

# Estate Planning and Related Life Insurance Strategies for 2025+

## Part One

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# Key Points

Potential changes to estate and gift tax laws may require high-net-worth (HNW) individuals to reassess their estate planning in 2025 and beyond. While the current laws are likely to get extended, a conversation in Congress around full estate tax repeal is active. However, history suggests that tax laws are fluid, making proactive planning essential.



## Current Legislative Landscape

- President Trump's proposed tax policy aims to extend the Tax Cuts and Jobs Act (TCJA), eliminate taxes on tips, overtime pay and Social Security benefits, and lift the SALT deduction cap, the totality of which comes with a big deficit price tag which Republicans are currently debating how to address.
- The estate and gift tax exemption, currently \$13.99 million per donor, may be extended, but a sunset could reduce it by half in 2026.
- Political uncertainty remains high, as any legislation passed in 2025 may be overturned by future administrations.

## Key Questions Many HNW Individuals May Be Asking

- Do I proceed with planning and, if so, how do I ensure I don't give away too much?
- Will I be able to unwind the strategy if needed?
- Do I pump the breaks and wait and see what final legislation looks like?
- If exemptions are extended or the estate tax is repealed, do I need to do any estate planning at all?

## Strategic Considerations

Given the uncertainty, estate planning for many should focus on flexibility, accessibility, and income tax efficiency.

## Possible Approaches for HNW Individuals

- Net Worth Over \$50 Million: Should continue estate planning as usual, leveraging commonly used sophisticated estate planning strategies which should remain viable.
- Net Worth Between \$15-\$50 Million: Should focus on flexible estate planning options that allow for adjustments and income tax efficiency if tax laws change.

## Permanent Life Insurance is a Valuable Financial Security Tool Regardless of Estate Tax Law Changes:

- Tax-efficient growth potential and accessible liquidity both during the insured's life and at his or her death.
- Income tax-exempt death benefit even when owned in trust, thus being the only asset eligible for a basis adjustment effect when not includable in the insured's taxable estate.
- Flexibility in funding and policy design to address cash flow needs and long-term planning goals.

## Get While the Gettin's Good

Waiting may create unnecessary risk or missed opportunity, as historical trends suggest that tax laws are unlikely to remain static. Those affected should consult tax and legal professionals to implement strategies that protect their wealth and align with both current and potential future laws.

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# Current Tax Breaks May Get Extended and New Ones May Be Passed in 2025

- President Trump's [tax policy agenda](#) includes extending the Tax Cuts and Jobs Act (TCJA) of 2017, eliminating tax on tips, overtime pay, and social security benefits, lifting the SALT deduction cap, and providing tax breaks for made-in-American products, while eliminating the carried interest tax benefit for private equity fund managers and ending tax breaks for sports team owners.
- Many predict that extending the TCJA will include [extending the lifetime exemption](#) for estate, gift and generation-skipping transfer (GST) taxes, currently \$13,990,000 per donor.
- Republicans are considering a full [repeal of the estate tax](#) according to a recent [House Ways and Means memo](#), which reportedly is [supported by 214 House and Senate members](#), but the complexity of such a change and timeframe in which they want to pass a large bill may prove difficult to get 218 and 51 votes, respectively.

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# Are People Now Unbound from the Need for Estate Planning?



- Some people may be **tempted to stop or delay** implementing their estate plans in anticipation of a higher-for-longer exemption or the possibility of full estate tax repeal.
- Such actions may be **short-sighted and imprudent** when viewed through a historical and political lens and for those looking to maximize current wealth transfer opportunities...

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# When and To What Extent the Laws May Change Remains Uncertain

- Trump's tax agenda **could add \$5 trillion** or more to the Federal deficit by some estimates and will require using the budget reconciliation process for passage by simple partisan majority.
- House Republicans released a budget resolution on 2/12/2025, allowing a deficit **impact of up to \$4.5 trillion** from tax cuts over fiscal years 2025-2034, and calls for \$2 trillion in spending cuts.
- To date, **Republicans have a lot of work ahead** to get “one big beautiful bill” through both chambers of Congress and to President Trump for signature.
- **Slim majorities** require near unanimous Republican support which leaves little room for error to pass a bill for which many back-and-forth negotiations and moving parts will be required.

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# Questions Many May Be Asking Given the Current Uncertainty

- Do I proceed with planning and, if so, how do I ensure I don't give away too much?
- Will I be able to unwind the strategy if needed?
- Do I pump the breaks and wait and see what final legislation looks like?
- If exemptions are extended or the estate tax is repealed, do I need to do any estate planning at all?

