Reducing Your Estate Before Tax Cuts Expire

The Tax Cuts and Jobs Act (TCJA) of 2017 doubled the estate tax exemption limit to $10 million, meaning that estates worth less than this amount will face no federal estate tax. Even better, this figure is indexed to inflation. For 2023, the combined gift and estate tax exemption has risen to $12.92 million per individual, or $25.84 million for a married couple. By 2025, that figure is expected to increase to $14 million for individuals and $18 million for married couples. The bad news, however, is what happens the year after.

The estate tax exemptions of the TCJA will expire on January 1, 2026, cutting the exemption by half to $7 million. Any portion of an estate that exceeds this limit will face federal taxation of up to 40%, not to mention state taxes in certain states. Depending on who controls Congress, the TCJA could be extended, but it is just as possible that the estate tax exemption may be reduced even further. This has created a sense of urgency for families with sizable estates to reduce the size of their estates before 2026. Estate planning is a complicated task, made even more difficult by mercurial tax policies, but here are a few ways that you can reduce the size of your estate before the TCJA expires:

- **Direct Cash Gifts** The annual gift tax exclusion for 2023 is $17,000 (up from $16,000 in 2022), meaning you can give up to $17,000 as a gift without incurring any gift tax liability. Married couples can give up to $34,000. There is no limit on the number of gifts you can give in a single year, so you can distribute gifts to as many friends, relatives, or loved ones as you like. Over the course of your lifetime, you can give away up to $12.92 million (as of 2023) of your wealth as gifts before getting hit with the gift tax.
- **Gift Investments** Gifts are considered anything of value, which can include collectibles, art, or securities. Gifting long-held stocks that have appreciated in value can be complicated. The recipient of the gift will be taxed on your original cost basis and owe capital-gains taxes when they sell. This can be a smart move if the recipient is in a lower tax bracket, but it may make more sense to keep these shares in your estate until your death, as your heirs will receive a stepped-up basis to their value at that time instead of your original cost basis.
- **Fund a 529 Plan or Custodial Account** If there are young people in your life, finding an education account can be a great way to reduce the value of your estate. Lifetime contribution limits to 529 accounts are set by the states, but you can contribute up to $17,000 annually without triggering the gift tax. You can also accelerate 5 years' worth of annual gifts into a single year, bringing the total to $85,000 per bene-

ficiary in 2023 without incurring taxes. However, after that, you will not be able to make gifts for the following four years without triggering the gift tax. Also, if the donor happens to pass away during that five-year period, the value of the gift attributable to the years after the donor's death will be brought back into the donor's estate. You may want to consider funding a 529 plan even if you are not sure the intended recipient will pursue higher education. Under the SECURE 2.0 Act, starting in 2024, up to $35,000 in 529 assets can be converted or deposited into a Roth IRA owned by the 529 beneficiary without facing tax penalties. You can also contribute to custodial accounts for beneficiaries under the age of 18, such as a Uniform Gifts to Minors Act (UGMA) account or Uniform Transfers to Minors Act (UTMA) account. These accounts are considered property of the beneficiary once they are established, but the assets are considered part of the donor's estate until the beneficiary turns 18 and takes control of them.

- **Establish a Trust** For individuals with large estates, trusts can be a great way to preserve wealth and avoid estate taxes. There are numerous types of trusts that can be used to reduce the size of your estate. You can establish an irrevocable life insurance trust to ensure that the death benefits paid by your policy will not be considered part of your estate. You can "gift" your home to a qualified personal residence trust, removing the value of your home from your estate. Trusts also offer additional asset protection for your heirs. If you give your assets to an heir directly, they could lose those assets in a divorce or lawsuit, but if the gift is made via a trust, it is much harder for creditors to come after those assets. Trusts can be extremely complicated and nuanced, so it is important to work with tax and legal professionals to ensure that you are choosing the best option.