

# Advanced Estate Planning

## An Overview of Some Sophisticated Estate Planning Strategies



Good <MORNING, AFTERNOON, EVENING> and welcome. My name is <YOUR NAME>, and I represent <FIRM NAME>.

Virtually everyone needs a basic estate plan. A basic estate plan typically includes one or more health-care directives (e.g., a health-care proxy), a durable power of attorney, a will, and in some cases a living trust. Many people, however, need to go beyond the basics.

This presentation will illustrate some estate planning strategies that may be appropriate for individuals who are concerned about minimizing gift and estate taxes, and individuals who have specific goals such as transferring a business interest, providing for a favorite charity, or protecting assets from future creditors.

Please keep in mind that this presentation is intended only to give a general overview of some sophisticated planning strategies, and that these strategies are subject to various technical considerations. Some of them may or may not be appropriate in your particular situation, so you'll need to consult your estate planning professional to determine whether they are right for you.

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# Who Needs Advanced Estate Planning?

- You have net worth over \$12,920,000 (federal gift and estate tax basic exclusion amount in 2023)
- You want to provide for grandchildren or later generations
- You own a family business/farm
- You want to donate to charity
- You want to shield assets from future creditors, an ex-spouse, or your heirs' creditors/ex-spouses



Let's talk for a moment about who might benefit from the advanced estate planning strategies we're discussing here.

If your estate exceeds the federal gift and estate tax basic exclusion amount, which is \$12,920,000 in 2023, a number of the strategies we discuss here may help you minimize estate taxes so that more of your money will go to your loved ones instead of the federal government. Let's stop here for just a moment to note that this presentation discusses estate tax at the federal level only. The fact is, though, that the individual states impose estate taxes as well, and these state taxes could impact estates of lesser value than the federal basic exclusion amount. Keep this fact in mind as we proceed through our slides.

<CLICK> If you want to leave a legacy to grandchildren or later generations, there are specific legal and tax issues that you'll need to consider (for example, the generation-skipping transfer tax). <CLICK> Similarly, if you own a family business or farm, you probably have unique planning concerns that may include transferring your business to your heirs in a way that doesn't disrupt operations, while taking advantage of special tax breaks. Some of the strategies we'll discuss may help you with these objectives.

<CLICK> And if you're charitably inclined, some of the strategies we'll discuss will help you arrange charitable gifts in a manner that best suits your financial situation.

<CLICK> Finally, you may be interested in some strategies that can help you protect your assets from future creditors, an ex-spouse, or your heirs' future creditors and ex-spouses.

## A Balancing Act

Advanced estate planning strategies generally come with tradeoffs:

- Implementation costs
- Relinquishment of financial benefits
- Loss of control



Before we begin to look at specific strategies, let's briefly mention some of the general tradeoffs that come with using them.

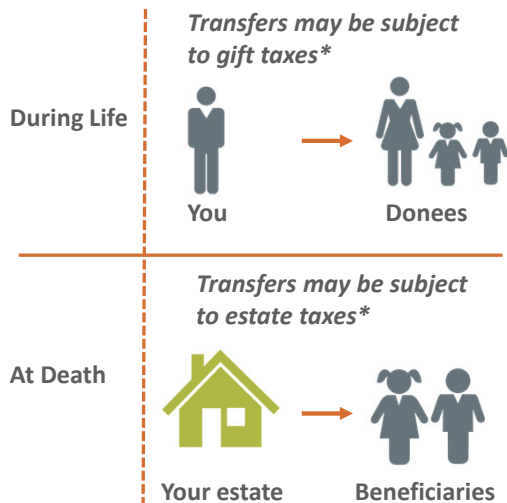
<CLICK> First of all, implementing any estate planning strategy usually comes with a cost. For instance, you may need to hire an attorney to draw up legal documents, or you may need to hire an appraiser to determine the current fair market value of property.

<CLICK> Second, most estate tax planning strategies require you to give up some or all of the financial benefits from your property. For example, putting life insurance in an irrevocable trust to avoid estate taxes on the proceeds also precludes you from drawing on the policy's cash value.

<CLICK> And finally, most of the strategies we'll look at require you to give up some degree of control over your property. For example, deeding your home to your children today will help avoid estate taxes on the home's future appreciation, but, as the new owners, your children would have the legal right to evict you.

The bottom line is that you must balance your objectives against the cost, making sure that the potential benefits of a strategy outweigh the costs.

# The Federal Transfer Tax System



- Gift tax — lifetime gifts
- Estate tax — property transferred at death
- Generation-skipping transfer (GST) tax — transfers to individuals more than one generation below you

*\*GST tax may also apply.*

Before we look at some strategies to minimize transfer taxes, let's take a moment to review how the federal transfer tax system works.

A transfer tax is imposed when property is transferred from one person to another either during life or at death. The three types of transfer taxes to which you or your estate may be subject are gift tax, estate tax, and generation-skipping transfer tax.