# Existing Law May Still Sunset if Republicans Cannot Get to Near Unanimous Support on a Final Bill

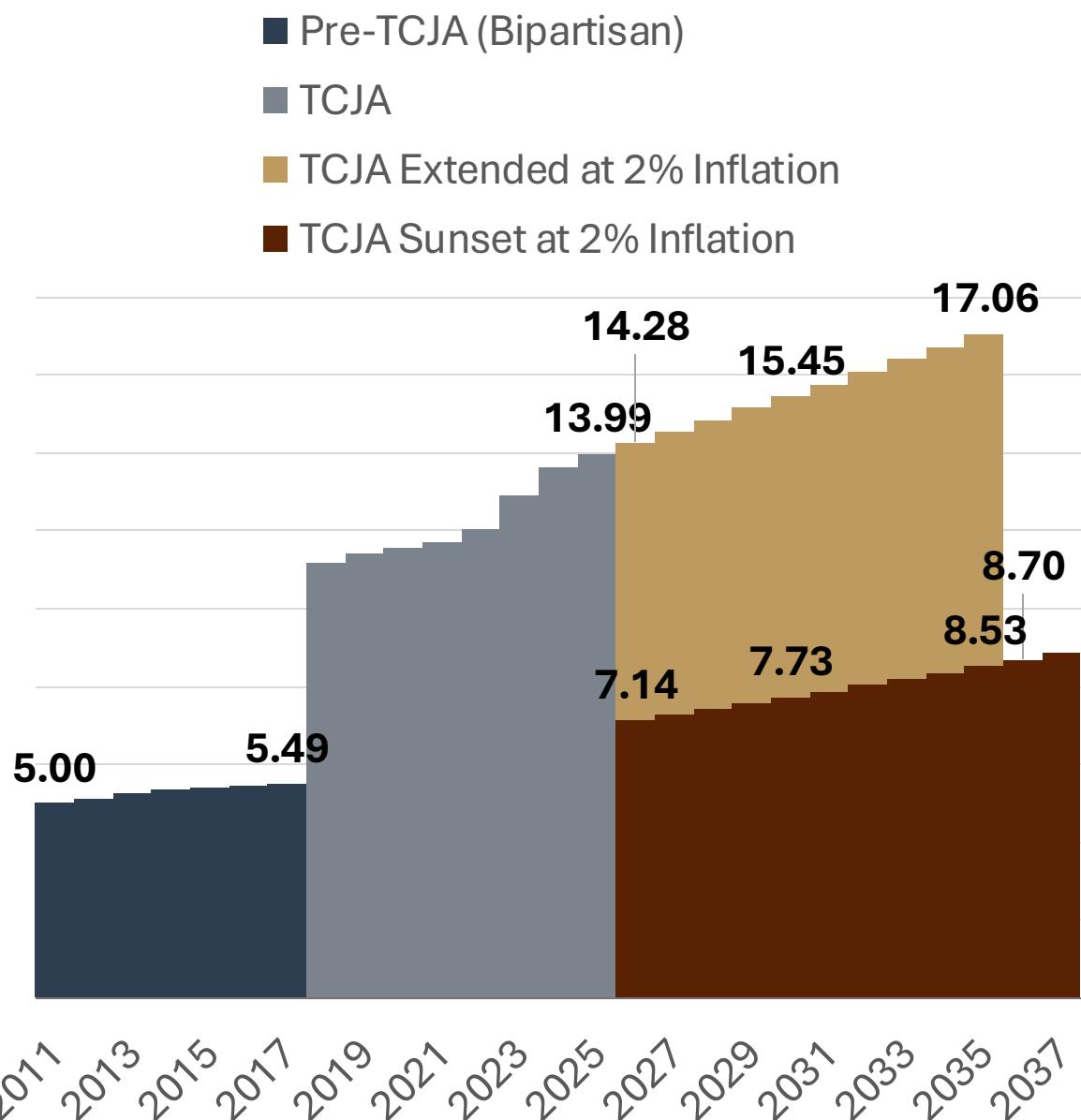
- Republicans are challenged with creating a bill for which they can lose no more than **three votes** in the House **or four votes** in the Senate votes.
- To date, several fiscal conservatives are still **holding out support** for the budget resolution released on 2/12/2025.
- Senate Republicans are pressing for a **permanent extension** of tax cuts, but the House has been considering temporary options to hold down costs.
- If they do not get near unanimous support, the **current law could sunset** and the exemption could get cut in half for 2026+.
  - Recall **Senator McCain in 2017** was the **one vote** that blocked the Republicans' attempt to repeal the Affordable Care Act.
  - Recall **Senators Manchin and Sinema in 2021** were the **two votes** that blocked Biden's Build Back Better budget reconciliation agenda.

