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6 ESTATE PLANNING TRENDS

Key Strategies

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Estate Planning Trends in 2024

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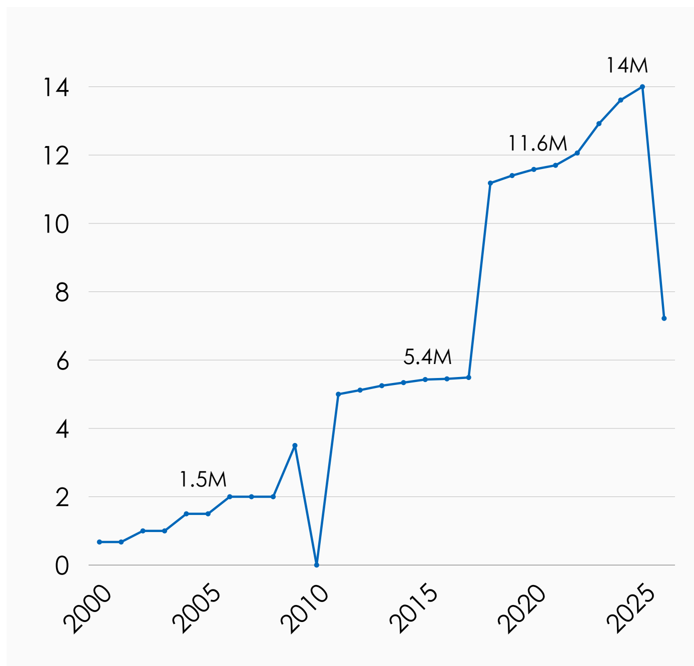
Federal Estate Tax Exemption Over Time ($M)



Source: IRS, data pulled as of May 23, 2024

With potentially significant federal estate tax changes on the horizon, estate planners are bracing for a busy year in 2024 and 2025. Currently, the estate and gift tax exemption stands at $13.61 million per person for 2024 but is scheduled to decrease to approximately $7 million in 2026. In response to these shifting exemptions, the IRS introduced the "anti-clawback" rule, which safeguards individuals from penalties if they use more exemptions during their lifetime than is available at their death. This rule essentially advocates a "use it or lose it" strategy. Given the uncertainties surrounding this election year, it's crucial to carefully reassess your estate plan now. The following are the prevailing trends in estate planning for the year 2024.

Spousal Lifetime Access Trusts (SLATs)

- Spousal Lifetime Access Trusts (SLATs) enable one spouse to make **significant transfers for the other while still granting the beneficiary spouse access to the assets** during their lifetime.
- In irrevocable trust planning, **SLATs offer a more secure option** as they allow the beneficiary spouse continued access to the assets, ensuring ongoing benefits even within the framework of an irrevocable trust.
- **Additional parties may benefit from the SLAT** including the beneficiary spouse, children, and grandchildren.

To take advantage of the current high gifting exemption and remove assets from your estate, it's necessary to make an irrevocable gift over which you relinquish all use and control. This prospect can be daunting. What if you give away too much and compromise you and your spouse's future standard of living? This is where the Spousal Lifetime Access Trust (SLAT) comes in, offering a solution that allows you to "have your cake and eat it too." In the realm of irrevocable estate planning, SLATs are viewed as a safer option because they enable one spouse to make significant transfers for the other while still granting the beneficiary spouse access to the assets during their lifetime. Additionally, the grantor spouse may indirectly benefit from the trust as well. SLATs can be established to benefit not only one's spouse but also children and even grandchildren. As with all irrevocable trust vehicles, it is important to think through and understand how to combat some of the potentially scary “what-if” questions, such as: What if my spouse dies before me? What if my spouse and I divorce? SLATs are gaining in popularity, and their popularity will only soar in advance of potential changes to the estate and gift tax exemption in 2026. However, the IRS is watching, and it is important to ensure that you seek competent counsel to properly draft and structure your SLAT to avoid calamity.

