



CAIN ELLSWORTH  
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# Strategies for Estate Planning



In 2017, tax cuts increased the federal estate tax exemption for individuals from \$5 million to \$11.1 million for 2018. Last November, the internal revenue service announced that the federal estate tax exclusion for 2019 would be \$11.4 million for individuals and \$22.8 million for married couples.

As a result of the tax reform, some wondered if estate planning was still necessary given the significantly higher exemptions. This perception could be both financially dangerous and economically devastating. Even though many are trying to make these tax cuts permanent, they are scheduled to expire in 2025 when the exclusion is slated to drop back down to its pre-2018 levels of just \$5 million, though it will be indexed to inflation.

Given the uncertainty, here are five strategies to discuss with your accountant or financial advisor:



### #1 - Think twice about unraveling your prior estate strategy.

You may have implemented an estate plan prior to 2017 when the federal tax exemption was much lower. With the higher limits now in place, you may feel as though the strategy you implemented is no longer needed. Be cautious about unravelling your strategy when the higher federal tax exemptions are set to expire in 2025.





## #2 - Build greater flexibility into trust arrangements

In light of the scheduled expiration of the tax cuts, you may want to consider building greater flexibility into trust arrangements. Greater flexibility may enable you and your beneficiaries to make strategic changes in the future to reduce tax liabilities.

Consider adding flexibility by giving beneficiaries the authority to make changes. Another option is to permit the distribution of trust assets to a new trust that has more favorable terms for tax minimization. You could also allow asset substitutions that can help reduce tax liability. Finally, providing a trust protector with modification powers gives them the authority to make changes that can benefit your heirs.





### #3 - Be cautious about transferring funds to a Credit Shelter Trust

Strategies that focused on credit shelter trusts for married couples were part of many estate plans before 2018. These were often structured so that specific assets -- typically a dollar amount up to the allowable federal estate tax exclusion -- passed to the credit shelter trust which the surviving spouse could then access. Because the trust didn't allow that spouse to actually control or even own the assets, these funds weren't included in their taxable estate.

Due to the amount of the new federal estate tax exclusion, any estates under \$11.4 million would potentially have the entire amount transferred to the credit shelter trust. This might not just limit the surviving spouse's ability to access the funds, but it could also limit the financial flexibility they need. Additionally, state estate taxes could kick in if the trust's language fails to place particular limitations on it.





#### #4 - Maximize a spouses unused estate tax exemption

Portability of the federal estate tax exemption between married couples is important if the first spouse dies and does not make full use of their federal estate tax exclusion. In this scenario, the surviving spouse can make an election to add any unused federal estate tax exclusion from the deceased spouse to their own exclusion amount. If the first spouse dies prior to the expiration of the higher exemptions in 2025, the unused federal estate tax exclusion will be based on the current higher limits.



#### #5 - Consider upstream gifts of low-cost-basis assets

Individuals whose parents' estates are below the federal estate tax exemption limit may find it beneficial to gift low cost basis assets such as qualified stocks, real estate, and other capital assets to their parents. The strategy is to gain a step up in cost basis upon the death of their parents. Those assets could then be transferred to children or other beneficiaries at the higher cost basis thereby avoiding capital gains. It is important to note, however, that there might be tax consequences if the individual who is donating the asset dies within one year.





# Final Thoughts

Taking advantage of the changes the Tax Cuts and Jobs Act ushered in means reviewing your current estate plan now. Our professionals understand how to craft an estate plan that not only reflects the current laws and any uncertainties they might contain, but that also takes into account your personal goals for your heirs. Please contact one of them today for clear and concise professional assistance.



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