beneficiaries are Mary and Jim's descendants (children); here are the components of the second SLAT:
    - Notice that Mary and Jim's children are also beneficiaries of the trust
    - Jim funds this trust with approximately $11 million, which is comprised of an interest in the family business and investable assets
    - Jim names a Delaware corporate trustee partner on our platform as the trustee
    - Also in the document, Jim is named as the Investment Direction Advisor and he has authority over all investment decisions (he'll work with his Morgan Stanley Financial Advisor); Jim also names a Distribution Direction Advisor (his brother) who will make decisions regarding distributions from the trust
    - Jim signs and funds this trust on a different date from when Mary signs and funds hers
- As their attorney explains to them, the reason for the differences among the two SLATs is to make them non-reciprocal, which is needed to obtain the desired transfer tax planning results

As outlined, SLATs can provide a great deal of flexibility while helping wealthy families reduce future estate tax liabilities. Different assets can be used to fund the trusts. Using a Delaware trustee (or other favorable trust state jurisdiction) can also bring great planning benefits such as privacy and asset protection benefits. However, the donor spouse will lose his or her indirect access to the trust assets in the event of divorce or premature death of the beneficiary spouse. Additionally, the trust should be carefully drafted to avoid undesirable income tax consequences to the donor spouse in the event of divorce.

For additional questions about federal gift and estate taxes and ways to plan one's estate, please contact your Morgan Stanley Financial Advisor.