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# Whatever the Republicans Pass in 2025 Will Likely Have a New Sunset of 10 Years or Less

- The Senate’s “Byrd Rule” prohibits reconciliation bills that increase the deficit beyond a 10-year budget window, which could be less than 10 years if needed to get the cost of the bill to line up with the deficit target passed for it. Examples include:
- Economic Growth and Tax Relief Reconciliation Act of 2001 **expired after 2010.**
  - Note this bill repealed the estate tax (in 2010 only) which was later replaced by bipartisan legislation to reenact the estate tax with a \$5 million exemption and 40% tax rate.
- TCJA of 2017 most of the individual tax provisions of which **will expire after 2025.**
  - Note the effective period for most provisions was only 8 years which was needed to get the cost of the bill to line up with the deficit target.

# Estate and Gift Tax Exemption If Extended for Up to 10 Years and/or Sunsets Sooner



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# Whatever the Republicans Pass in 2025 May Be Reversed When the Balance of Power Shifts

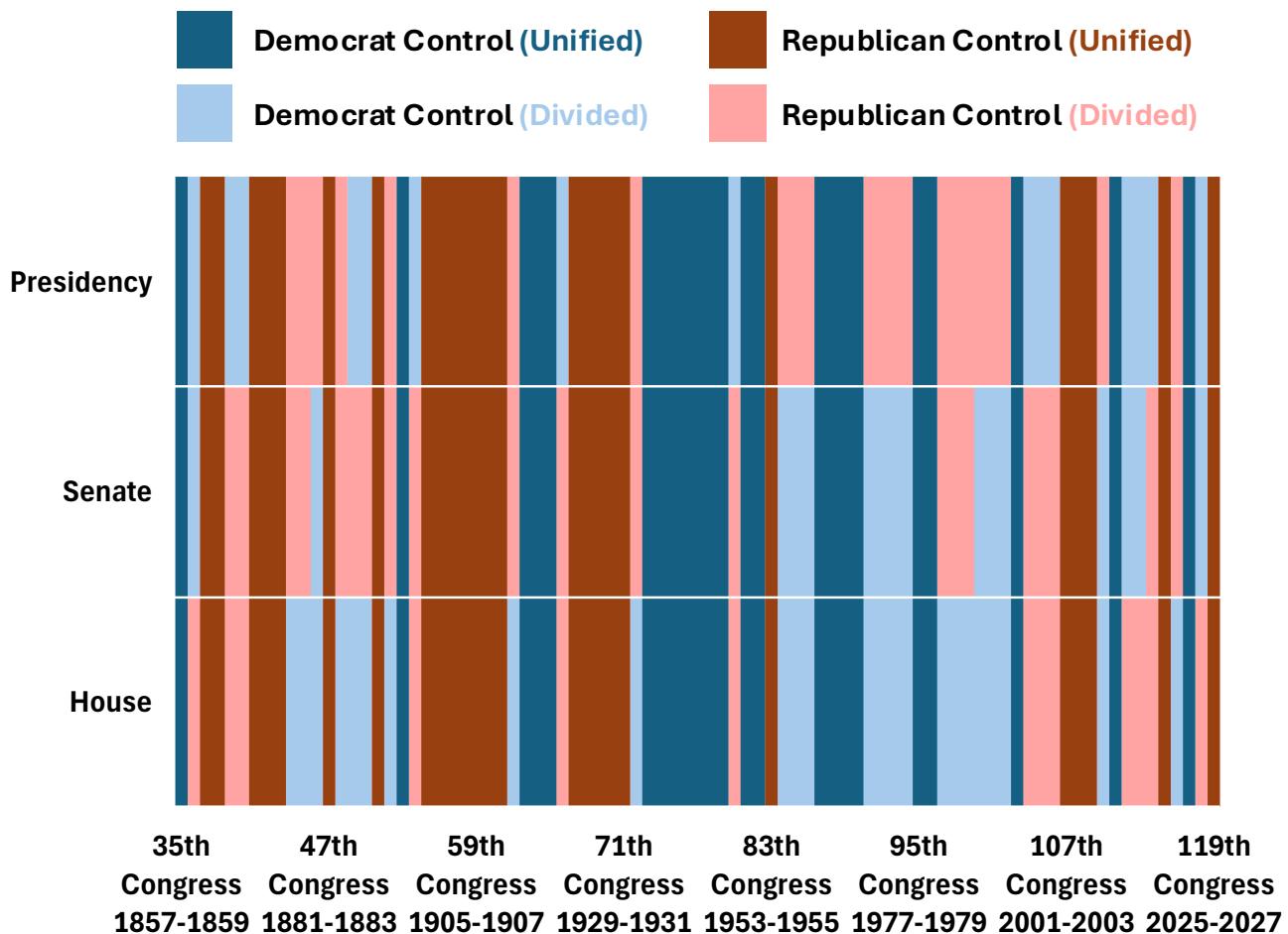
- **Democrats tax policy goals** are illustrated by past administration Greenbooks, and proposed legislation from Congressional representatives.
- For example, the American Housing and Economic Mobility Act **(AHEMA) of 2024** proposed by Senator Warren and Representative Cleaver would –

