

O'NEIL & STEINER, PLLC

ESTATE & GIFT TAX INFORMATION

Gifts of up to \$19,000 in 2025 and 2026 per taxpayer are allowed to each recipient without the giver being required to file Form 709, Gift (and Generation-Skipping Transfer) Tax Return. For example, if a father and mother wanted to give a gift to a child who was married, they could each give up to \$19,000 to their child and \$19,000 to their child's spouse for a total \$38,000 from father and \$38,000 from mother (total of \$76,000) without having to file anything.

Excess gifts (above \$19,000 in 2025 and 2026, per taxpayer per recipient) are required to be reported on Form 709 annually. However, some gifts are excluded from reporting purposes altogether. These include:

1. Tuition paid directly to a qualified educational institution,
2. Medical expenses or related insurance premiums, paid directly to a qualified medical provider or health insurance company.

Excess gifts given over the giver's lifetime are accumulated and applied for estate tax purposes in the year they pass. The total of their assets plus accumulated lifetime excess gifts is then compared to the annual lifetime exemption amount to determine whether a portion of their estate is taxable or not. If the total of their assets plus accumulated lifetime excess gifts is below the annual lifetime exemption, their estate is not subject to estate tax and not required to file an estate tax return (Form 706). If the total exceeds the annual lifetime exemption the executor must file an estate tax return (Form 706) and the excess value of the estate is subject to estate tax. In addition to estate tax (Form 706), if the estate received/generated more than \$600 of income an estate income tax return (Form 1041) will need to be filed.

The One Big Beautiful Bill Act (OBBBA) made increases in estate exemptions under the Tax Cuts and Jobs Act (TCJA) permanent. The individual lifetime exemption amount for estates of decedents who passed away in 2025 is \$13.99 million (\$15 million for those who passed in 2026). These amounts can be doubled for a married couple with proper planning and estate administration allowing the unused portion of the first deceased spouse's exemption to be added to that of the surviving spouse (known as "portability").

An additional related transfer tax called the generation-skipping transfer (GST) tax is designed to prevent avoidance of estate and gift taxes by skipping transfers to the next successive generation. GST applies when beneficiaries are "skip persons". Skip persons are recipients at least two generations younger than the person making the transfer. For example, a grandparent transferring to a grandchild or great-grandchild would be subject to GST in addition to estate tax.

Both the estate tax and GST have a maximum tax rate of 40% each.

If you have not yet considered the impact of the TCJA and OBBBA on your estate plan, we suggest you do so. This may include discussing with your estate planning attorney the potential benefits of amending documents.