

Death Tax Repeal Act

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On February 13, 2025, Republican lawmakers in Congress introduced the Death Tax Repeal Act, which aims to permanently eliminate the federal estate tax. Since 2015, various legislative efforts to repeal the estate, gift, and generation-skipping transfer (GST) taxes have been introduced in Congress but have failed to pass.

Current Federal Transfer Tax Framework

The Internal Revenue Code imposes a tax on an individual's right to transfer property during life and at death. The federal gift tax applies to lifetime transfers at a rate of 40%, though individuals benefit from a "unified credit" that allows a certain value of transfers to be made tax-free during life and at death. In 2025, the unified credit stands at \$13,990,000. Any combined transfers exceeding this amount are subject to the 40% tax rate.

Additionally, the GST tax applies to transfers made to individuals who are two or more generations below the transferor or to certain trusts benefiting such individuals. The GST tax is also levied at 40%, with an exemption matching the unified credit amount of \$13,990,000.

Impact of the 2017 Tax Cuts and Jobs Act (TCJA)

Under the 2017 Tax Cuts and Jobs Act (TCJA), enacted during the first Trump administration, the unified credit and GST exemption were temporarily doubled. However, since the TCJA was passed as a reconciliation measure, it is set to expire on December 31, 2025. Unless Congress takes further action, the unified credit and GST exemption will revert to their 2016 levels, adjusted for inflation, or approximately \$7,000,000 each.

Key Provisions of the Death Tax Repeal Act

The Death Tax Repeal Act seeks to go beyond simply extending the TCJA provisions beyond December 31, 2025. If enacted, it would:

- Permanently repeal the federal estate and GST taxes, allowing individuals to transfer unlimited amounts of property at death free of transfer tax.
- Establish a permanent \$10,000,000 lifetime exemption against the gift tax (indexed for inflation to \$13,990,000 in 2025). Transfers exceeding this exemption would be subject to a 35% tax rate.
- Retain the current "step-up" in basis for capital assets at death, minimizing capital gains taxes for beneficiaries upon the sale of inherited assets.

Implications for Estate Planning

The passage of the Death Tax Repeal Act would significantly impact estate and wealth transfer planning. Estate planning documents that currently reference the federal unified credit or GST exemption amount would need to be reviewed to ensure they align with the proposed law and the client's intentions.

Additionally, several states impose a separate estate or inheritance tax — Connecticut, District of Columbia, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska (County inheritance tax only), New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Washington and Wisconsin — or have decoupled from federal estate tax provisions. If the Death Tax Repeal Act becomes law, many of these states will continue to impose their own estate and/or inheritance taxes. Clients residing in or owning property within these states may require substantial revisions to their estate planning documents to optimize state transfer tax savings.

Next Steps

Our team of estate and trust attorneys is closely monitoring the progression of the Death Tax Repeal Act in Congress. We are available to answer any questions and review your estate planning documents to ensure they accurately reflect your wishes under the proposed law.