**Increase estate & gift tax** rates to 55%-65% and reduce exemption to \$3.5 million per donor; and

**Effectively eliminate or severely limit** the use of virtually all the **most popular estate planning strategies**, such as –

- Grantor retained annuity trusts (GRATs);
- Irrevocable grantor trusts (IGTs);
- GST exemption for 4<sup>th</sup> generation and below;
- Annual gift tax exclusion amount; and
- Valuation discounts on family-controlled entities.

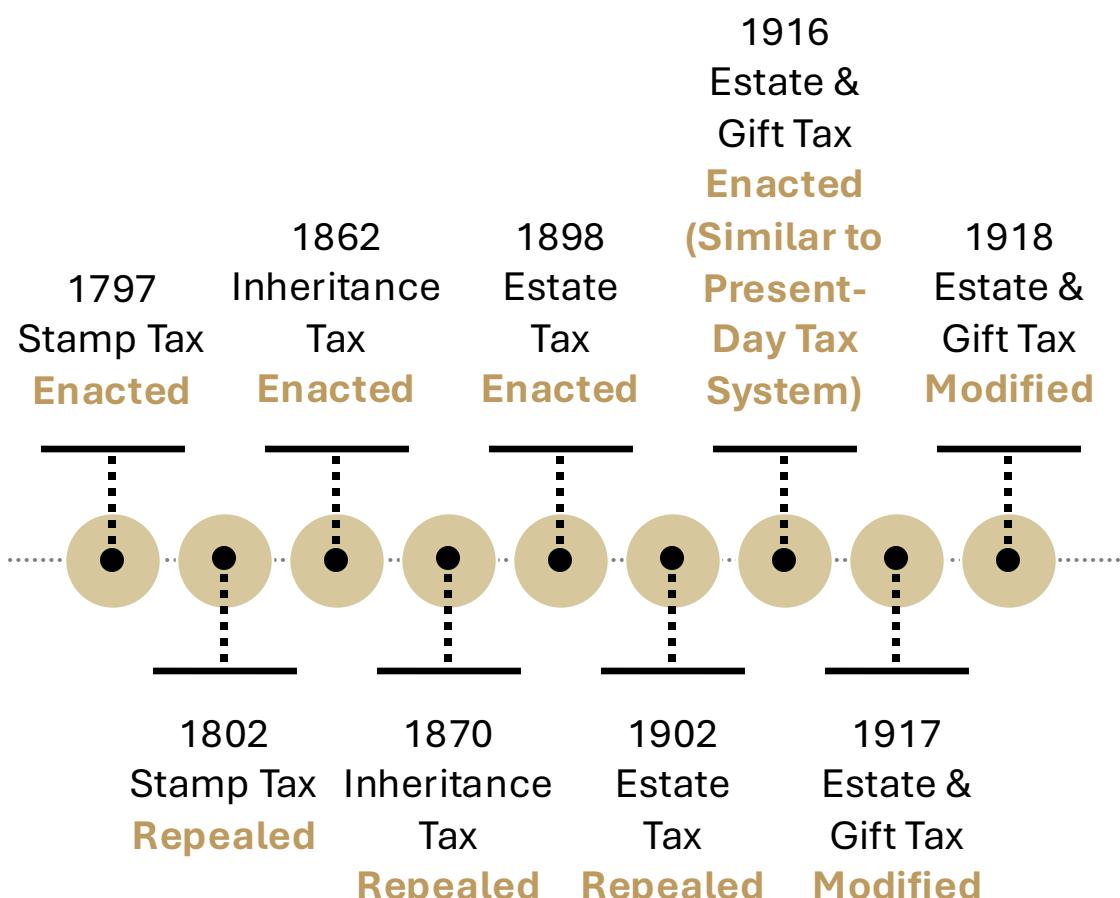
# It May Be a Matter of When Not If the Balance of Power Shifts



- **6 of the last 6 Presidents had unified control** of Congress for at least 2 years during their Presidency!
- **25 of the 32 Presidents since 1857 had unified control** of Congress for at least 2 years!

