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What Is the Estate Tax?

The estate tax is a tax on property that transfers to others upon your death. Estate taxes are assessed on the total value of your estate — your home, stocks, bonds, life insurance, and other assets of value — that is over the applicable exemption amount. Everything you own, whatever the form of ownership and regardless of whether the assets have been through probate, is subject to estate taxes.

Also referred to as the “death tax,” the federal estate tax was first enacted in this country with the Stamp Act of 1797 to help pay for naval rearmament. After several repeals and reinstatements, the Revenue Act of 1916 put the current estate tax into place. Despite its long history, this tax remains controversial.

Estate taxes are calculated on the net value of your estate, which includes all your assets less allowable debts, expenses, and deductions (such as mortgage debt and administrative expenses for the estate). The applicable estate tax exemption is subtracted, and the resulting taxable value is multiplied by the applicable estate tax rate to determine any taxes due.

The most common exception to the federal estate tax is the unlimited marital deduction. The government exempts all transfers of wealth between a husband and wife from federal estate and gift taxes, regardless of the size of the estate. (*The surviving spouse must be a U.S. citizen to qualify for this exemption.*) However, when the surviving spouse dies, the estate is subject to estate taxes and, unless the appropriate portability preparations have been made, only the surviving spouse’s applicable exemption can be used.

The Economic Growth and Tax Relief Reconciliation Act of 2001 gradually increased the federal estate tax exemption until finally repealing the federal estate tax altogether for the 2010 tax year only. The 2010 Tax Relief Act reinstated the federal estate tax with a \$5 million exemption (indexed for inflation after 2011) through December 31, 2012. The 2010 estate tax provisions were made permanent by the American Taxpayer Relief Act of 2012, although the top federal estate tax rate was raised to 40%. The Tax Cuts and

Jobs Act, signed into law in December 2017, doubled the federal estate tax exclusion to \$11.18 million in 2018 (indexed annually for inflation). The applicable exemption amount in 2023 is \$12.92 million. In 2026, the exclusion is scheduled to revert to its pre-2018 level and be cut by about one-half.

Year	Exemption Amount	Top Estate Tax Rate
2012	\$5.12 million	35%
2013	\$5.25 million	40%
2014	\$5.35 million	40%
2015	\$5.43 million	40%
2016	\$5.45 million	40%
2017	\$5.49 million	40%
2018	\$11.18 million	40%
2019	\$11.4 million	40%
2020	\$11.58 million	40%
2021	\$11.7 million	40%
2022	\$12.06 million	40%
2023	\$12.92 million	40%

Check with your tax professional to be sure that your estate is protected as much as possible from estate taxes upon your death.

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