



# Estate Planning

## The New and Not So New

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**Reunion 2023**



# Changes Affecting Estate Planning

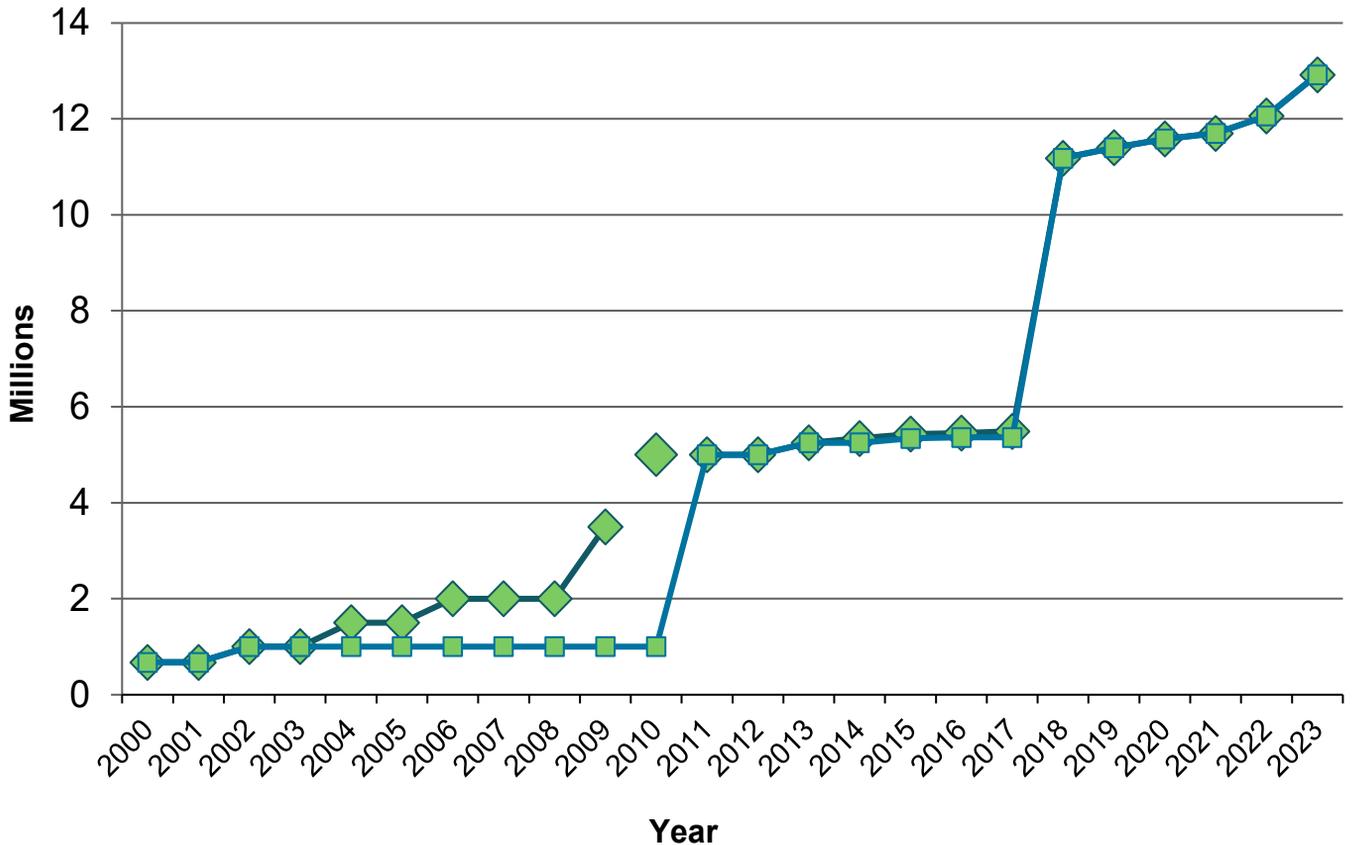
- Fluctuations in Wealth.
- Changes in Estate and Gift Tax.
- Changes in Income Tax.
- Changes in Family/Objectives.



