

Federal Estate Tax

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This MontGuide describes how federal tax laws will affect individual estates until the Tax Cut and Jobs Act sunsets at the end of 2025. Congress will decide the status of the federal estate and gift tax for 2026. In 2025, the exclusion for a single person is \$13,990,000; \$27,980,000 for married couples. In the absence of legislation affecting the federal estate tax exclusion, it will decrease to \$5,000,000 plus inflation in 2026.

THE FEDERAL ESTATE TAX IS A TAX ON THE TRANSFER OF property at death. The amount of the estate tax depends upon the value of the assets the deceased person held at death, taxable transfers during life, how assets are titled, deductions, and available credits.

This MontGuide presents a general explanation of the federal estate tax provisions and the relationship to the companion federal gift tax. For further information about gifting, see the MSU Extension MontGuide, *Gifting: A Property Transfer Tool of Estate Planning* (MT199105HR).

During 2025, the value of property that may be transferred free of the federal estate tax is \$13,990,000 per person (adjusted annually for inflation); \$27,980,000 for a married couple. The IRS publishes a table revealing that in recent years, less than 0.08 percent of adults' estates paid a federal estate tax because of the large exclusions (irs.gov/statistics/soi-tax-stats-historical-table-17).

The gross estate

Calculation of the federal estate tax on Form 706 begins with the value of a deceased's gross estate. The gross estate includes: the fair market value of all real and personal property owned at death, transfers with retained life estates, transfers taking effect at death, revocable transfers, annuities, joint interests, certain powers of appointment, proceeds of life insurance, and future payments that were owed to the deceased at the time of death.

VALUATION OF GROSS ESTATE

The value of the property owned by the deceased for federal estate tax purposes is the **fair market value** at the date of death. The IRS defines fair market value as *the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all relevant facts.*

The personal representative may elect an alternate valuation of the assets as of six months after the deceased's death. If the alternate valuation is chosen, then ALL assets must be valued as of the alternate date, or as of the date of their distribution, sale, exchange, or other disposition.

Basis on value of property

All property (real estate, stocks, and bonds) owned by a person has a basis for income tax purposes. For example, a home bought in 1978 for \$47,000 has a basis of \$47,000 even though its current fair market value in 2025 is \$664,000.

At death, the deceased's property receives a **stepped-up basis**. The rule for gifts made while a person is living is different. The donee (person receiving the gift) receives the donor's (person making the gift) basis. The basis is not stepped up for the donee. This is called a **carry-over basis** for the donee.

Example carry-over basis: A father gifted land to his daughter with a fair market value of \$3,000,000. The father paid \$100,000 for the land. Because the transfer of the land to his daughter is a gift, the father's \$100,000 basis in the property carries over to the daughter. If she sells the property for \$3,000,000 two years later, she pays an income tax on the capital gain. The capital gain is the difference between the carry-over basis (\$100,000) and the fair market value (\$3,000,000). After the sale of the land, the daughter would owe a federal income tax of approximately \$580,000 on the \$2.9 million capital gain.

(assuming a long-term capital gain tax rate of 20 percent) as well as a Montana income tax and net investment income tax on the gain.

Example stepped-up basis: If the property in the prior example had passed to the daughter after her father's death in 2025, she would have received a **stepped-up basis** on the property. This means the basis in the land would be stepped up from the father's \$100,000 basis to \$3,000,000, the fair market value at her father's death. If the daughter sold the property for \$3,000,000 after her father's death, there is no income tax on the capital gain because she sold the property at the stepped-up basis of \$3,000,000. If she sold the property for \$4,000,000 five years after she inherited it, she is only taxed on the gain of \$1,000,000. After the sale of the land, the daughter owes a federal income tax of \$200,000 on the \$1,000,000 capital gain as well as a Montana income tax and net investment income tax on the gain.

For more information about stepped-up and carry-over basis, see the MSU Extension MontGuide *Income Tax Impact when Selling, Gifting, or Leaving Property as an Inheritance* (MT202202HR).

Allowable expenses and deductions

After the values for the gross estate are established, the amount is reduced by subtracting allowable expenses and deductions.

EXPENSES

Allowable expenses include items such as administration expenses, funeral and medical claims against the estate, debt, and casualty and theft losses. Allowable deductions also include the marital deduction and the charitable deduction.

MARITAL DEDUCTION

Unlimited amounts of property can be transferred at death to a U.S. citizen spouse without federal estate tax. Tax-free transfers at death to a spouse must satisfy certain rules. For example, if a Qualified Terminable Interest Trust (QTIP) was part of the estate plan, an election on Form 706 must be made.

CHARITABLE DEDUCTION

An unlimited deduction is allowed for the value of property in the deceased's gross estate transferred to a charity by a will, a trust, a payable on death designation (POD), a transfer on death registration (TOD), a transfer on death deed (TODD) or a beneficiary designation. These transfers must be made to a "qualified" 501(c)(3) charitable, religious, educational organization or to a state, federal or local government.

Example: In his Will, a 4-H volunteer leader left land valued at \$2,000,000 to the Montana 4-H Foundation. The amount qualifies as a charitable deduction on the federal estate tax return because the Montana 4-H Foundation is a 501(c)(3) organization.

