

*If you are in possession of assets that exceed \$5.43 million, you must take steps to gain estate tax efficiency. There are strategies that can be implemented to ease your tax burden.*

# HOW MUCH CAN PASS FREE OF FEDERAL ESTATE TAX?



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When you are planning your estate, one of the most important things to consider is potential estate tax exposure.

In the United States we have a federal estate tax, and it can significantly erode



the wealth that you are passing along to your loved ones. Everyone does not pay the tax, because there is a credit or exclusion. At the time of this writing in 2015 the exact amount of the federal estate tax exclusion is \$5.43 million.

Each year there can be adjustments to the estate tax exclusion to account for inflation. The \$5.43 million is a result of ongoing annual inflation adjustments after a \$5 million base was put in place for the 2011 calendar year. In 2015, the amount of the exclusion may be somewhat higher than it is today.

The maximum rate of the tax is 40 percent.

### ***FEDERAL GIFT TAX***

In addition to the federal estate tax, there is also a federal gift tax. The gift tax was put into place to prevent people from giving lifetime gifts to avoid the estate tax.

This was actually possible when the estate tax was first enacted in 1916. There was no gift tax at first, and many wealthy people simply gave gifts to their heirs to get around the estate tax.

Legislators who advocated the tax decided to close the loophole, and a gift tax was put in place in 1924. It met with resistance from some quarters, and it was repealed in 1926, but the tax was reenacted in 1932.

The gift tax has been in place ever since, and it was unified with the estate tax in 1976. Because the two taxes are unified, the \$5.43 million exclusion applies to the value of your estate along with the taxable gifts that you give during your life.

To provide clarity, if you were to give \$5.43 million in tax-free gifts during your life, you would use up all of your unified lifetime exclusion. As a result, the entirety of your estate would be subject to the estate tax.

### ***ANNUAL GIFT TAX EXCLUSION***

In addition to the \$5.43 million unified lifetime gift and estate tax exclusion, there is also an annual gift tax exclusion. The amount of this exclusion stands at \$14,000 per person in 2015.

Utilizing this exclusion, you can give as much as \$14,000 to any number of gift recipients within a calendar year free of the gift tax. There is no limit to the total amount that you can give tax-free utilizing this exclusion, but you can't give more than \$14,000 to any one person.

To be clear, the annual gift tax exclusion exists apart from the unified lifetime gift and estate tax exclusion. It would be possible to use the annual gift tax exclusion to give \$14,000 to someone tax-free within a calendar year. You could then use a portion of your unified lifetime exclusion to give further tax-free gifts

to the same individual.

## ***UNLIMITED MARITAL GIFT AND ESTATE TAX DEDUCTION***

There is an unlimited marital gift and estate tax deduction. If you are legally married, you can transfer unlimited assets to your spouse free of the gift tax



and the estate tax. You would not be using any type of exclusion to give tax-free bequests or gifts to your spouse, as long as your spouse is a citizen of the United States.

The unlimited marital deduction is not available to surviving spouses that are not citizens of the United States.

To explain the rationale behind this, imagine the scenario that would exist if you were to leave a large estate to your spouse tax-free. He or she would then be in possession of an estate that would be exposed to the estate tax. The IRS would still be in a position to collect a death tax after the passing of your surviving spouse.

On the other hand, if the estate tax marital deduction was available to non-citizens spouses, the tax man could be left out in the cold. The surviving spouse could return to his or her country of citizenship with the tax-free inheritance in

hand. Under these circumstances, the IRS would have no ability to levy a tax after the surviving spouse passed away in his or her country of citizenship.

### ***BE AWARE OF POTENTIAL CHANGES***

If your assets do not exceed \$5.43 million in value, you may turn the page and assume that you will never have any estate tax exposure. In fact, you should always be aware of potential changes to the estate tax parameters that could be implemented at some point in time.

There have been proposals that would reduce the amount of the estate tax exclusion. The 2015 budget proposal that has been presented by the White House includes a reduction in the estate tax exclusion that would become law in 2018.

You should keep an eye on the current state of affairs and be prepared to make adjustments if you were to face estate tax exposure in the future.

### ***CONCLUSION***

There is a federal estate tax that is unified with the gift tax. The unified lifetime exclusion is \$5.43 million.

If you are in possession of assets that exceed this amount, you must take steps to gain estate tax efficiency. There are strategies that can be implemented to ease your tax burden.

To explore your options, schedule a consultation with a licensed estate planning attorney.

## ***REFERENCES***

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# About the Author

## Raymond J. German



As an attorney in Minnesota and North Dakota, Raymond J. German provides a wide range of estate planning services to his clients, with a primary focus on helping them provide for the security of their loved ones, reduce estate taxes and avoid or at least minimize the costs and delays of probate, all with a well-crafted estate plan. Mr. German defines the mission statement for German Law Group, PC, as "Helping one family at a time pass on values, beliefs and finances, which can be shared for generations to come." Mr. German is well aware of the growing importance of estate planning and dedicates himself to informing the public of the need for careful attention to their specific situations. He is a frequent speaker on a variety of estate planning topics, regularly presenting educational seminars for the public as well as private groups.

Raymond J. German approaches each challenge with not just solid expertise, but also remarkable enthusiasm and vigor. By constantly seeking simpler, better, and more effective ways of doing things, he continues to make a real difference in the lives of families and on the way estate planning is practiced by attorneys around the country.

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