

Historic Increase to Your Lifetime Exclusion from Federal Estate Taxes for 2023

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Ironically, there is good news for some families due to rising inflation for gift and estate planning purposes. As a result of inflation adjustments built into federal estate tax laws, your lifetime exclusion from federal estate taxes is set to rise from \$12.06 million per person in 2022 to almost \$13 million in 2023. This is a total exclusion amount of almost \$26 million per married couple [The inheritance tax rules, if any, for the state where you reside vary from state to state and are not discussed in this article].

Specifically, according to recent reports, in 2023 the estimated inflation adjustment will be \$860,000, resulting in an aggregate exclusion amount of almost \$13 million per person (\$12,060,000 plus \$860,000 = \$12,920,000). This is a remarkable increase when compared to the 2022 inflation adjustment increase of \$360,000, at that time the largest on record. By comparison, the inflation adjustment for 2016 was a mere \$20,000.

Additionally, the annual gift tax exclusion is set to rise from \$16,000 per donee in 2022 to \$17,000 per donee in 2023. This means you can gift up to \$17,000 to an unlimited number of individual recipients without incurring gift tax consequences or reducing your estate tax lifetime exclusion.

High-net-worth individuals will benefit from the inflation adjustments because they can move significant assets out of their taxable estates before the scheduled reduction of the exclusion amount on January 1, 2026, when the exclusion amount will drop by a staggering 50%. For example, in 2026, a married couple will go from being able to gift nearly \$26 million free of federal estate tax to only being able to gift \$12 million (adjusted for inflation) free of federal estate tax. Acting now to take advantage of the historically high exemption could save your family millions in federal estate taxes. Note: If you die before 2026, under the portability rules, your surviving spouse can carry over your unused exclusion to the surviving spouse's federal estate tax return; otherwise, your exclusion is permanently lost.

An individual who wants to take advantage of the current tax laws before they expire may loan their stock portfolio to an intentionally defective grantor trust for the benefit of the individual's spouse or children in exchange for a promissory note that can be forgiven in 2025 — the eve of the tax law changes — using the exclusion amount before it disappears. Couples will typically consider a trust for a spouse to preserve access to the trust portfolio during the spouse's lifetime as the trust beneficiary.

In conclusion, if you expect that your taxable federal estate will be more than \$6 million (adjusted for inflation) for a single individual or \$12 million (adjusted for inflation) for a married couple, you should consider the federal estate tax benefits to your heirs by engaging in estate and gift tax planning.

Please get in touch with **Danielle Friedman** or **Herb Fineburg** with any questions or additional estate planning techniques to reduce your taxable estate and preserve your lifetime exclusion.