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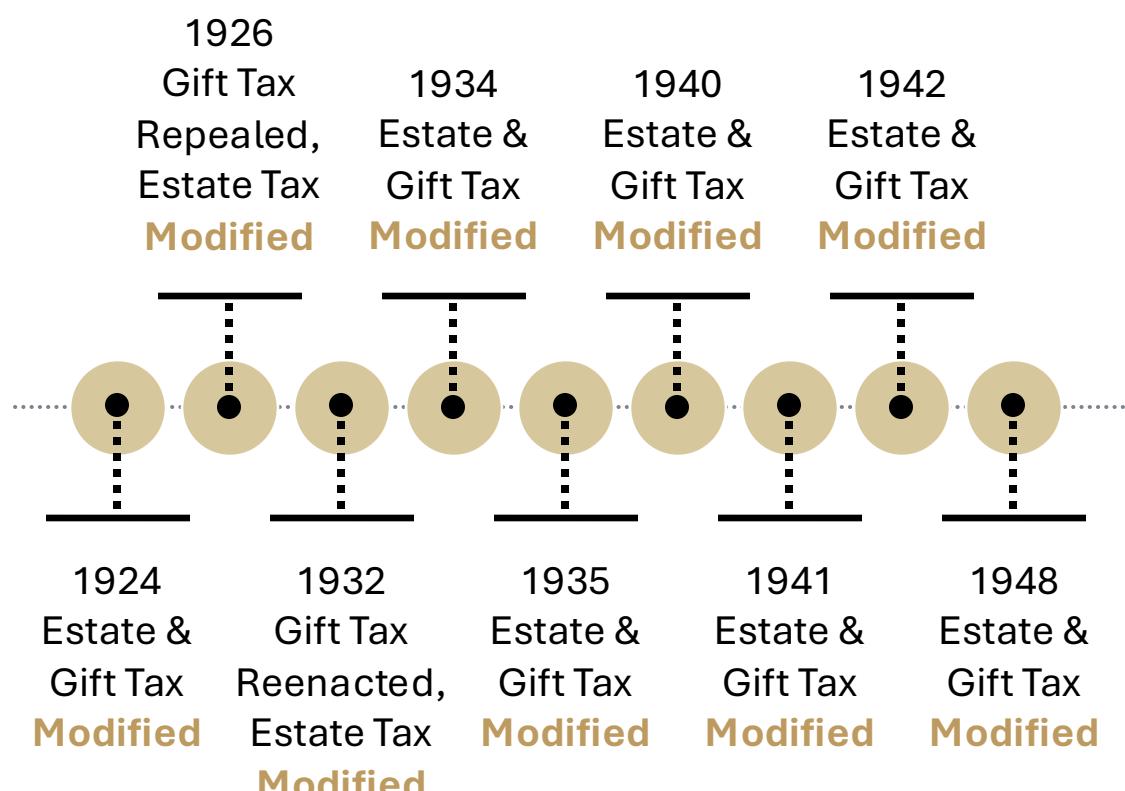
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Sources: The Staff of the Joint Committee on Taxation. (2015, March 16). *History, Present Law, and Analysis of the Federal Wealth Transfer Tax System*. The Joint Committee on Taxation | Congress of United States. <https://www.jct.gov/publications/2015/jcx-52-15/>. The Tax Cuts and Jobs Act of 2017, Pub. L. 115-97.