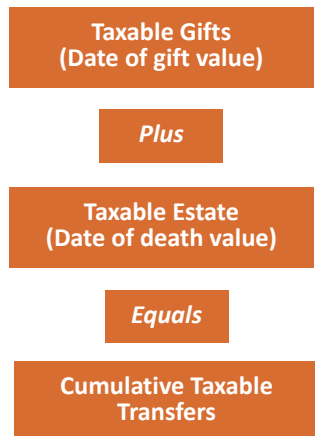
Remember, we're discussing taxes at the federal level only, but be aware that the individual states may also impose their own transfer taxes.

<CLICK> If you transfer property to another person during life, that transfer may be subject to gift tax. The reason there's a gift tax is to prevent individuals from avoiding estate tax by giving all their property away before they die.

<CLICK> When property is transferred at death, it may be subject to estate tax.

<CLICK> In addition to gift or estate tax, a transfer of property to someone who is more than one generation below you (a grandchild or great-grandchild for instance) may also be subject to generation-skipping transfer tax. The reason that there's a generation-skipping transfer tax is to prevent individuals from avoiding gift tax or estate tax on the intermediate, or "skipped," generation.

## The Federal Transfer Tax System — The Unified System



- Gift and estate taxes are unified
- Gifts made during life are added to transfers made at death on estate tax return
- Generally, gifts are valued as of date gifts were made; transfers made at death are valued at date of death
- Any estate tax owed is reduced by gift tax paid
- Generation-skipping transfer tax is separate

Now let's look at how these three transfer taxes work together. Under the current federal transfer tax system, gift and estate taxes are unified, meaning [all](#) transfers — those made during life and those made at death — are combined and taxed on your estate tax return.

[Generally](#), gifts are valued as of the date the gifts were made, while transfers at death are valued as of the date of death. Then, the total is taxed at the appropriate rate.

[Any gift tax](#) that has already been paid is subtracted from any estate tax that is owed.

[Only gift and estate taxes](#) are unified — the generation-skipping transfer tax is a separate tax imposed on both gifts and estate transfers.

## The Federal Transfer Tax System — Top Tax Rates

	2021	2022	2023
Gift Tax and Estate Tax	40%	40%	40%
GST Tax	40%	40%	40%

Let's talk now about the federal transfer tax top rates. This is important because your transfers could be subject to these tax rates.

Here, you can see how the gift tax, estate tax, and GST tax rates have stayed steady during recent years.

Legislation set the top tax rate at 40% for 2013 and later years.

## The Federal Transfer Tax System — Basic Exclusion Amounts

	2021	2022	2023
Gift Tax and Estate Tax	\$11,700,000	\$12,060,000	\$12,920,000

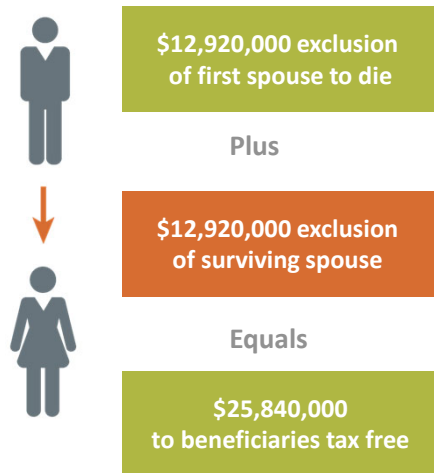
Using your exclusion for gift tax purposes reduces your available estate tax exclusion.

Now, let's understand the gift and estate tax basic exclusion amount. These amounts are now adjusted annually for inflation.

The Tax Cuts and Jobs Act, signed into law in December 2017, doubled the gift and estate tax exclusion amount to \$11,180,000 in 2018. The amount is \$12,920,000 for 2023. After 2025, it is scheduled to revert to its pre-2018 levels and cut by about one-half.

Using your exclusion for gift tax purposes reduces the amount available for estate tax.

## The Federal Transfer Tax System — Estate Tax Exclusion Portability



- Prior to 2011, estate tax exclusion was “use it or lose it”
- In 2011 and later, exclusion is portable between spouses
- Surviving spouse can use any exclusion left unused by decedent spouse
- May effectively double exclusion of surviving spouse
- May help make reducing gift and estate taxes easier for spouses

Prior to 2011, if a decedent’s estate did not use all of the exclusion it was entitled to, the remaining balance was lost forever.

<CLICK>In 2011 and later years, the first deceased spouse's unused portion of the federal exclusion amount is available for use by the surviving spouse's estate on top of the surviving spouse's own federal exclusion amount, subject to certain limits.

<CLICK>Portability may effectively double the exclusion of the surviving spouse.

<CLICK>Portability may help make reducing gift and estate taxes easier for spouses (but, as we will see next, portability is not available for the GST exemption).