Dynasty Trusts and Forum Shopping

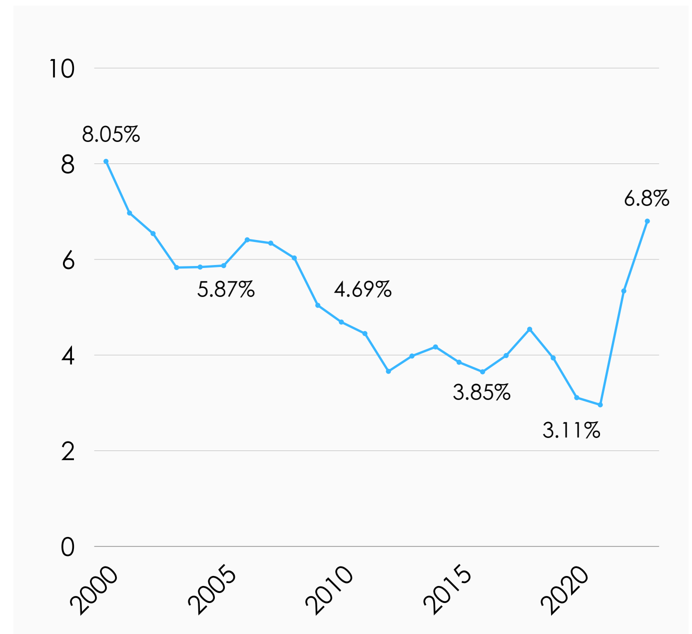
- Dynasty Trusts are designed to **endure for generations.**
- Dynasty Trusts have the potential to **shelter gifted assets from federal and state income and estate tax obligations** indefinitely.
- Laws regarding Dynasty Trusts vary by state, so it's **key to establish the trust in a favorable state to achieve peak tax efficiency**.

Dynasty Trusts, designed to endure for generations, offer excellent means to maximize the utility of one's gift and estate tax exemption before 2026. Strategically crafted dynasty trusts have the potential to shield gifted assets from federal and state estate tax obligations indefinitely. Given the aim of a Dynasty Trust is to endure for the longest possible time, it's crucial to establish the trust in a state favorable to this objective. The traditional rule against perpetuities, originating from English Common Law, formerly governed U.S. property law, placing constraints on the duration of trusts to approximately 90 years. However, starting around 1960, numerous states have amended or repealed this rule to attract more business. As of 2024, 35 states have modified their rule against perpetuities. State selection is pivotal not only for determining the duration of a trust but also for potential benefits such as avoidance of state income and state estate / inheritance taxes. Additionally, various important factors must be considered when thinking of dynasty trusts, including identifying beneficiaries, determining the nature and timing of distributions, and navigating the complexities of planning for decades into the future.

Maximizing Opportunities in a Rising Interest Rate Environment – Estate Planning Strategies

Due to recent interest rate increases implemented by the Fed to tackle inflation, our present interest rate environment is the highest it has been in nearly two decades. In environments characterized by relatively elevated interest rates, specific estate planning strategies tend to yield better results.

The following strategies, we anticipate, will surge in popularity, particularly if interest rates remain steady or continue to rise.



Source: Bankrate, data pulled as of May 23, 2024

Intra-Family Loans

- Intra-Family loans often have **lower interest rates and more flexible terms than bank loans**.
- Intra-Family loans may be utilized to **transfer wealth between family members** and potentially minimize gift or estate tax implications.

Intra-family loans provide a unique alternative to traditional bank loans, offering distinct advantages. Unlike loans from banks, intra-family loans often feature lower interest rates and more flexible terms tailored to the borrower's needs. From a tax perspective, intra-family loans offer opportunities for strategic wealth transfer planning, leveraging annual gift tax exclusions and taxable interest income. Moreover, the trust involved in intra-family transactions can often foster smoother interactions compared to dealing with external lenders, which can positively influence family dynamics. Overall, intra-family loans serve as a versatile and advantageous financial tool, facilitating intergenerational support and financial planning within families.

