VIRTUS CAPITAL

BUSINESS OWNER

ESTATE TAX

ARE YOU PREPARED FOR THE CHANGES AHEAD?

Expect The Unexpected

In an ever-changing tax landscape, preparing in advance and modeling your plan is essential to achieving your desired outcomes and avoiding costly missteps. With the uncertainty around how and when Congress might change tax laws, thoughtful planning is crucial to staying ahead of upcoming policy changes that may have a significant impact on your family's long-term financial security and lifestyle.

Challenges in Staying Ahead

- Rushed planning
- Inflexible strategy
- Changes in federal and state tax code
- Market Volatility
- Lifestyle changes
- Lack of coordination among advisors

Upcoming Changes

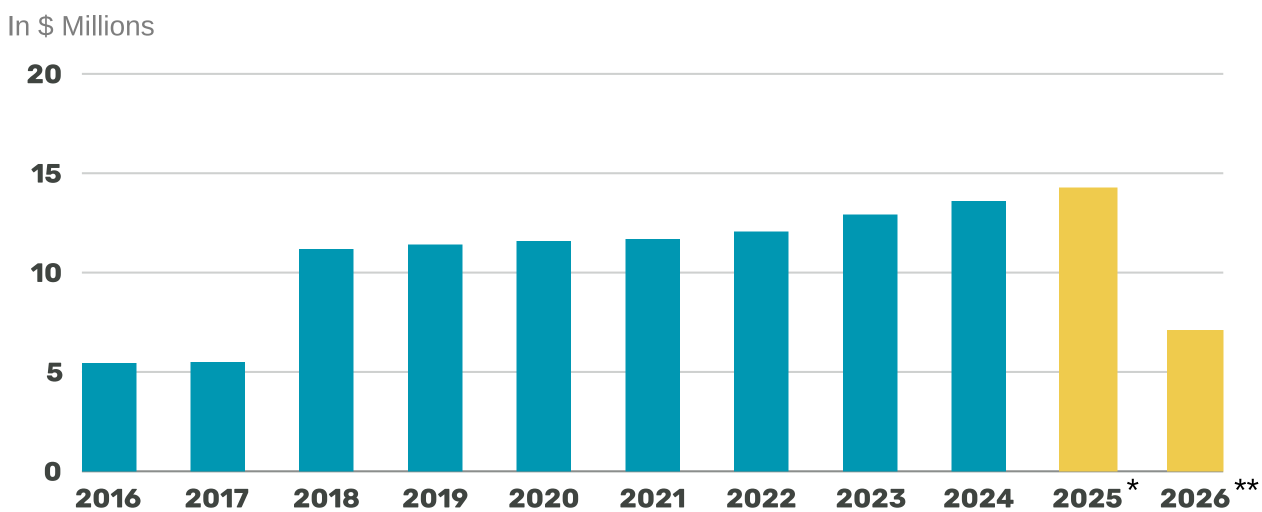
Key Considerations

The sunsetting provision in the estate, gift, and GST tax exemptions is a critical factor. These exemptions, currently at an all-time high, are scheduled to revert to pre-2017 levels at the end of 2025 unless Congress acts.

Historical Context

There have been instances in the past where Congress allowed significant changes to estate, gift, and GST tax laws, causing uncertainty and rushed decisions among taxpayers. For example, in 2010, the failure to act allowed a one-year sunset of these taxes, and in 2012, the exemption was nearly reduced dramatically before Congress intervened.

SUNSETTING ESTATE, GIFT AND GST TAX EXEMPTIONS



* Estimated based on projected inflation adjustments.
** Estimated, scheduled to revert to $7,000,000 indexed for inflation from the year 2011.
Estate, gift and GST tax exemptions have fluctuated significantly in recent years. These exemptions are subject to change by Congress, and inflation adjustments for 2025 and 2026 are estimates.

We recognize that the sunset might not occur if Congress decides to amend the law—in the past, they have intervened at the last minute to prevent such expirations, even doing so retroactively. However, there is always the possibility that this time could be different.