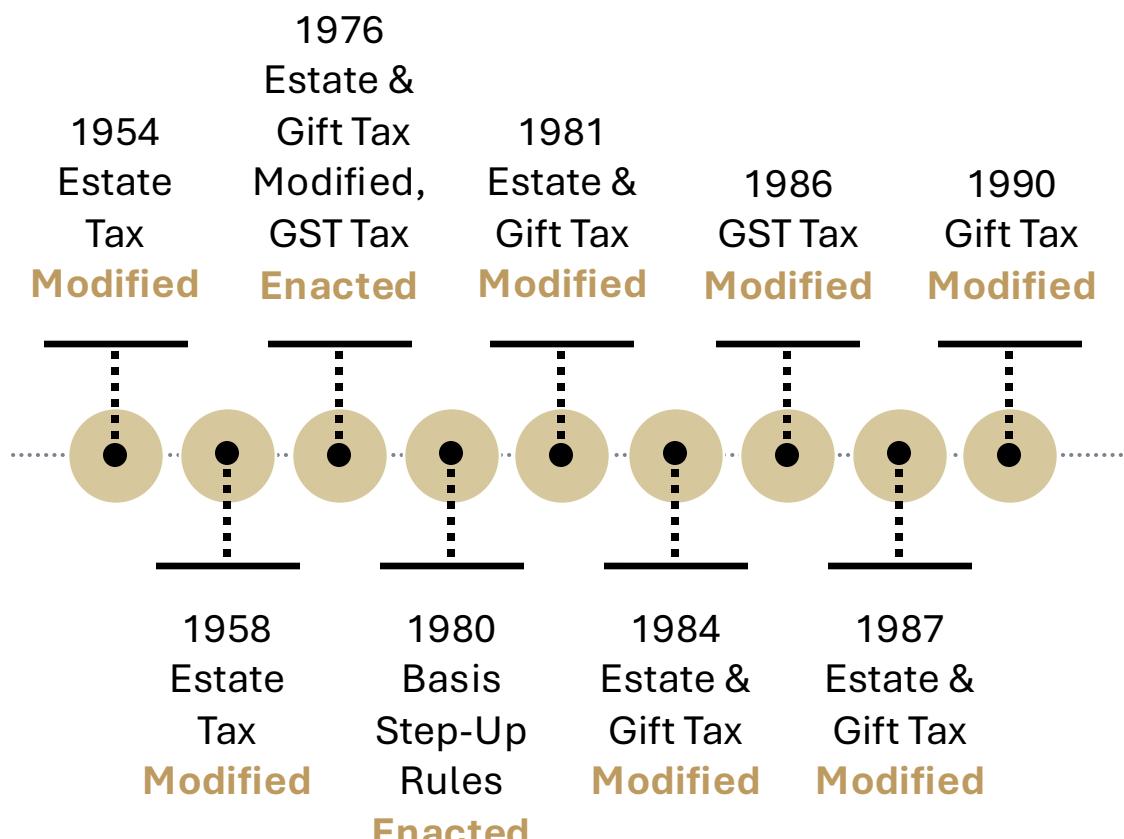
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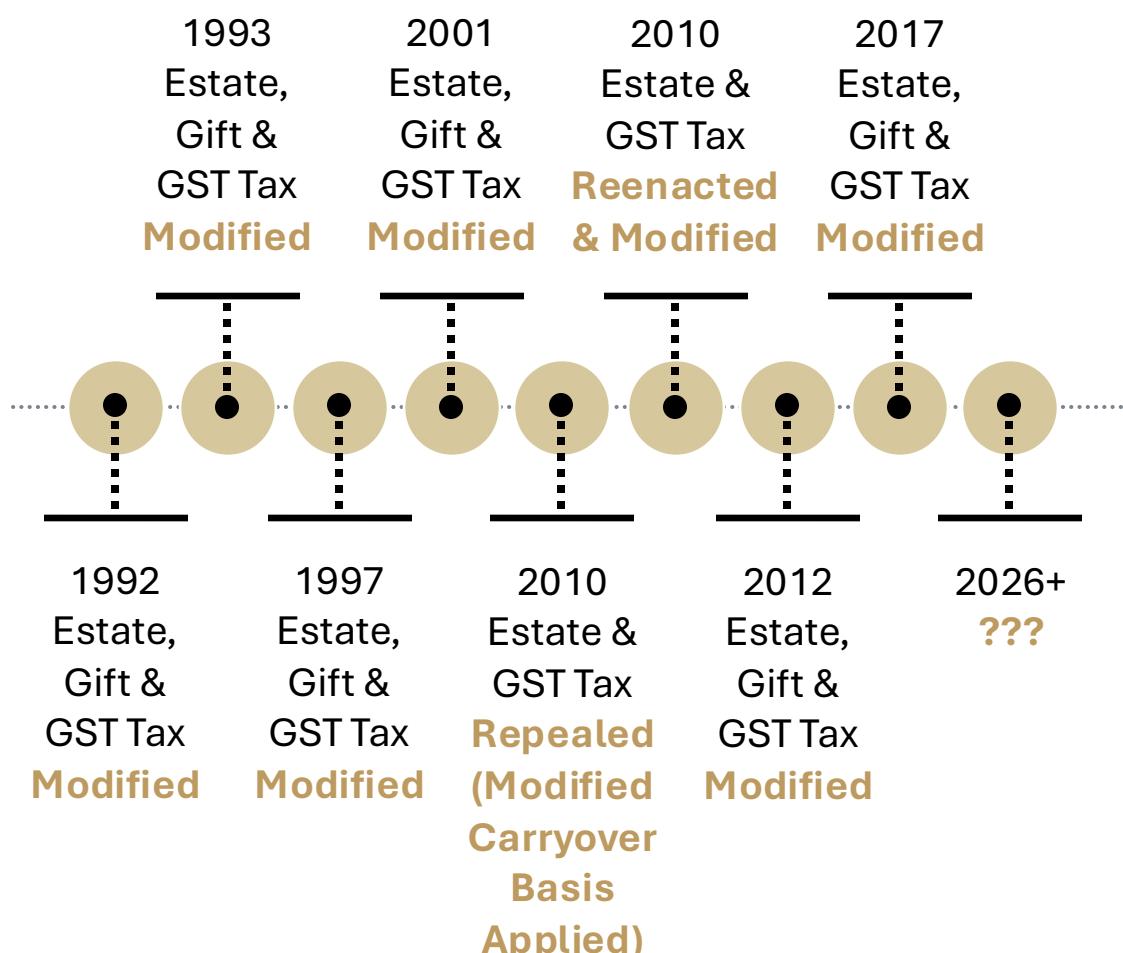
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# The Current Wealth Transfer Tax Has Been Part of the Tax Code for Over a Century, with Roots Back to 1797, and Consistently a **Moving Target**

