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One Big Beautiful Bill Act Enacts a Permanent Increase in the Estate and Gift Tax Lifetime Exclusion Amount for 2025 and Later Years

On July 3, 2025, and by a vote of 218 to 214, the U.S. House of Representative passed the Senate's amended version of H.R. 1 (also known as the "One Big Beautiful Bill Act" or OBBBA 2025), which is the tax-and-budget reconciliation package for the current fiscal year 2025 and for the next nine fiscal years (through 2034). President Trump will sign the enacted Bill as early as July 4, 2025.

How the Bill extended estate and gift tax relief

The only federal and gift tax change in OBBBA 2025 is a slight but permanent increase in the maximum lifetime exclusion amount (lifetime exemption) that any U.S. citizen or resident can use to shelter gifted assets or assets passing at death from the federal gift tax or federal estate tax.

Essentially, the lifetime exclusion amount that an individual has left and unused on any given date represents the value of the property that the individual could give away to anyone or leave after death to anyone without having any gift tax or estate tax imposed on the transfer of that property.

Section 2010(c) of the Internal Revenue Code specifies the amount of the lifetime basic exclusion amount, and section 70106 of OBBBA 2025 amends section 2010(c) to —

- slightly increase the basic exclusion amount to a maximum of $15 million dollars per person for individuals dying or gifts made in 2026; *AND*
- continue to index the higher basic exclusion amount for inflation in years after 2026, but using calendar year 2025 as the new base year for future inflation adjustments.

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The enactment of OBBBA 2025 has **prevented a decrease** in the basic exclusion amount that would have automatically occurred on January 1, 2026 if this legislation had not been passed, because of an automatic sunset (expiration) date that was inserted into Code section 2010(c) in 2017, when the Tax Cuts and Jobs Act (TCJA 2017) was enacted. Congress and the Trump Administration had to affirmatively enact some sort of tax bill in order to prevent a decrease in the basic exclusion amount to about $7.2 million on January 1, 2026.

The enactment of OBBBA 2025 has not changed any of the rules for portability elections that can be made by surviving spouses, and it has not changed how an individual's separate lifetime generation skipping transfer (GST) tax exemption is determined: The lifetime GST exemption is still equal to the basic exclusion amount, and any deceased spouse's unused lifetime GST exemption still is not "portable" to the surviving spouse.

If any individual has already made taxable gifts in past years, then for future gift and estate tax planning purposes, those taxable gifts still must be subtracted from the maximum exclusion amount, to determine how much of the exclusion amount the individual has left to shelter future gifts from the gift tax or to shelter assets passing after death from the estate tax. The change is that in 2026, any individual will be subtracting past taxable gifts from a larger maximum exclusion amount of $15 million.

OBBA 2025's increase in the basic exclusion amount for 2026 and future years has also made irrelevant some regulations that Treasury (IRS) finalized in 2019, to deal with the issue of how the federal estate tax should be calculated if an individual made large taxable gifts during 2018-2025 in reliance on the larger basic exclusion amount **and** if that individual died in 2026 or a later year when the basic exclusion amount was smaller. Because the basic exclusion amount will **not decrease** in 2026 or a later year under new current law, those regulations do not need to be used when calculating a deceased individual's federal estate tax bill.

How much has the basic exclusion amount increased for 2026?

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The wording of Code section 2010(c) has always been complicated, and since 2017, the text of section 2010(c) has not directly stated the **actual** exclusion amount that has been in effect in each year, because the annual adjustments for inflation have been referred to but are not stated in dollars.

The "basic [lifetime] exclusion amount" was $5 million in 2011 with inflation indexed increases in 2012 through 2017. The Tax Cuts and Jobs Act (TCJA 2017) doubled the basic exclusion amount — before inflation adjustments — from $5 million to $10 million per person for calendar years 2018 through 2025 **but required an automatic decrease** of the basic exclusion from $10 million to $5 million for gifts made or for the estates of individuals dying **after 2025**.

	2018 thru 2025 before OBBBA	**In 2026 Without OBBBA increase**	**In W in**
Basic exclusion amount without inflation adjustment	$10,000,000	5,000,000	$1
Basic exclusion amount ***with*** inflation adjustment	$11,180,000 to $13,990,000	Approx. $7,200,000	$1

If Congress had simply amended Code section 2010(c) to continue the "doubled" basic exclusion amount (of $10 million plus inflation indexing after 2016) into 2026 and later years, the basic exclusion amount would have been about $14.3 to $14.4 million per person in 2026. However, in OBBBA 2025, Congress has slightly rounded up the "doubled" basic exclusion amount from 2018-2025 to $15 million, and has reset the base year to be 2025 for future inflation adjustments after 2026.