Rushed Planning Can Be Costly

Insufficient Liquidity: Jane, a business owner, hurried to gift a significant portion of her liquid assets to an irrevocable trust for her children before a tax law change. She opted not to include her harder-to-value business assets, which would have required an appraisal. This decision left her with insufficient liquidity to support her lifestyle. In hindsight, she regretted not acting sooner, completing the appraisal, and retaining the power to substitute business stock for the liquid assets.

Overfunded Trusts: John and Emily, married entrepreneurs, used an estate freeze technique to transfer potential future growth in Emily's company stock to trusts for their minor children. The company's value subsequently skyrocketed, resulting in the trusts holding far more wealth than the couple retained for themselves. They later regretted not modeling alternative strategies, such as capping the beneficiaries' interests or using a spousal lifetime access trust with John as the beneficiary, which would have allowed them to retain access to the funds.

Complicated Access to Funds: Robert, a retiree, transferred his retirement funds to a self-settled asset protection trust in 2012. His advisors assured him he would retain access to the funds. However, he did not anticipate needing approval from a committee, which included his adult children, to access the funds. The committee was hesitant to approve distributions, fearing it would undermine the asset protection planning. In retrospect, Robert wished he had structured the gift differently, such as gifting his children interests in the family vacation home, which would not have impacted his retirement resources.

By The Numbers

Capital Gains

0 - 20%

Federal capital gains tax on the sale of appreciated business assets or investments can be substantially lower than estate gift tax rates.

Estate Gift Tax

18 - 40%

The current lifetime gift tax exemption is set to be reduced dramatically unless Congress acts. Assets gifted in excess of the exemption would likely be subject to typically higher estate tax rates.

Lifestyle

SLAT

With current estate exemptions, spouses can access gifted funds for their lifetime under a Spousal Lifetime Access Trust (SLAT). Allowing gifted assets to grow while preserving current income.

Legacy

IDGT

An Intentionally Defective Grantor Trust (IDGT) allows the income from gifted or sold assets to be taxed to the grantor, while the trust itself is treated as a separate entity for estate tax purposes. This enables the trust's assets to grow without the burden of paying income taxes.

QSBS

100%

The exclusion can provide a break on capital gains tax up to 100% of capital gains for shareholders of qualified small businesses.

Basis Step-up

Tax-free

When the price of an inherited asset on the date of the decedent's death is above its original purchase price. The tax code allows for a "step-up" in cost basis to the higher price, affording the beneficiary a significant tax benefit upon transfer of the asset.

Of Note

While the scheduled sunset of the current estate tax exemption may not occur as planned, since Congress has previously intervened to prevent such expirations, it is still wise to prepare for potential changes. Lifetime gifts continue to be an effective tax planning strategy, as asset appreciation occurs outside the taxpayer's estate, and capital gains tax rates are generally lower than estate tax rates. Therefore, considering lifetime gifts remains beneficial beyond the expiring exemption.

We recommend consulting with an experienced advisory team to model the impact of such gifts on your ability to meet your financial goals and lifestyle needs, as well as on any projected estate, gift, and income tax liabilities. Early planning can help optimize your tax strategy and ensure you are well-prepared for any future legislative or policy changes.

Suggested Actions

- **Start Early:** Begin planning for wealth transfers well before the expected reduction in exemptions in 2026. This allows for thorough analysis and avoids last-minute rushed decisions.

- **Stress Test Your Plan:** Model your plan to understand its impact under various financial scenarios. Ensure you won't be left with insufficient assets or that beneficiaries won't receive more than intended.

- **Consider the Bigger Picture**: Evaluate proposed transfers against all financial goals, not just tax implications. Ensure the design of the gift meets your objectives.

- **Add Flexibility**: Incorporate flexible provisions into trusts and transfer vehicles, allowing for adjustments as circumstances change.

How Virtus Capital Can Help

Virtus Capital offers business owners proprietary tools to model estate taxes and potential savings from various strategies. We work with you and your advisory team to stress test plans and determine the optimal amount to gift based on goals, coordinating the process with tax and legal professionals, as well as family members and charitable organizations.

Contact

Jon Greenwich, MS, CPFA

Managing Executive

Washington, DC Office
4250 N Fairfax Dr.
Suite 600
Arlington, VA 22203
O: (571) 527-4955
M: (703) 635-4172