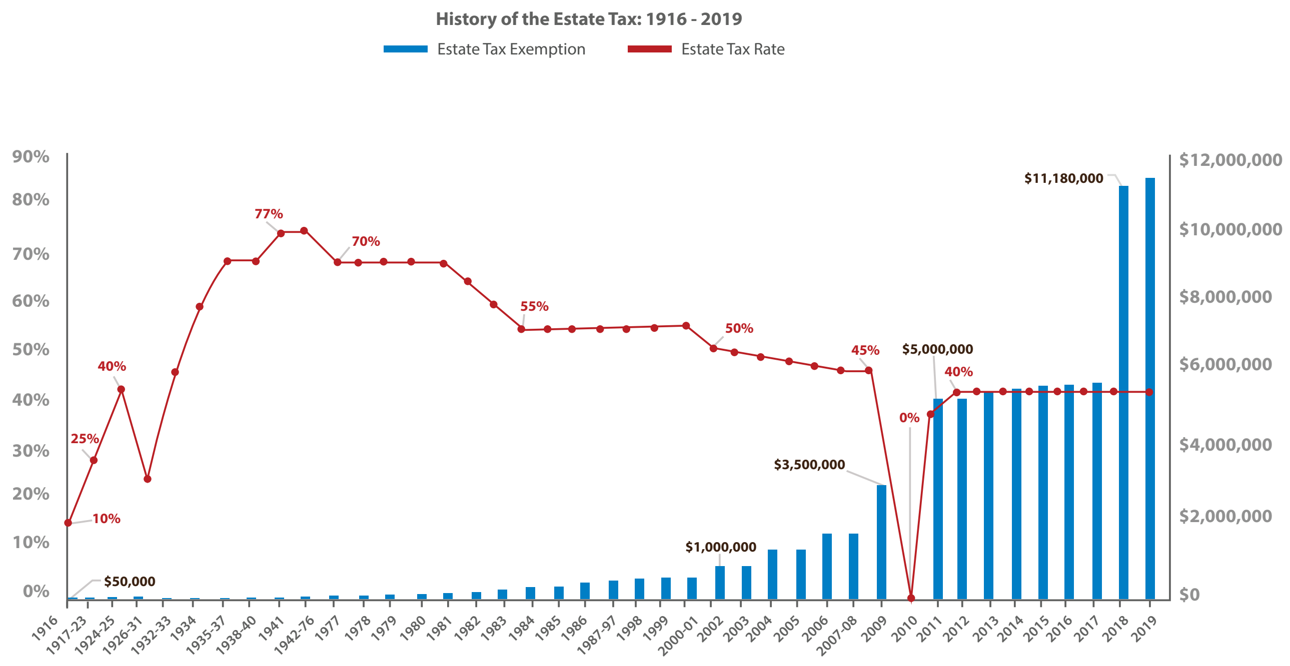
Some Perspective on the Estate Tax

"The only difference between death and taxes is that death doesn't get worse every time Congress meets." – Will Rogers

The US estate tax has a long history that stretches more than 100 years to 1914 when, during World War I, emergency legislation was passed to boost government tax revenues through the War Revenue Act of 1914. Since then, the estate tax has gone through 22 substantial legislative changes and almost 40 changes to the exemption and rate.

In 2011, the American Tax Payer Relief (ATRA) Act changed the rules for the gift tax, estate tax, and generation-skipping transfer (GST) tax exemptions by creating a unified exemption amount with a base exemption of $5 million. This base exemption is indexed for inflation. The Tax Cuts and Jobs Act of 2017 (TCJA) doubled these exemptions. However, the TCJA exemptions are scheduled to sunset after 2025 and revert back to those available under ATRA.

A HISTORY OF EXEMPTION AND TAX RATES



LIMITED PLANNING OPPORTUNITY

Gift and estate taxes are unified with any tax due calculated after applying a credit – formerly known as the unified credit – based on an applicable exclusion amount. The credit is first applied on a cumulative basis against the gift tax as taxable gifts are made. To the extent that any credit remains at death, it is applied against the estate tax.

The Treasury and IRS have issued proposed regulations to provide certainty: there will be no "claw back" of the use of any unified credit (gift tax exemption) before January 1, 2026. Wealthy individuals have a unique opportunity to accomplish significant wealth transfer utilizing the higher exemptions without concern that there would be a phantom estate tax on their death after 2025. However, because of the current sunset provision included in the TCJA, this opportunity is limited.

PLANNING FOR THE LONG-TERM

Despite the estate tax's long history, it's tempting to put off estate planning until there's more certainty regarding the future of the estate tax. But, as Benjamin Franklin once noted, "In this world, nothing can be said to be certain, except death and taxes." In light of Franklin's wisdom, it's safe to presume that some form of wealth transfer tax will be a factor in long-term planning. It's also important to remember that we need a plan that adapts to whatever changes arise in the future. All we can be certain of is that over the course of a normal adult lifespan, much will change. That "wait and see" approach isn't always wise — it's short-term thinking for a long-term problem.

Well-crafted estate plans are designed with flexibility in mind, allowing them to function regardless of any change brought on by Congress. These estate plans can weather changes in tax law, withstand economic pressures, and provide liquidity for whatever the future brings.

A life insurance policy can provide:

- Lifetime benefits
- Liquidity at death
- Diversification in an investment portfolio
- A non-correlated return on assets.

Liquidity in an estate plan:

- Allows for the payment of taxes
- Enables heirs to embark on a new business venture
- Fulfills a charitable bequest
- Provides for a surviving spouse

All of these are valuable endeavors, regardless of what form the estate tax might take at the moment of the insured's death.

THE BOTTOM LINE

Don't let an uncertain future stop you from establishing a plan that will always benefit future heirs.