

Abstract: Wealthier individuals should bear in mind that the Tax Cuts and Jobs Act temporarily doubled the federal gift and estate tax exemption through 2025. This brief article provides specifics on the dollar amounts involved and explains why there's no reason to fear a "clawback."

Twice as nice: The temporary gift tax break

The Tax Cuts and Jobs Act temporarily doubled the federal gift and estate tax exemption through 2025. Adjusted for inflation, the exemption currently allows an individual to transfer up to \$11.7 million free of federal gift or estate tax in 2021 (up from \$11.58 million in 2020). Married couples can shield up to \$23.4 million from those taxes in 2021.

These sizable exemption amounts create an attractive opportunity to minimize taxes on your wealth by gifting business interests or other assets to family members before they drop to their previous levels of \$5 million and \$10 million, respectively (adjusted for inflation) on January 1, 2026.

Some affluent families have been reluctant to take advantage of this opportunity for fear of a "clawback." In other words, they are worried that a portion of their pre-2026 gifts may be clawed back and subject to estate taxes if the exemption amount is lower when they die.

Although Congress didn't appear to intend such a result, a literal reading of the tax code suggested that previous gifts could be added back into one's estate and subject to tax based on the exemption amount in effect in the year of death. Fortunately, IRS regulations finalized in November 2019 provide assurances that this won't happen.

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