

**McGuireWoods**

# *Legacy Planning, Once Removed*

ESTATE PLANNING | TRUSTS | PROPERTY  
TAXES | FAMILY | LEGACY

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## **Once Removed: Tax Law and Planning in the Face of ... Certainty?**

### **Episode 45 Summary**

The passage of the One Big Beautiful Bill Act provides some clarity around the laws related to estate tax, gift tax and generation-skipping (GST) tax — at least for now. This episode summarizes the key provisions of that act. Perhaps most importantly, the passage of this act provides an opportunity for clients to revisit their estate plan and current tax strategies without the immediate time pressure of a potential “sunset.” This episode also provides some specific tips on how clients can make the most of this opportunity to review their estate plans in this period of clarity and predictability.

#### **Transcript:**

**(0:00):**

Hello and welcome back. I'm Steve Murphy, a trust and estates attorney with McGuireWoods LLP. And this is Legacy Planning, Once Removed – my podcast on taxes, trusts, legacy, family, and everything else on my clients' minds.

For those of you who are returning again, welcome back. And for those of you who are new to the podcast, let me say welcome.

From the title of this podcast, you can see that this is all about legacy planning. And on this podcast, we'll talk about estate planning. But you'll soon find that this podcast is about more than just estate planning and more than just a will.

This is about legacy planning, broadly speaking. We like to think about how you affect others and how they affect you.

And then with that in mind, we think about how to structure an estate plan and how to take other actions to create and solidify this legacy both during life and after your passing.

And because we think so much about this kind of legacy, we have a tagline here: Walk like you leave footprints.

So, while I have to remind you that we talk about more than just taxes, this is still a podcast about what's on my clients' minds.

So, here this is another episode about taxes because right now it's July 2025 and the One Big Beautiful Bill Act has been signed into law.

On this episode, we'll briefly summarize the key provisions of that law for estate planning purposes, but I'll try to make these episodes evergreen, so they are relevant no matter the state of the law in the future.

**(01:41):**

So, I'll close with a few thoughts about next steps you can take now, but also what to do in these brief moments when there is certainty about tax law for the foreseeable future.

For the last 25 years, there's been a lot of talk about changes in estate tax law, and that's because in many cases for the last 25 years, there's been a different provision of the law with a sunset provision built in where certain principles applied for a period of time, but then at some point, unless Congress acted, the law would revert back.

I could talk about those different laws specifically, but I don't want to confuse you by talking about different laws and how they applied and when.

So, let's just leave it at that, and let's talk about current law and the law under this One Big Beautiful Bill Act.

So, under current law right now, each individual citizen and resident has an amount they can pass free of estate and gift tax during life and upon death.

And that's reduced by the amount of taxable gifts that they made during life.

And each individual citizen and resident has a similar amount that they can use to shelter transfers to grandchildren or other descendants or similar beneficiaries through something called the exemption from generation-skipping transfer tax or GST tax. I talk about GST tax on some other episodes.

For 2025, that amount is \$10 million index for inflation.

So as of 2025, that's \$13.99 million per person of gift and estate tax exemption and GST tax exemption.

Importantly, spouses can double up their exemptions through a process called portability.

Also, portability is only available if you take certain steps and also importantly, GST tax exemption is not portable between spouses.

So, if you want to make use of both spouses' GST tax exemption, again specific planning is needed.

So, with all that being said about the current law, you may have heard from my podcast or from other sources because we've talked about it a lot.

**(04:01):**

You may have heard that this current law was scheduled to sunset and the exemption was scheduled to go down at the end of 2025. But that's all changed now with the One Big Beautiful Bill Act.

For 2026, under the act, the estate and gift tax exemptions and the GST tax exemption will basically stay at its current level.

For 2026, the exemption will be \$15 million per person. And then starting in 2027, that number will be indexed for inflation.

And importantly, this law will be “permanent”.

I know you're just listening, you can't see me, but I'm using air quotes again when I say permanent, that is this law will be in effect unless and until a new law changes it, there's no sunset provision in this law.

