



ONE BIG BEAUTIFUL SUMMARY (ESTATE/GIFT/GST TAX PLANNING)

Woodland Hills Tax & Estate Planning Council
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THE BASICS BEFORE OBBS

- Current Exemption: \$13,990,000, adjusted annually for inflation
- Rate: 40%
- Possible State Estate Tax (Outside CA)
- Exemption reduced to \$5,000,000 + inflation since 2011, as of 1/1/2026



OBBBA SIGNED JULY 4, 2025

- *What changed?*
 - For deaths occurring, or gifts made, on or after January 1, 2026, the single estate tax, gift tax and GST tax exemption is set at \$15,000,000.
 - Starting in 2027, the exemption will be indexed for inflation measured from 2025.
- *What Stayed the Same? Everything Else!*
 - The exemption for deaths/gifts/GSTs in 2025 remains \$13,990,000.
 - The rate on gifts or estates or GSTs in excess of the exemption amount stays a flat 40% of such excess for 2025 and future years.



OBBBA SIGNED JULY 4, 2025 (cont.)

- *And it is “Permanent”.* Almost the entire time since the tax cuts implemented by President George W. Bush took effect in 2001, the increasing estate tax exemption has been “temporary”. In some instances (such as in 2010, and again for a day in 2013 before Congress retroactively disallowed it), the estate tax was repealed when the law “sunsetted”. Since the 2017 Tax Cuts and Jobs Act, the opposite was true. Client and planners were worried that when the TCJA was to “sunset” on January 1, 2026, the exemption was to be cut in half.
- Now that sunset worry is gone, as the new \$15,000,000-plus-inflation exemption amount is “permanent”. In Congress, permanent means “until another Congress/administration comes along”. While there is always the chance that occurs, for virtually the first time in a quarter-century, inaction means that the exemption won’t change, other than inflation adjustments.

WHAT TO DO NOW?

- Largest estates: Use up both spouses' full exemption (\$30,000,000 starting in 2026) before Congress changes its mind in 2029 or some future year
 - No “clawback” if exemption drops
 - Exemption used “from the bottom,” not “from the top”
- The full “alphabet soup” range of techniques (QPRTs, GRATs, IDGT, ILITs, etc.) remains available – until they don't

WHAT TO DO NOW? (cont.)

- Smallest estates: Unmarried clients nowhere near \$15,000,000 in net worth, and married clients nowhere near \$30,000,000 still need well thought out living trust and related estate planning documents (e.g., powers of attorney, health care directives, etc.)
- Still need to discuss portability planning vs the benefits of mandatory bypass trusts, for example. Temptation to “keep it simple” vs “what could go wrong”.
- Everyone in-between: Clients whose net worth is near the thresholds or who expect to get there someday also need to consider further planning to “get ahead of the curve”
- “Return of the ILIT”!



COMMON PLANNING TECHNIQUES TO UTILIZE FULL EXEMPTION

- “IDGT”: Intentionally Defective Grantor Trust
 - Excluded from estate, but owned by grantor for income tax purposes.
 - Gift tax-free gifts of income tax payments by grantor
 - Gifts and sales to IDGTs
 - Prop 19 makes planning with CA real property much more difficult since 2/16/2021
 - Asset-swapping power: ability to take back trust assets in exchange for grantor’s assets, without estate inclusion

COMMON PLANNING TECHNIQUES TO USE FULL EXEMPTION (cont.)

- Planning Note: IRS Revenue Ruling 2023-2 clarifies that assets of an IDGT do not receive a “stepped up basis” at the death of the grantor.
- Use swapping power to substitute high basis assets/cash for low basis assets?
- Changes/improvements to gifts of “Qualified Small Business Stock.”
- \$15,000,000 gain exclusion vs. \$10,000,000; holding period decreased to 3-5 years, with phased in gain exclusion.

WHAT ELSE TO DO?

- Create and fund trusts before law changes
- Actual recent examples:
 - SLAT: How to use one or both exemptions: have your cake and eat it too, but:
 - Potential pitfalls in creating separate property
 - Risk of divorce
 - Risk of early death of donee spouse

WHAT ELSE TO DO? (cont.)

- Actual recent examples (cont.)
 - IDGT funded with marketable securities and/or fractional interests in real estate and/or entities
 - Recapitalize corporation holding active business into voting and non-voting stock: gift non-voting stock
 - GRAT with family business or other assets; increases in interest rates make GRATs somewhat less appealing (IRS “7520” rate was 1% in October 2021; was 5.2% in April 2024; is now 4.6% (Nov. 2025)).

WHAT ELSE TO DO— (cont.)

- QPRTs: Rising interest rates make QPRTs more appealing.
- Same for Charitable Remainder Trusts
- Life insurance:
 - Add cash or other assets to existing ILITs.
 - Reconsider 2nd to die insurance for decreasing exemption or increasing net worth.
 - Get in-force illustrations on existing policies.

WHAT TO DO? (cont.)

- Gifts that aren't gifts:
 - Annual exclusions, including 529 Plans
 - Tuition and medical expenses
 - Intrafamily loans, though now less appealing with higher interest rates (rates had been “inverted” for a while but no longer are; just higher than a few years ago: 3.69% short term AFR, 3.83% mid-term AFR, 4.62% long-term AFR for November 2025). Still popular to help clients' children buy a home.



Questions?

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Thank you!