



The Federal Estate Tax: A Primer

By Emily West, CFP®

Of all the tax concerns that face investors, perhaps none are more discussed than the federal estate tax. While the estate tax receives much attention, we often find investors don't fully understand its structure, related planning concepts and whether they may be personally affected. With yet more changes to the estate tax on the horizon, we might all benefit from a bit of history and context.

Current Structure

For 2024, the federal estate tax exemption amount, the amount of wealth that can be passed to heirs tax-free, stands at \$13.6 million. Spouses can elect "portability" of their exemption amount, allowing the surviving spouse to claim their deceased spouse's exemption in addition to their own. Effectively, this allows married couples to pass \$27.2 million in assets to their heirs free of estate tax.

Estates that exceed that amount are assessed taxes on the amount by which they surpass the exemption. The estate tax table is highly compressed, with most taxable estates paying the top rate of 40%.

Certain asset types included in a decedent's estate, whether taxable or not, receive a "step up in basis"; the cost basis of included assets is reset to the market value as of the date of death, eliminating any unrealized capital gains.

A Brief History

In the early United States, various end-of-life taxes were utilized primarily as sources of war time revenue, with acts passed in 1797, 1862 and 1898; each were subsequently repealed.

The estate tax in its modern form can be traced to the Revenue Act of 1916. This legislation created the "exemption amount," an amount of wealth that could be passed to heirs tax-free. The initial estate tax exemption was set at \$50,000 – the inflation adjusted equivalent of roughly \$1.4 million today. Notably, the law did not allow any marital deduction, making asset transfers to surviving spouses taxable.

Significant changes to the law throughout the 20th century include:

- Limitations on lifetime gifting, including annual exclusion amounts and a lifetime gifting limit, were put in place in 1932.
- A marital deduction of one-half a decedent's estate was established in 1948.
- The Tax Reform Act of 1979 "unified" the gift and estate tax structures and established a pattern of consistently increasing the exclusion amounts.
- The Economic Recovery Act of 1981 made the marital deduction unlimited and began to reduce the rate at which estates were taxed.

Fiscal Relevance

Extremely few decedents file an estate tax return and even fewer actually owe any estate tax. In the 10 years spanning 2011-2021, an average of 0.31% of decedents were required to file an estate tax return and, of those, only 0.14% owed any estate tax. For the same period, estate taxes collected averaged \$18 billion, or 0.51% of total tax collected. In this light, it becomes clear the estate tax is much more of a political symbol than it is a source of revenue.



2010 Anomaly

The Economic Growth and Tax Relief Reconciliation Act of 2001 would set a path toward the estate tax’s eventual repeal in 2010. The legislation gradually increased the exemption amount throughout the early 2000s and included its full repeal in 2010. Following Democratic victories in the 2008 election cycle, it was widely assumed congress would act to prevent this from coming to fruition. Ultimately, they did not and a number of high-profile Americans died that year, passing significant estates to their heirs tax-free. Congress would eventually pass legislation late in 2010, reinstating the estate tax for 2011 and beyond.

Impending Changes

As part of the Tax Cuts and Jobs Act of 2017, the estate tax exemption was substantially increased for a period of eight years ending in 2025. Without congressional action, the exemption amount will “sunset” beginning in 2026, reverting to pre-2018 levels indexed for inflation – roughly \$7 million per person, or \$14 million for a married couple.

The opportunity to prevent this will fall to the Congress elected in the 2024 cycle; doing so would likely require a clear Republican majority in both houses and, even then, agreement among the party. Given the state of Congress of late, it seems likely we will see the exemption amount reduced.

Who May Be Affected

Potential reduction of the exemption is of most concern for individuals whose net worth falls between \$7 million and \$13.6 million, or married couples with a net worth between \$14 million and \$27.2 million; these are the ranges that are currently exempt but would become taxable under the sunset provision.

Next Steps

Investors who currently find themselves subject to estate tax, or may in the future, should know there are tools to avoid or reduce it. To review your situation and discuss strategies, contact your relationship team or any member of our Wealth Planning Group.

Year	Estate Tax Exemption Amount	Top Marginal Estate Tax Rate
1916	\$50,000	10%
1917-23	\$50,000	25%
1924-25	\$50,000	40%
1926-31	\$100,000	20%
1932-33	\$50,000	45%
1934	\$50,000	60%
1935-40	\$40,000	70%
1941	\$40,000	77%
1942-76	\$60,000	77%
1977	\$120,000	70%
1978	\$134,000	70%
1979	\$147,000	70%
1980	\$161,000	70%
1981	\$175,000	70%
1982	\$225,000	65%
1983	\$275,000	60%
1984	\$325,000	55%
1985	\$400,000	55%
1986	\$500,000	55%
1987-97	\$600,000	55%
1998	\$625,000	55%
1999	\$650,000	55%
2000	\$675,000	55%
2001	\$675,000	55%
2002	\$1,000,000	50%
2003	\$1,000,000	49%
2004	\$1,500,000	48%
2005	\$1,500,000	47%
2006	\$2,000,000	46%
2007	\$2,000,000	45%
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010	N/A	N/A
2011	\$5,000,000	35%
2012	\$5,120,000	35%
2013	\$5,250,000	40%
2014	\$5,340,000	40%
2015	\$5,430,000	40%
2016	\$5,450,000	40%
2017	\$5,490,000	40%
2018	\$11,180,000	40%
2019	\$11,400,000	40%
2020	\$11,580,000	40%
2021	\$11,700,000	40%
2022	\$12,060,000	40%
2023	\$12,920,000	40%
2024	\$13,610,000	40%
Source: IRS.gov		

Sources: IRS.gov, TaxFoundation.org, Taxpolicycenter.org, Minneapolis Federal Reserve, Statista.com

Information has been compiled from publicly available sources and is believed to be accurate. Consult your tax professional for specific advice.