The Time Is (Still) Now:

Do Not Wait Until It Is Too Late To Gift

Estate Planning Strategies

Wealth & Estate Planning Strategists
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In our previous article titled The Time Is Now, we discussed the importance of implementing an estate plan in anticipation of the expected reduction of the federal estate and gift tax exemption. While for some, a new Republican led federal government may have lessened the urgency or importance, we continue to believe that the earlier one engages in transfer tax planning, the better the outcome will be.

There are many reasons to engage in the estate planning process. Transfer tax savings or changes to tax laws are often the reasons that drive the discussion, but it is important to remember both the significant tax-driven and non-tax driven reasons to plan.

Transfer tax laws have been a popular topic for discussion in recent months. The Federal estate and gift tax exemption (the “Lifetime Exemption”) is at an all-time high.[1] However, unless there is a change in the law, the Lifetime Exemption is set to be reduced from $10 million, indexed for inflation to $5 million, indexed for inflation, on January 1, 2026. This change is commonly referred to as the “Sunset.”

Prior to the 2024 presidential election, wealthy individuals were urged to work on their estate plan in order to benefit from the all-time high Lifetime Exemption before it is reduced by half. Post election, the sense of urgency might be dissipating for those who anticipate that a Republican led government and Congress would be more likely to prevent the sunset of the Lifetime Exemption. There are multiple reasons why they should not reconsider or take the new Congress as an excuse to delay the implementation of their estate plan.Timely planning is critical for transfer tax efficiency. While the expected Sunset may have been the impetus for transfer tax planning, ultra-high net worth individuals will almost certainly benefit from that planning, whether or not the Sunset occurs. When it comes to federal estate tax reduction planning, the earlier you gift, the better, *as every dollar of appreciation from the date of the gift to the date of death escapes federal estate tax*. The benefits of such

Notes:
[1] In 2025, the Lifetime Exemption is $13,990,000 per individual and $27,980,000 for married couples.

planning can be enhanced by the payment of income tax on assets held in grantor trusts and the use of estate freeze techniques, such as sales to grantor trusts and grantor retained annuity trusts.[2]

In addition to making lifetime gifts, it is important to consider that a universal function of an estate plan is to plan for death or incapacity. Foundational estate planning documents commonly include Wills, Revocable Living Trusts, Powers of Attorney and Health Care Directives.[3] The purpose is to allow individuals to appoint representatives to continue managing the assets and other affairs during incapacity, nominate guardians for minor children, dispose of the assets upon death, prevent or reduce the number of assets requiring probate and, eventually, implement testamentary transfer tax planning. Testamentary transfer tax planning can be particularly important for married couples to efficiently transfer assets to the surviving spouse upon the death of the deceased spouse without federal estate taxes being due and defer and/or reduce estate taxes to other beneficiaries upon the death of the surviving spouse.[4]

An advanced estate plan may also include trusts for children, charities, or other beneficiaries in order to, among other benefits, enhance protection from creditors, control how much access a beneficiary has to the assets of such trust or provide for the management of assets following the person's wishes and considering the beneficiaries' specific needs.

As you can see, planning early provides the best chance for success in meeting estate planning and transfer tax planning goals, regardless of any Congressional decision about the Lifetime Exemption. Talk to your Morgan Stanley financial advisor about your estate plan today.

Notes:
[2] For a discussion on estate freeze techniques, see our whitepaper, The Phases of Estate Planning.
[3] See our whitepaper, *Considerations and Documents of Estate Planning*.
[4] See our whitepaper, *Basic Credit Shelter and Marital Deduction Planning*.