And maybe as a reminder, under this law portability is still in effect, so spouses can still double up their estate and gift tax exemptions, but not their GST tax exemptions.

So, what does this mean?

Well, after all these years of uncertainty and all the talk in the last few years about the potential sunset, we can now just take a breath.

And more specifically, what does this mean for the client?

Well, this means that there's no particular time pressure in 2025 to make a gift solely based on a potential change in the law.

So, the next question is what do we do now?

Well, I have a few thoughts. I like to close these episodes with some action items or thought exercises.

So, let's start there.

**(05:48):**

First, let's take this time to review your current estate plan.

A lot of estate plans are actually built on specific assumptions of what the law will look like at the time of the individual's death.

There are actually formulas based on how much estate tax exemption the decedent has at the time of death.

Those formulas are often built into the will or revocable trust and based on that formula and based on law applicable at the time, that might push assets towards a trust with certain terms and certain beneficiaries and with certain implications for estate tax and even income tax.

So, as you can imagine, if the decedent has a lot of estate tax exemption remaining, that will affect the estate plan, but this might not be what the person intended.

So, this is a great time to sit down and look at the estate plan with your advisors.

Maybe ask someone to put together some projections and a flow chart and then consider whether any changes are appropriate.

Second, on a related note, let's take this time to review the tax that might be due upon your death or at the death of your spouse if you're married or the death of certain beneficiaries.

Financial advisors, tax advisors, legal advisors can help with calculating that amount of tax based on certain assumptions.

You could factor in federal estate tax—maybe state estate tax if you live in a state with a state estate or inheritance tax— and income tax. Even rough summaries of that tax that might be due could be really helpful to understand your estate plan.

And third, let's take this time to review any gifting strategies.

**(07:33):**

Again, maybe consistent and based on the information of your estate plan that you've gathered in those first two steps.

You know, during the past few years when there was all this perceived time pressure because of the plan sunset, a lot of clients thought through a lot of gifting strategies of whether and how to give away funds and how to balance those three elements that we talk about on this pod podcast, access control, flexibility.

Let's not let all that energy and time go to waste.

You might've worked on some outlines or drafts of irrevocable trust with your tax and legal advisors.

This is a great time to review those. And then based on the potential tax that might be due at your death, you might feel it's still appropriate to continue with some gifts this year or in future years.

You might make smaller annual gifts of that annual exclusion amount.

Currently \$19,000 per person, per year.

Maybe you could make gifts for educational purposes, or you might find it appropriate to make larger gifts to get assets and their appreciation out of your estate for estate tax purposes.

Or you might even feel that based on current law, it's appropriate to undo some planning that was done in the past.

Maybe there's an insurance policy held in a trust that irrevocable life insurance trust might have been put in place years ago on the assumption that a lot of estate tax would be due upon the person's death.

It's good to ask that question based on current law.

Is that still a good strategy?

Is it worth keeping that trust around?

**(09:10):**

Or maybe there's an irrevocable trust that again, was put in place years ago maybe upon the death of a grandparent where those assets will not receive a step up in basis for income tax purposes on someone's death.

Again, that might have been a good strategy if we were worried about estate tax, but it's good to ask this question, is that still a good strategy?

And if not, what can be done about it?

And even if you decide not to make any transfers in the near future or to take any steps now, clean up those materials—those outlines, those flowcharts, those drafts—and set them aside so that if and when you want to revisit this, you've left behind some good notes—kind of like breadcrumbs.

On this podcast, we might say you've left behind footprints. And I hate to end on that sour note, but we have to remind ourselves that these tax laws can and do change over time.

Over the last 25 years, we've seen various provisions of the law and we've actually seen lots of proposals to radically change the state and gift tax law.

And if the law is proposed to be changed again, I think it'll help to be ready.

But for the time being, enjoy this moment of certainty and predictability without a sunset and without that uncertainty and use it as an opportunity to review your estate plan with some clarity.

I'm Steve Murphy and this has been Legacy Planning, Once Removed my podcast on thoughtful estate planning

And until next time: Walk like you leave footprints.