According to Congress's Joint Committee on Taxation and the Congressional Budget Office, this "permanent" increase in the basic exclusion amount has a 10-year cost of $212 billion in the form of decreased federal tax revenue or increased budget deficits.

How "permanent" is the increase in the basic exclusion amount as enacted?

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The increase in the basic exclusion amount to $15 million for 2026, and with further inflation-indexed increases after 2026, is "permanent" in the sense that no automatic sunset or expiration date has been added. Therefore, the increased basic exclusion amount will not be decreased in any future year unless a future Congress and President enact and sign future legislation to specifically scale back or change the exclusion amount.

However, among Americans who know something about the contents of OBBBA 2025, this legislation is not broadly popular. If a political backlash and a change of control of the Congress were to occur in 2026 or 2028, a future Congress and a future administration could enact new legislation that would repeal or reduce the increase in the basic exclusion amount for individuals dying or making gifts after the effective date of the new legislation.

How does the increase in the basic exclusion amount affect gift and estate tax planning for high-net-worth individuals?

For any unmarried individual who has a total net worth that currently exceeds $15 million or for any married couple whose combined net worth currently exceeds about $30 million, OBBBA 2025's increase in the basic exclusion amount for 2026 and later years does not change the estate and gift tax planning strategies that such individuals or couples can use and should be using or seriously thinking about. The increase in the basic exclusion amount just reduces the dollar amount of the estate tax exposure after death.

For any unmarried individual who has a total net worth larger than about $7 million but less than $15 million, or for any married couple whose combined net worth currently exceeds about $14 million but is less than $30 million, the likelihood of owing a net federal estate tax after death has decreased to zero or nearly zero, unless such an individual or couple has already made significant taxable gifts and has used up most of their lifetime exclusion amounts.

If an individual has already used up most or all of his lifetime exclusion amount (which in 2025 is a maximum of $13,990,000) by

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making taxable gifts, the increase to $15 million for 2026 means that this individual will have a larger amount of unused exclusion to use in 2026 and later years to shelter gifts from the gift tax.

Finally, OBBBA's prevention of a decrease in the basic exclusion amount and its permanent increase of the basic exclusion to $15 million gives individuals and married couples with any significant net worth more time to think and plan carefully about what strategies they want to use to minimize or even eliminate their federal estate tax liability after death. There is no longer a "deadline" of December 31, 2025 to complete implementation of a gift or estate tax planning strategy.

However, high-net-worth individuals and couples should not assume that they have **unlimited** amounts of time for planning or a license to procrastinate. They should take advantage of the next two years to choose their taxable gift planning and estate reduction strategies and to implement those strategies, before a future change in control of Congress occurs and before any future repeal legislation is introduced and passed.

Let's talk strategy

To explore how the increased exclusion amount under OBBBA could benefit your estate and gift tax planning, contact a member of Frost Brown Todd's Wealth Planning and Family Office team.

Reach out to:

- **Jeffrey S. Dible**
- **Jillyn Hess-Verdon**
- **Melanie McCoy**
- **Michael Stegman**

We're here to help you make the most of this opportunity.

Here is the text of the relevant parts of section 2010 of the Internal Revenue Code as amended by OBBBA 2025:

2010 Unified Credit Against Estate Tax

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(a) General rule.–A credit of the applicable credit amount shall be allowed to the estate of every decedent against the tax imposed by section 2001.

(b) Adjustment to credit for certain gifts made before 1977.–The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

(c) Applicable credit amount.—

(1) In general.–For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

(2) Applicable exclusion amount.–For purposes of this subsection, the applicable exclusion amount is the sum of–

(A) the basic exclusion amount, and

(B) in the case of a surviving spouse, the deceased spousal unused exclusion amount.

(3) Basic exclusion amount.–

(A) In general.–For purposes of this subsection, the basic exclusion amount is $15,000,000 **.**

(B) Inflation adjustment.–In the case of any decedent dying in a calendar year after 2026, the dollar amount in subparagraph (A) shall be increased by an amount equal to–

(i) such dollar amount, multiplied by

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(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting "calendar year 2025" for "calendar year 2016" in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.

. . . . [*subdivisions (c)(4) and (c)(5) omitted*]

(d) Limitation based on amount of tax.—The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001.

More OBBBA Coverage

The One Big Beautiful Bill Act stands to fundamentally reshape the fiscal landscape across key sectors, introducing both immediate compliance challenges and long-term planning imperatives for businesses. This collection of articles sheds light on the OBBBA's key components to help you better understand and prepare for the changes ahead while taking advantage of the new tools (and tradeoffs) offered by the OBBBA.

View Collection

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