# Dow Jones INDU Average

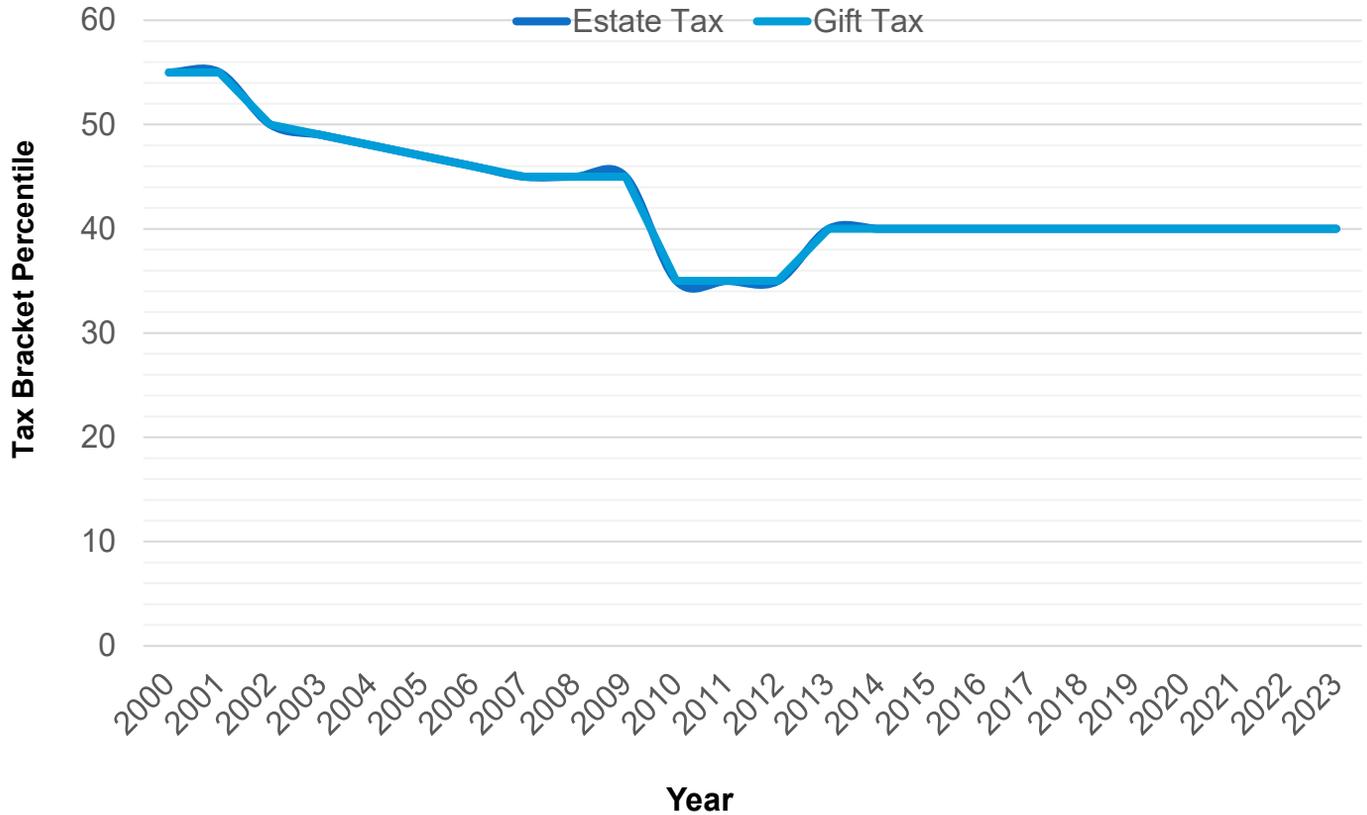


# Estate & Gift Tax Exemption Amount





# Maximum Estate & Gift Tax Rates



# Gift and Estate Taxes

Year	LIFETIME GIFT-TAX EXEMPTION	TOTAL GIFT AND ESTATE-TAX EXEMPTION	GST TAX EXEMPTION	GIFT, ESTATE, AND GST TAXES/TOP RATE
2003	\$1 million	\$1 million	\$1.1 million	49%
2004	\$1 million	\$1.5 million	\$1.5 million	48%
2005	\$1 million	\$1.5 million	\$1.5 million	47%
2006	\$1 million	\$2 million	\$2 million	46%
2007-08	\$1 million	\$2 million	\$2 million	45%
2009	\$1 million	\$3.5 million	\$3.5 million	45%
2010	\$1 million	\$5 million/Unlimited <sup>a</sup>	\$5 million/Unlimited <sup>a</sup>	35% <sup>a</sup>
2011	\$5 million	\$5 million	\$5 million	35%
2012	\$5.12 million	\$5.12 million	\$5.12 million	35%
2013	\$5.25 million	\$5.25 million	\$5.25 million	40%
2014	\$5.34 million	\$5.34 million	\$5.34 million	40%
2015	\$5.43 million	\$5.43 million	\$5.43 million	40%
2016	\$5.45 million	\$5.45 million	\$5.45 million	40%
2017	\$5.49 million	\$5.49 million	\$5.49 million	40%
2018	\$11.18 million	\$11.18 million	\$11.18 million	40%
2019	\$11.40 million	\$11.40 million	\$11.40 million	40%
2020	\$11.58 million	\$11.58 million	\$11.58 million	40%
2021	\$11.70 million	\$11.70 million	\$11.70 million	40%
2022	\$12.06 million	\$12.06 million	\$12.06 million	40%
2023	\$12.92 million	\$12.92 million	\$12.92 million	40%

<sup>a</sup> Depends on whether gift or bequest and, if bequest, what election was made

# Basic Tax Rules

- Gratuitous transfers are subject to tax.
- Exemptions and Deductions:
  - Annual gift tax exemption.
  - Applicable exclusion amount (including “portability”).
  - Unlimited marital deduction.
  - Unlimited charitable deduction.
- Adjusted Tax Basis on death.
- State may tax transfers.