- The wealth transfer tax system has seen

**at least 36 instances of enactment, repeal, reenactment or modification**

in its 225+ year history,

**7 of which occurred in the past 25 years.**

- Assuming that the wealth transfer tax will be permanently repealed or modified may be imprudent based on historical experience and current politics.
- Chances may be more likely than not that any new laws passed now may be changed later, resulting in new or diminished opportunities, so it might be wise to plan accordingly and “get while the getting’s good.”

# It May Be a Matter of **When** Not **If** the Laws Change (For Better or Worse)

- Chances may be more likely than not that any new **laws passed now may be changed later**, which could lead to new or diminished opportunities.
- Additionally, **it takes time** for gifting strategies to generate financial benefit for the beneficiaries.
- For example, a gift of assets today growing at 7% will remove \$0.97 from the taxable estate after 10 years per \$1 gifted, and **\$2.87** per \$1 after 20 years. Whereas, making the gift 10 years from now (if the deadline by which to make the same large gift has not passed) will remove \$0 from the taxable estate then and only **\$0.97** in 20 years from now.
- Therefore, it might be wise to implement estate plans sooner than later and **“get while the getting’s good.”**

# What Approach May Be Prudent for High-Net-Worth Individuals Given this Uncertainty?

- Those with net worth **over \$50 million and under \$15 million** may be **largely unaffected** by whatever happens in 2025 legislatively.
- Those with **\$15-\$50 million** may be **more impacted** and inclined to pause in the near term.
- Would it be better to proceed with making gifts in case the exemption sunsets, or pump the breaks to “wait and see” which could lead to “missing the boat?”
- Consider plans that can be **set up now** to be ready to quickly **pull the trigger on gifts later** when the law becomes clearer.
- Some strategies can allow making gifts now and **wiggling out of or unwinding the gift later**, if the exemption is extended or estate tax is repealed.

# What Approach May Be Prudent for High-Net-Worth Individuals Given this Uncertainty?

For those with **net worth over \$50 million**:

- Little may change in the motivations and needs of this demographic who have sufficient wealth to maintain their lifestyle and ability to implement sophisticated tax planning strategies.
- **Plan as usual**, taking advantage of current estate planning opportunities, where suitable, such as:
  - ✓ Make gifts using annual exclusion per donee and current “bonus” exemption per donor.
  - ✓ Dynasty trusts and GST-exempt strategies.
  - ✓ Valuation discounts on family-controlled entities and non-business assets.
  - ✓ Estate freeze transactions to shift growth out of the taxable estate, e.g., GRATs, sale of assets to IGTs, and intrafamily loans.
  - ✓ “Tax burn” – Paying IGT income taxes gift tax free.

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# What Approach May Be Prudent for High-Net-Worth Individuals Given this Uncertainty?

For those with **net worth of \$15-\$50 million**:

- This demographic generally has less gifting capacity and more concern regarding giving away too much.
- **Take advantage** of current estate planning opportunities, where suitable, emphasizing:
  - ✓ **Simplicity** if there's little perceived benefit to planning due to limited estate tax exposure.
  - ✓ **Flexibility** to adjust the plan in response to changing tax laws or personal circumstances.
  - ✓ **Accessibility** down the road to property transferred today, if needed.
  - ✓ **Reversibility** of transfers in response to changing tax laws in the near term.
  - ✓ **Income tax** planning to ensure assets efficiently grow and transfer to beneficiaries, especially when estate tax exposure is limited.

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# Simple Trust Strategies for Those with Limited Expected Estate Tax Exposure or Wanting Accessibility

- Standby Trust
- “Crummey Gift” Trust
- Irrevocable Life Insurance Trust (ILIT)
- Spousal Lifetime Access Trust (SLAT)

Starting with strategies such as these and incrementally working up to more advanced options can be more digestible and acceptable to clients with concerns about short-term uncertainty.

For example, any of the above can be accomplished through one trust vehicle and set up now relatively easily, cost efficiently, with minimal funding commitment and provide accessibility by a spouse beneficiary, but be structured to coordinate with and receive larger gifts later.

