

FAQ: What are the federal, Maryland, D.C., and Virginia estate and gift tax exemptions for 2018?

What is the federal estate and gift tax exemption for 2018?

The *Tax Cut and Jobs Act of 2017* (“TCJA”) signed into law in December 2017 increased the 2018 federal estate and gift tax exemption to **\$11.18 million** for an individual (thereby allowing a married couple to exempt **\$22.36 million** from tax). For each year after 2018 the exemption will be increased for inflation. If the value of a never married single individual's assets exceed \$11.18 million adjusted for inflation at the time of that individual's death, then a 40% estate tax will be imposed on everything over the threshold.

The TCJA kept in place portability. That is, if a predeceasing spouse does not take full advantage of his or her federal estate tax exemption, the unused exemption can be preserved for use by the surviving spouse, if a predeceasing spouse's estate timely files a federal estate tax return. The preservation of the unused exemption is referred to as “portability.” The surviving spouse can elect to receive the deceased spouse's unused exemption only by timely filing a federal estate tax return. The unused exemption amount is known as the *Deceased Spousal Unused Exemption* amount (or the DSUE amount).

The increased exemption amount set by the TCJA is scheduled to expire on January 1, 2026 and, accordingly, assuming it is not made permanent before then, the federal estate and gift tax exemption amount for 2026 and thereafter will be **\$5.6 million** (adjusted for inflation), the amount that was to be in place for 2018 before the TCJA was signed into law.

What is the Maryland estate tax exemption for 2018 and thereafter?

The Maryland estate exemption is **\$4,000,000** in 2018. Under legislation passed in 2018, the Maryland exemption in 2019 and each year thereafter will be **\$5,000,000**. Under this legislation the exemption amount is *not* adjusted for inflation and, therefore, will not increase over time. The new Maryland law provides for portability for spouses dying after 2018 if an election is made on a timely filed Maryland estate tax return. Also portability in connection with the Maryland estate tax exemption will be available where a Maryland spouse dies prior to 2019 and the portability election was made on a timely federal estate tax return.

What is the District of Columbia estate tax exemption for 2018 and thereafter?

The estate tax exemption currently follows federal law; that is, the District of Columbia's exemption is **\$11.18 million** for an individual (thereby allowing a married couple to exempt **\$22.36 million** from tax). However, a bill has been introduced before the District of Columbia council to “decouple” from the federal exemption and retroactively set the 2018 District of Columbia exemption amount to **\$5,600,000** (to be adjusted for inflation in future years).

Virginia and the imposition of an estate tax.

Virginia does not currently impose an estate tax.