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6 estate planning tips for 2024

Key highlights:

Several provisions of the Tax Cuts and Jobs Act are scheduled to sunset at the end of 2025.

Estate planning is a dynamic process with many issues to consider.

To help you stay nimble amid the possibility of change, there are 6 key areas to examine.

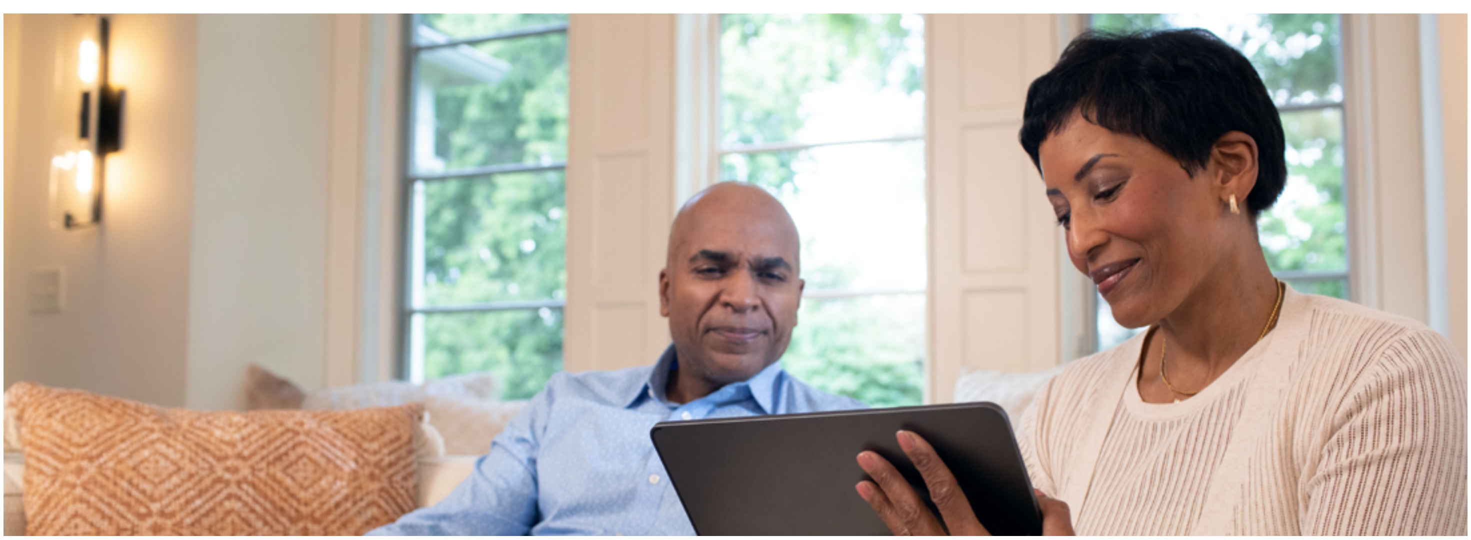
If you have created an estate plan in years past, it may be time to revisit it. And if you have no plan yet, 2024 may be a good time to implement one.

In recent years, Congress has considered decreasing the estate tax exemption, doing away with stepped-up basis on certain assets passed at death, taxing certain unrealized capital gains, curtailing valuation discounts and including grantor trust assets in the taxable estate. While we don't know whether changes such as these will be proposed in the near future, estate planning should be flexible and ultimately accomplish your goals, regardless of the tax law.

1. Determine your net worth

Even if you thought you would not be subject to estate or gift tax once the Tax Cuts and Jobs Act of 2017 (TCJA) was enacted, you may want to re-examine the value of your assets to determine whether they exceed a lower exemption amount. In 2026, the TCJA's larger exemption will be reduced from $13,610,000 in 2024 to an amount estimated to be between $6 and $7 million per person ($5 million per person in 2011, adjusted for inflation). With potential stock market gains and property value appreciation, you could have a taxable estate in the next few years. When figuring your total estate value, don't forget to include the death benefit on life insurance policies you own or that your employer provides, as well as any other employer-provided death benefits.

Many states have much lower estate tax exemptions than the federal exemption, so if you live in a state with an estate or inheritance tax, it could be worthwhile to plan for it.



2. Ramp up gifting

Ultra-high net worth families who can afford to make large gifts may consider using their entire exemption for gifts in 2024. While gifts up to the $13,610,000 limit should not be brought back into an estate if the exemption is reduced in the future, any exemption amount between today's exemption and a future, lower exemption could be lost if it's not used. Depending on the situation, outright gifts may be beneficial, or more advanced techniques could be appropriate.

Many common trusts, including irrevocable life insurance trusts (ILITs) and grantor retained annuity trusts (GRATs), may be grantor trusts. Grantor trusts are designed to be included in your income for income tax purposes, but remain outside of your taxable estate. Because interest rates have significantly increased, charitable remainder trusts (CRTs), which provide for an income stream and charitable deduction, are more attractive than they have been in prior years. In a higher interest rate environment, you may also consider a qualified personal residence trust (QPRT), which allows you to give away a future interest in your principal or vacation home at a reduced gift tax value. GRATs, installment sales to grantor trusts and charitable lead trusts are less beneficial in high interest rate environments.

It may make sense for you to talk to an estate planning attorney to determine whether any of these sophisticated estate planning techniques should be part of your overall plan.

3. Prefund trusts

Using an irrevocable life insurance trust to provide an income tax-free death benefit outside of the taxable estate is a common estate planning technique. To take advantage of the increased exemption amount, making large gifts today could make sense. Even if premiums are due over several years in the future, you could make a large gift to an ILIT today to provide a reserve account that the trustee may use to pay upcoming premiums without additional gifts.

It could also be advantageous to make current gifts to other types of trusts that are part of your overall legacy plan. Now may be a good time to give assets that have declined in value to family members or a trust. A lower valuation will decrease the gift tax value, and all of the future growth will be outside of your taxable estate. You could also consider an intra-family sale to take advantage of reduced valuations and potentially move more appreciation outside of your estate.

4. Manage trust income

If you are a trustee or beneficiary of a current trust, such as a credit shelter trust of a deceased loved one, keep income taxes in mind. In 2024, trust income of $15,201 or more is taxed at the highest tax rate of 37%. Nongrantor trusts get a tax deduction for income distributed to beneficiaries, so income can be managed by optimizing the amount of income that is retained in the trust and that which is distributed to beneficiaries.

5. Review beneficiary designations

Regardless of whether you need to worry about estate taxes or gifting to trusts, you'll want to make sure your wealth will pass to your loved ones as intended. Life insurance proceeds and retirement plan funds often account for a high percentage of net worth, and they don't pass under a will, so make sure your beneficiary designations are current on those accounts.

If you haven't prepared a will or living trust, consider contacting an estate planning attorney and start the process.

6. Keep the plan flexible

There are many ways to keep planning flexible as laws change. Estate planning attorneys can draft documents to stay flexible through the years by including spousal access, trust protectors, special powers of appointment, grantor trust toggles, merger provisions and other appropriate flexibility-enhancing items. In some cases, flexibility can be increased by decanting an older trust into a new trust with these features.

Remember the sunset

Several provisions of the Tax Cuts and Jobs Act are scheduled to revert to prior law at the end of 2025. When it comes to estate planning, it's important to keep in mind the scheduled end of these 3 TCJA provisions:

- Increased allowance for charitable contributions of cash
- Increased estate and gift tax exemption
- The top federal estate and gift tax rate will increase from 40% to 45%

For tax tips and strategies affecting individuals, check out "2024 tax tips to consider."

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