Installment Sales to Intentionally Defective Grantor Trusts (IDGTs)

- IDGTs allow the **transfer of assets out of the grantor's estate while freezing their value**, allowing for estate tax efficiency.
- As the grantor assumes full responsibility for the trust's income tax obligations, the assets held in the trust **may grow without being depleted by income tax payments**.

Installment sales to Intentionally Defective Grantor Trusts (IDGTs) represent a sophisticated estate planning strategy with several advantages. Typically, these types of trust arrangements involve the grantor selling appreciating assets to the IDGT in exchange for a promissory note, structured as an installment sale. The IDGT is 'defective' for income tax purposes, meaning the grantor continues to be responsible for income taxes on the trust's income, allowing the trust to grow free from income tax erosion. One significant benefit of this strategy is the ability to transfer assets out of the grantor's estate while freezing their value for estate tax purposes. By selling assets to the IDGT, the grantor effectively removes future appreciation from their taxable estate. Moreover, because the transaction is structured as an installment sale, the grantor retains a stream of income from the trust, providing a source of cash flow. Additionally, installment sales to IDGTs offer flexibility in terms of asset selection and timing. The grantor can choose which assets to transfer to the trust and control the terms of the installment sale. This allows for strategic planning to optimize tax efficiency and asset protection. Overall, installment sales to IDGTs provide a powerful tool for high-net-worth individuals seeking to minimize estate taxes, transfer wealth to future generations, and maintain control over their assets during their lifetime.

Charitable Remainder Trusts (CRTs)

- When interest rates are high, CRTs are a strong estate planning tool that offers **philanthropic and financial benefits**.
- Higher interest rates enhance CRT benefits yielding **larger income tax deductions, larger income payments, and higher charitable deductions.**

Charitable Remainder Trusts (CRTs) are estate planning tools that offer both philanthropic benefits and financial advantages, particularly in environments with higher interest rates. In a CRT, assets are irrevocably transferred to the trust, which then pays a lifetime income stream to the beneficiary or beneficiaries. Upon the beneficiary's death or the termination of the trust, the remaining assets are distributed to one or more designated charitable beneficiaries. Higher interest rates enhance the benefits of CRTs in several ways. Firstly, they can lead to larger income tax deductions for the donor when funding the trust, as the deduction is based on the present value of the future remaining trust balance. Secondly, higher interest rates typically result in larger income payments to the beneficiary, increasing the potential for a greater income stream. Lastly, with higher interest rates, the remainder interest passing to charity is also greater, maximizing the philanthropic impact of the trust and resulting in a higher charitable deduction. Therefore, CRTs are particularly advantageous in environments with elevated interest rates, providing a win-win scenario for both donors and charitable causes.

Qualified Personal Residence Trusts (QPRTs)

- QPRTs are designed to **transfer a primary residence or vacation home to heirs** while minimizing gift and estate taxes.
- The taxable value of the gift can be decreased when interest rates are higher, allowing for **tax-saving opportunities despite inflation**.

Qualified Personal Residence Trusts (QPRTs) are estate planning tools designed to transfer a primary residence or vacation home to heirs while minimizing gift and estate taxes. With higher interest rates, QPRTs become even more attractive. In a QPRT, the homeowner transfers ownership of the residence to the trust while retaining the right to live in it for a specified term. At the end of the term, ownership of the property transfers to the beneficiaries, typically children, without being subject to additional gift or estate taxes. Higher interest rates enhance the effectiveness of QPRTs by reducing the present value of the retained interest, thereby lowering the taxable value of the gift to the

beneficiaries. This allows homeowners to transfer property to heirs, outside of their taxable estate, with less gift tax impact. Therefore, in environments with elevated interest rates, QPRTs offer significant tax-saving opportunities for transferring real estate assets to future generations and freezing the grantor's estate.

Securing Your Legacy With Us

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Questions for us? Don't hesitate to reach out!

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