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# Hughes Hubbard & Reed

## Trump Law's Estate Tax Exemption Is a Boon for Wealth Planning

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This article was originally published by [Bloomberg Law](#).

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**Aug. 6, 2025** – President Donald Trump's massive tax-and-spending package requires attention from both individuals and estate planners to advance their estate and income tax planning objectives.

Sophisticated planning is necessary. By taking advantage of the increased federal estate tax exemption amount, charitable deduction provisions, and income tax planning opportunities, individuals will be able to help their families for generations to come.

The new tax law increases exemptions for the estate, gift, and generation-skipping transfer tax. Individuals should use these proactively either during their lifetime or effectively plan for them to be used upon death in a properly drafted Will or revocable trust.

Starting Jan. 1, 2026, the basic exemption amount increases to \$15 million per person. Any remaining unused exclusion amount upon a married person's death is portable and transferred to the surviving spouse, effectively sheltering \$30 million from federal estate and gift tax for a married couple.

Advanced planning strategies, including creating irrevocable trusts, can allow individuals to remove appreciated assets from their estate strategically and transfer them, together with future appreciation, to the next generation with little to no gift tax because of the high exclusion amounts.

For families with difficult-to-value assets, formula gifts to irrevocable trusts can greatly affect their taxable estates. A formula gift is a transfer of property where the gift's value is determined by a formula rather than a fixed dollar amount or percentage.

With the higher exemption amounts, a formula gift can provide a safeguard in the event of an IRS audit and can limit gift tax exposure—especially when gifting assets that are hard to value, such as closely held business interests or real estate. If the IRS audits and increases the valuation of a gifted asset, a formula gift ensures that only the amount exempt from gift tax is actually treated as a gift.

## **Estates and Charity**

Families should review their current estate plans to identify existing and potential strategies based on the new exemption amounts. Estate planners should review existing gifting trusts, known as spousal lifetime access trusts, to determine whether additional gifts can be made to the spousal trusts to use the increased exemption amount.

People who live in states imposing separate estate or inheritance taxes should review the language in their wills (or revocable trusts) used to create a credit shelter or by-pass trust. A credit shelter trust is an estate planning tool used to minimize estate taxes and preserve wealth for beneficiaries.

Often, upon the first spouse's death, an amount up to the federal estate tax exemption amount is placed in trust, by-passing estate tax upon the surviving spouse's death. As the federal exemption keeps changing, many states (including New York) have estate tax exemption amounts that are far lower than the federal exemption.

Planners should verify that their credit shelter language is equal to the largest amount that can pass without requiring the payment of federal or state estate or inheritance tax (after considering applicable inflation adjustments). If your credit shelter trust is drafted based on the federal exemption, your estate may be exposed to state estate taxes.

With the increased exemption, children and grandchildren can inherit more wealth without incurring estate or generation-skipping transfer tax. This is a great time to establish lifetime trusts for children and grandchildren, which can shield assets from inclusion in their parents' and grandparents' gross taxable estates and can provide financial security without being available for repayment of debt or in divorce proceedings.

The new tax law also has greatly changed the landscape of charitable deductions for individuals and corporations. For example, there's now a 0.5% haircut on charitable contributions based on the taxpayer's adjusted gross income.

Taxpayers in the top income bracket are limited to a charitable deduction that produces tax savings based on an assumed 35% income tax rate, rather than the taxpayer's actual marginal rate of 37%. High-net-worth individuals should review their charitable objectives and possibly accelerate gifts prior to Dec. 31, 2025, to receive the full 37% charitable deduction this year.

## **Non-Grantor Trusts**

Irrevocable non-grantor trusts can take state and local tax deductions as well as qualified business income deductions—both of which have been made permanent. This allows individuals to shift income to such trusts to maximize the benefit of these available deductions.

For trusts that earn more than \$500,000 of income, the increase in the SALT deduction begins to phase down to \$10,000. The SALT deduction, now \$40,000, will increase 1% annually until 2030, when it will revert to \$10,000. The temporary increase benefits trusts that pay tax based on compressed tax brackets.

For income tax purposes, rather than establishing one irrevocable non-grantor trust for five beneficiaries, it may be beneficial to create a separate one for each beneficiary, giving each trust its own set of deductions against taxable income.

Individuals also should review existing irrevocable trusts to see if they can modify the trust or consider establishing new irrevocable non-grantor trusts so that the trust can make use of these available deductions at the trust level. In an irrevocable non-grantor trust or complex trust, the trust itself is an independent taxpayer and pays its own income tax liabilities.

It's also important for individuals who may have established intentionally defective grantor trusts (where the grantor pays the income tax liabilities of the trust) to review such trusts to see whether any of the grantor trust administrative

provisions can be eliminated. Doing so converts the intentionally defective grantor trust into an irrevocable non-grantor trust that can use the available deductions at the trust level.

The new federal tax law has many provisions that directly affect estate, gift and income tax planning, and individuals should evaluate their objectives in light of these changes. Through proper planning, opportunities exist to preserve more wealth than ever before.

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