

FAQ: What Are the Federal, Maryland, D.C., and Virginia Estate and Gift Tax Exemptions for 2022?

By Jennifer Pope

What is the federal estate and gift tax exemption for 2022?

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). Since 2018 the exemption is increased for inflation on an annual basis. The federal estate and gift tax exemption in 2022 is **\$12.06 million** per person and will be raised to \$12.92 million in 2023. Therefore, a married couple can pass **\$24.12 million** of assets to their beneficiaries in 2022 before a 40% gift estate tax is imposed.

If a predeceasing spouse does not take full advantage of his or her federal estate and gift 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).

Filing a federal estate tax return for portability is critical to preserve the historically high gift and estate tax exemption amounts currently in place. The increased exemption amount set by the TCJA is scheduled to expire on December 31, 2025. At that time, assuming it is not made permanent before then, the federal estate and gift tax exemption amount for 2026 and thereafter will revert to **\$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 2022?

Under legislation passed in 2018, the Maryland estate exemption was set at **\$5,000,000**. Under this legislation the exemption amount is **not** adjusted for inflation and, therefore, will not increase over time. Current 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 before 2019 and the portability election was made on a timely federal estate tax return. Maryland does not currently impose a gift tax.

What is the District of Columbia estate tax exemption for 2022?

The D. C. estate tax exemption in 2022 is **\$4,250,000** and it is adjusted annually for inflation. There is no portability between spouses of unused estate tax exemption in D.C. Any exemption amount not used by the first spouse to die is lost. D.C. does not currently impose a gift tax.

What is the Virginia estate tax exemption for 2022?

Virginia does not currently impose an estate tax or a gift tax.