

Tax Planning: Estate Documents

Understanding how the tax law affects estate planning



Given the complexity of changes to the tax code in the United States, there is much to consider in determining the impact tax legislation will have on each of us with regard to charitable giving and estate planning.

I'm here to help.

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Estate documents

Review estate plans

Given the significant changes to the transfer tax laws, you should review your estate plan with your tax and legal advisors to help ensure it still accomplishes your objectives. This includes reviewing:



- **Wills**



- **Living trusts**



- **Existing lifetime tax-planning strategies**


Recall that while these favorable changes are scheduled to sunset on Jan. 1, 2026, absent future legislative action, it is possible changes could occur sooner. Thus, flexibility in estate plans is more important than ever.

More about estate documents

Married couples with nontaxable estates

The substantial increase in the estate tax exemption to \$11.58 million per person could lead to the increased use of portability-based estate plans, such as simple or I-love-you wills, in which the first spouse's estate passes outright entirely to the surviving spouse, in favor of the traditional default bypass and marital trust, or AB trust, estate planners have used since the 1980s. The problem stems from the lack of flexibility, in terms of post-mortem planning, for AB trust plans for married couples with nontaxable estates.

Since the bypass trust must be created at the first death and these assets are not eligible for a basis step-up at the second spouse's death, this can in fact result in income tax due in the future when the appreciated assets of the bypass trust are sold, where both income and estate tax at the second death could have been completely avoided.



If you have a nontaxable estate, consult with your tax and legal advisors immediately regarding more flexible alternative estate plans.

Bypass trusts

As noted, bypass, or credit-shelter, trust planning is still appropriate generally for married couples with taxable estates. However, if your estate plans contain federal credit shelter formula bequests, you should immediately consult with your legal counsel.



**Let's work together with
your tax and legal
professionals to determine
how the legislation affects
you directly.**



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