

The Time Is Now: Do Not Wait Until It Is Too Late To Gift Estate Planning Strategies

While many individuals wait to determine if they will take advantage of the increased Federal estate and gift tax exemptions, others are already working with their advisors to ensure they don't miss out on the opportunity. Meanwhile, estate planning attorneys across the country are struggling to keep up with the increased demand. By working with your Morgan Stanley financial advisor, you can determine whether making a significant gift at this time fits your financial goals.

Sunset of the Federal Estate and Gift Tax Exemption

As of 2024, the Federal estate and gift tax exemption (the "Lifetime Exemption") is at an all-time high amount of \$13,610,000 per individual and \$27,220,000 for married couples. Unless there is a change in the law, the Lifetime Exemption is set to automatically sunset on December 31, 2025, which will result in the Lifetime Exemption reverting to \$5,000,000, adjusted for inflation from 2011.

As a result, individuals who currently have an estate larger than the Lifetime Exemption in effect as of January 1, 2026, may want to consider making gifts up to the current Lifetime Exemption before the potential sunset date. This way, they can lock in the higher exemption amount by removing the value of

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the gifted assets and any future appreciation on the assets from their taxable estate.

What Is the Rush?

While it appears that there is more than enough time to make a significant gift before the expiration of the current Lifetime Exemption, that may not be entirely true. A gifting transaction requires proper planning with your Morgan Stanley financial advisor and estate planning attorney. Unfortunately, the process can be difficult and often takes longer than expected. Further, many estate planning attorneys are already struggling to keep up with the increased demand—a problem that will only compound the closer we get to the expiration of the current Lifetime Exemption. As such, if you are considering taking advantage of the increased Lifetime Exemption before it expires, you should consider reaching out to both your Morgan Stanley financial advisor and your estate planning attorney immediately.

The sunset of the current Lifetime Exemption presents a potential opportunity to do advanced estate planning, but the opportunity is not right for everyone. Before gifting a significant amount, one must first determine how much they can comfortably remove from their estate, if any, while ensuring they retain enough assets to fund their desired future lifestyle and support needs. A comprehensive financial plan prepared by your Morgan Stanley financial advisor tailored to your circumstances, needs and goals is an instrumental part of the decision-making process. This financial plan will, in turn, help clarify what estate planning strategy or strategies you can employ to yield the best results for you and your family. In addition to a variety of financial planning tools and resources, Morgan Stanley has experienced Wealth and Estate Planning Strategists to help you understand the various gifting and estate planning strategies that may be suitable for your situation. By working with your Morgan Stanley financial advisor, you can determine if the current opportunity is right for you and your family.

It may also be a good idea to engage an estate planning attorney to begin drafting the necessary documents for any gifting transaction that you may be considering. By engaging an estate planning attorney early, you can begin working with them to determine the following: the best assets to gift, whether to use a trust, the identity of the trustee and successor trustee(s), the process for removing and replacing the trustee and who should have that power, the distribution standard of the trust and what other agreements could be required to close the transaction.

If you later decide not to proceed with the gifting transaction, you will be out the cost of the attorney's work but will have the work product for a potential future transaction. Alternatively, if a trust instrument is finalized, you can execute it and fund it with a nominal amount of assets (for example, one hundred dollars). This way, if you later decide to proceed with a larger gift, the gift to the trust can happen quickly as the trust will already be in existence and the necessary trust account already open.

Call to Action

If you are considering a gifting transaction before the end of 2025, it may be a good idea to reach out to your Morgan Stanley financial advisor immediately so that they can begin to help you determine if the opportunity is right for you and your family. It would also be a good idea to engage an estate planning attorney to begin drafting the documents for the hypothetical transaction. If you wait, it may be difficult to make all the necessary decisions to ensure the transaction is completed before the current Lifetime Exemption expires.

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Many estate techniques share the common risk of the loss of control of the assets once the gift of the assets is complete. The strategies set forth herein are shown for educational purposes only, are not tailored to any specific client, and do not constitute a recommendation to employ any strategy identified. To that end, they do not capture all possible outcomes but are based on limited set of assumptions. If the assumptions upon which they are based are not realized, the efficacy of the strategy may be materially different from that which is reflected in the illustration. Accordingly, clients must consult their tax advisor when considering the utility and appropriateness of any strategies identified herein.

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