# Advanced Trust Strategies for Those Wanting More Flexibility, Accessibility and/or Reversibility

- “QTIP-able” Trust
- Domestic Asset Protection Trust (DAPT)
- Special Power of Appointment Trust (SPAT)
- Wait-and-See Loan or Installment Sale
- Grantor Retained Line of Credit (GRLOC) Provision

These options can provide more advanced ways for the grantor or grantor’s spouse to directly or indirectly access trust assets or reverse course if needs change, or additional flexibility to wait and see before pulling the trigger on making taxable gifts.

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# Income Tax Planning Will Be a Vital Part of Estate Planning

- Making gifts in trust **trades an estate tax** on all appreciation from the date of gift **for an income tax** on all current and future unrealized gains if the asset is later sold due to the carryover basis nature of gifts and ineligibility for a basis step-up if not includable in the grantor's taxable estate.\*
- If the grantor makes a gift but later has no estate tax, he or she may trade no tax for a trust income tax if the asset would have been eligible for a **basis step-up if included in the estate** at death.
- Trust provisions such as –
  - Formula General Power of Appointment (FGPOA);
  - Grantor Power of Substitution (“Swap” Power); or
  - Discretionary Charitable Beneficiary –

may provide income tax and basis planning benefits to optimize trust assets for wealth transfer, especially if the grantor ends up having limited estate tax exposure.

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\*Adjusted taxable gifts are added to the tentative taxable estate at death to calculate the tentative estate tax payable before applying unified credits (exemption) to calculate the estate tax due. Therefore, only the appreciation occurring after such a gift is made is removed from the taxable estate.

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# Income Tax Planning Will Be a Vital Part of Estate Planning

- In making transfers to an irrevocable grantor trust, the **tax on trust income is paid by the grantor** personally as if the income was received by the grantor (even though the income is received by the trust).
- This “tax burn” can be an effective wealth transfer strategy because the tax payments are not treated as additional gifts to the trust, but they have the **economic effect of a gift**.
- Because the grantor is **paying taxes on someone else's income**, it is important to manage trust assets and grantor's cash flow to ensure the ability to support his or her lifestyle is not jeopardized.
- The **trustee can reimburse the grantor** for these taxes, but this power must exist at the trust's creation and be completely discretionary, or it may be possible to “**toggle off**” grantor trust status.

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# Life Insurance May Be a Quintessential Trust Asset Location Strategy Nevertheless

- **Tax-deferred build-up of cash value**
  - No taxable income to the grantor during insured's life if the policy remains in force until death.
- **Income tax-free access to cash value<sup>1</sup>**
  - Accessible by spouse beneficiary of a SLAT?
- **Income and estate tax-exempt death benefit<sup>2</sup>**
  - **Basis before death** = premiums paid less tax-free withdrawals. **Basis at death** = death benefit (effect of a step-up even if outside the taxable estate and, thus, no estate tax for income tax tradeoff as with other assets)
- **Competitive growth and rate of return potential**
  - Cash value and death benefit can grow based on equity, fixed income or structured investment option performance.

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1. Assumes the policy never becomes a Modified Endowment Contract (MEC), disbursements are made as withdrawals up to cost basis and/or policy loans, and the policy remains in force until the insured's death.
2. Assumes the insured does not possess any "incidents of ownership" over the policy within 3 years of death and the policy is never transferred for valuable consideration to an impermissible transferee nor in a reportable policy sale.

# Flexible Life Insurance Funding and/or Accessibility Strategies

- Term Now, Convert to Permanent Later.
- Minimally-Funded Policies for Wait-and-See Flexibility with Increased Death Benefit IRR Potential to Boot.
- Overfunded Policies for Asset Location Planning with a Possible Tax-Free Exit Strategy.
- Split Dollar Loan as a Tax-Free Grantor Retained Income Technique (GRIT).

These options help **lock in today's insurability** and either provide minimal initial premium commitment, or tax-efficient accumulation potential and accessibility in the later years.

**Putting off the decision** to buy life insurance now could amount to gambling away today's insurability and tomorrow's financial security on some future legislative deal, thus placing a lot of faith in a potential "act of Congress."

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# Additional Considerations for Estate Planning in 2025+

- Waiting until the last minute may limit the ability to hire competent estate planning attorneys who may stop taking new clients to be able to help existing clients in meeting any sunset deadlines. Moreover, procrastination may limit the ability to have assets appraised in time for gift tax valuation purposes, if needed in haste.
- Consider the impact and need to plan for state-level estate taxes, if residing in such a state, and non-tax goals that are often key motivators such as asset protection, special needs planning, philanthropic priorities, etc.
- Consider focusing on single assets or issues, such as continuity of a family-owned or privately-held business, or planning for beneficiaries of retirement plan assets given the complicated required minimum distribution rules, for those with concerns over implementing broader estate plans.

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