Federal estate tax rates

After allowable expenses and deductions are subtracted from the gross estate, the federal estate tax rates are applied to the remaining balance (taxable estate). The federal estate tax is \$345,800 on the first \$1,000,000, and 40 percent of the amount over \$1,000,000 (see **Table 1**). The result is termed the "tentative" estate tax.

Exclusions from the tentative federal estate tax

The **applicable exclusion** for both the federal estate tax and federal gift tax for the years 2011-2025 are listed in **Table 2**. For deaths in 2025, a Federal Estate Tax Return (Form 706) is needed only when the value of the taxable estate and the value of the prior taxable gifts total more than \$13,990,000. There is only one applicable exclusion, not one for a federal estate transfer and another one for a federal gift transfer.

PORTABILITY PROVISION OF THE UNUSED EXCLUSION FOR MARRIED COUPLES

By taking advantage of the **portability provision** of the first-to-die spouse's unused exclusion, married couples dying in 2025 can pass \$27,980,000 (\$13,990,000 + \$13,990,000) free of the federal estate tax.

Example: In January 2025, Jack died with an estate of \$27,980,000, which he left to his wife, Louise. Jack's estate did not owe a federal estate tax because of the unlimited marital deduction. Within the time frame for the filing of Form 706, the personal representative of Jack's estate filed Form 706 and elected to transfer Jack's unused exclusion (\$13,990,000) to his surviving spouse. No federal estate tax was due at Louise's death later in 2025 because her estate did not exceed the sum of Jack's unused exclusion (\$13,990,000) and Louise's exclusion (\$13,990,000).

Filing of the federal estate tax return

If the value of the gross estate and the value of taxable gifts are more than the applicable exclusion amount (\$13,990,000 in 2025, plus taxable gifts made during life), Form 706 is due nine months after the date of death. A reasonable extension

Table 1. Federal gift and estate tax rates and amounts, 2025
(before exclusions applied)

| Column 1 at least | Column 2 but less than | Tax on Column 1 amount | Rate on Excess over Column 1 |
|----------------------|---------------------------|---------------------------|---------------------------------|
| \$0 | \$10,000 | \$0 | 18% |
| \$10,000 | \$20,000 | \$1,800 | 20% |
| \$20,000 | \$40,000 | \$3,800 | 22% |
| \$40,000 | \$60,000 | \$8,200 | 24% |
| \$60,000 | \$80,000 | \$13,000 | 26% |
| \$80,000 | \$100,000 | \$18,200 | 28% |
| \$100,000 | \$150,000 | \$23,800 | 30% |
| \$150,000 | \$250,000 | \$38,800 | 32% |
| \$250,000 | \$500,000 | \$70,800 | 34% |
| \$500,000 | \$750,000 | \$155,800 | 37% |
| \$750,000 | \$1,000,000 | \$248,300 | 39% |
| \$1,000,000 and over | | \$345,800 | 40% |

**Table 2. Federal gift and estate
exclusions per person, years 2011–2025**

| Year of Death | Applicable Exclusion |
|---------------|-------------------------|
| 2011 | \$5,000,000 |
| 2012 | \$5,120,000 |
| 2013 | \$5,250,000 |
| 2014 | \$5,340,000 |
| 2015 | \$5,430,000 |
| 2016 | \$5,450,000 |
| 2017 | \$5,490,000 |
| 2018 | \$11,180,000 |
| 2019 | \$11,400,000 |
| 2020 | \$11,580,000 |
| 2021 | \$11,700,000 |
| 2022 | \$12,060,000 |
| 2023 | \$12,920,000 |
| 2024 | \$13,610,000 |
| 2025 | \$13,990,000 |

Source: irs.gov/instructions/i709

of time (not to exceed six months) to file the estate tax return, or related statements or documents, may be granted if it is impossible or impractical to complete the return within the normal nine-month period beginning at the deceased's date of death.

Changing law

In 2017, the Tax Cuts and Jobs Act (TCJA) doubled the lifetime estate and gift tax exclusion. For 2025, the indexed exemption is \$13,990,000 (\$27,980,000 for married couples). Some of the provisions of the TCJA sunset at the end of 2025. Congress may change the amount of the exclusion, as well as other provisions of the federal estate tax.

Further information

The Internal Revenue Service provides in-depth publications on Federal Estate and Gift Taxation. They can be ordered from the IRS (1-800-829-3676) or downloaded at irs.gov.

More information about major changes in the regulations on gifting are explained in the MontGuide *Gifts: A Property Transfer Tool of Estate Planning* (MT199105HR).

This MontGuide is available free from a local MSU Extension office, or online at montana.edu/estateplanning, click “Estate Planning Publications.”

Acknowledgments

Representatives from the following reviewed this MontGuide and recommend its reading by all Montanans who are interested in the Federal Estate Tax regulations.

- Business, Estates, Trusts, Tax and Real Property Section, State Bar of Montana

Disclaimer

This publication is not a substitute for legal advice. It is designed to help inform Montanans about the basic provisions of the federal estate tax law. The goal is to create an awareness of the need for planning if a person's estate exceeds the exclusion amount and the goal is to minimize the federal estate tax. There are exceptions and conditions to the concepts discussed. Future changes in laws cannot be predicted, and statements in the MontGuide are based solely on the laws in force on the date of publication.



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