



# Estate Tax Law Changes:

How Financial Advisors  
Can Prepare Clients

THOUGHT LEADERSHIP

Changes in the estate tax law will affect individuals with a net worth above \$12 million. Here is how advisors can prepare these clients for what is ahead.

The possible sunset of the Tax Cuts and Jobs Act in 2026 makes estate-tax planning for ultra-high-net-worth clients a priority for financial advisors, according to *Think Advisor*.<sup>1</sup>

Congress may extend some provisions of the legislation, but if lawmakers allow the act to expire, the estate and gift tax exemptions will revert to previous levels. For individual taxpayers, the top individual, estate, and trust income tax bracket reverts to 39.6% from the current 37%. It also means the 2023 thresholds of \$12.06 million for individuals and \$24.12 million for married couples will plummet in 2026 to around \$6.5 million per person, or \$13 million for a married couple, according to *MarketWatch*.<sup>2</sup>

It may seem a long way off, but the serious planning that financial advisors must pursue to have significant impacts on future tax bills takes time. The U.S. Internal Revenue Service stated individuals who want to benefit from today's generous gift tax exclusions would not be adversely affected once the exemption amounts revert to their lower levels.<sup>3</sup>

There are two avenues that advisors can take to capitalize on today's exemptions. One is for clients to make large gifts now. The second is to establish trusts and move assets out of estates. Advisors can explore several types of trusts, including Spousal Lifetime Access Trusts, Grantor Retained

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Annuity Trusts, Qualified Personal Residence Trusts, Irrevocable Life Insurance Trusts, and charitable trusts.

The key provision of these estate-planning trusts is that they are all irrevocable – the trust's creator cannot amend provisions nor spend trust funds on anyone except the beneficiary unless the terms specifically authorize it. Considering these restrictions, advisors and their clients must balance current and future income needs with the desire to shield assets from taxes.

With these tax law changes coming, here is a look at these trusts and how financial advisors can prepare clients for what is ahead and how these trusts may help their financial goals.\*

### Spousal lifetime access trusts

In Spousal Lifetime Access Trusts (SLAT), a spouse gifts assets to a trust that benefits the other spouse, removing the assets from their joint estate, according to an article from U.S. News & World Report.<sup>4</sup> The spouse initiating the donation keeps indirect access to those assets. Then, the trust can eventually benefit a secondary recipient, such as the couple's children or a charity.

Clients with large estates may benefit from separate SLATs; however, advisors must follow IRS rules regarding reciprocal trust doctrines. For instance, SLATs cannot be created at the same time nor funded with identical assets, so these trusts take at least

\*The information discussed about these trusts is meant for informational purposes and every client situation is different.

two years to develop and set up correctly. Advisors should also know that a divorce or death of the recipient spouse means the donor spouse loses access to the SLAT's assets.

### Grantor annuity retained trusts

Grantor Annuity Retained Trusts (GRAT) give grantors annuity payments over a certain period, according to an article published by Cornell Law School.<sup>5</sup> The payments are based on the fair market value of the trust's assets, using a rate set by the IRS. When the GRAT expires, the assets move to beneficiaries, free of estate or gift taxes.

Advisors using GRATs need to become familiar with the trust's unique attributes. The trust must earn interest equal to or higher than the rate set by the IRS. Grantors can exchange similar assets in the trust to ensure the vehicle makes the required interest amount annually. If the rate falls beneath the IRS rate or the grantor dies, the trust is closed, and assets return to the estate, not the beneficiaries.

### Qualified personal residence trusts

Qualified Personal Residence Trusts (QPRT) allow clients to move personal residences into a trust for a set amount of time. The grantor may still live in the residence. When the time ends, the property goes to beneficiaries, according to Cornell Law School.<sup>6</sup> The

property's value for tax purposes is frozen when the residence is placed in the trust. The property's value is cut as long as the grantor lives in the residence.

The IRS set several requirements for a QPRT to receive beneficial tax treatments. Among them is that the grantor must survive the trust's time period. Once the time period ends, the grantor can only remain in the residence if they receive a fair-market value lease from the beneficiaries, according to Cornell.

### Irrevocable life insurance trusts

Irrevocable Life Insurance Trusts (ILIT) shelter life-insurance-policy benefits from estate taxes. Like other trusts, ILITs allow the insured person to choose a manager and designate how beneficiaries receive the assets, notes Cornell Law School.<sup>7</sup>

Advisors must create the policy within an ILIT. Otherwise, the insurance benefits plus other assets of the insured above applicable gift exclusion amounts could trigger state and federal estate taxes, according to Cornell.

### Charitable trusts

Clients with a giving mindset can use charitable trusts to lower their estate taxes and support their favorite IRS-recognized non-profit organizations.

There are several types of charitable trusts. Donor-Advised Funds allow donors who put assets in a trust to receive an immediate tax benefit while paying benefits over time. Endowments let donors gift assets to a favorite institution or organization. Endowment gifts can be restricted to specific programs or scholarships or unrestricted, allowing the receiver to use

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the gifts as needed. Charitable Lead Trusts and Charitable Remainder Trusts are designed to benefit both the giver and receiver at certain specified times.

## Navigating the world of trust creation

If the estate and gift exemptions are allowed to sunset, it will have significant impacts for financial advisors with clients who individually have a net worth above \$12 million. Irrevocable trusts are an important tool to help advisors shield their clients from potential estate-tax burdens.

Trusts are complicated legal documents that require advisors fully understand their individual intricacies. A poorly designed trust could be found invalid by the IRS. Proven financial tools such as SS&C's Trust Suite smooths the complexities associated with the paperwork and management of trusts with best-in-class technology.

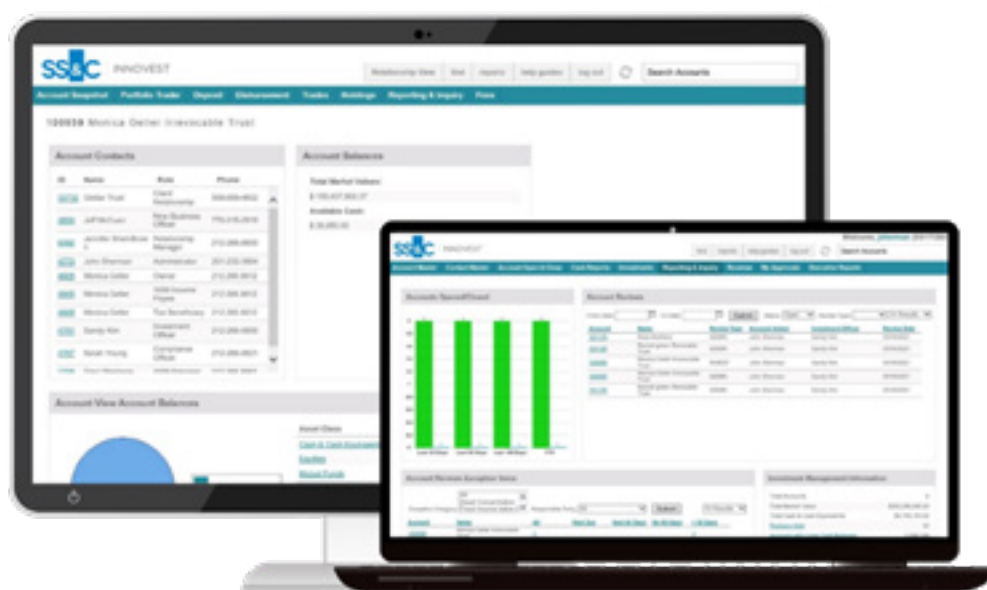
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