# Basic Tax Rules

## (Continued)

- Examples:
  - Annual Gifts.
  - Combining the applicable exemption with the marital deduction.
  - Exemption Trust.
  - Portability.
  - Gifts during lifetime.
  - Valuation of transferred assets.
  - Title to assets.

# Tax Law Changes

- Annual Exclusion – *small changes*
- Gratuitous transfers – *gift and estate tax rates are at near historic lows*
- Applicable Exclusion – *historic high; portability*
- Unlimited marital deduction – *no change*
- Unlimited charitable deduction – *no change*
- Generation skipping tax exemption – *historic high*
- Income tax
  - Federal Income tax 37%
  - Healthcare 3.8%
  - Net Investment tax 3.8%
  - Federal Capital Gain tax 15%/20%
  - California 13%
  - Alt Min Tax 28%

# Implications of Current Tax Law

- Most current planning remains appropriate, but...
- Appropriate to review objectives.
- Analyze current estate plans; there may be planning opportunities (e.g., higher exemption, portability -- exemption trust vs. step up in basis on second death).
- The tax changes will change.
- Estate plans have a limited life (*review them often*).
- Take advantage of increased gift tax exemption.
- There is a reluctance to use techniques that incur gift tax.
- Review Retirement Plan Designation.

# Implications of Current Tax Law

## (Continued)

- Bypass trusts (limit access; creditor protection; lose step up in basis).
- Consider portability depending on likely size of estate of surviving spouse at his/her death.
- Gifts that do not incur tax:
  - Use exclusions/exemptions.
  - Low valuations.
  - Discount planning.
  - GRATS, CLATS, Sales to Defective Grantor Trusts, Loans (all of these benefit from low discount rate).
  - Private foundations, Donor Advised Funds, Support organizations.
  - Dynasty trusts.

# Retirement Plan Distributions

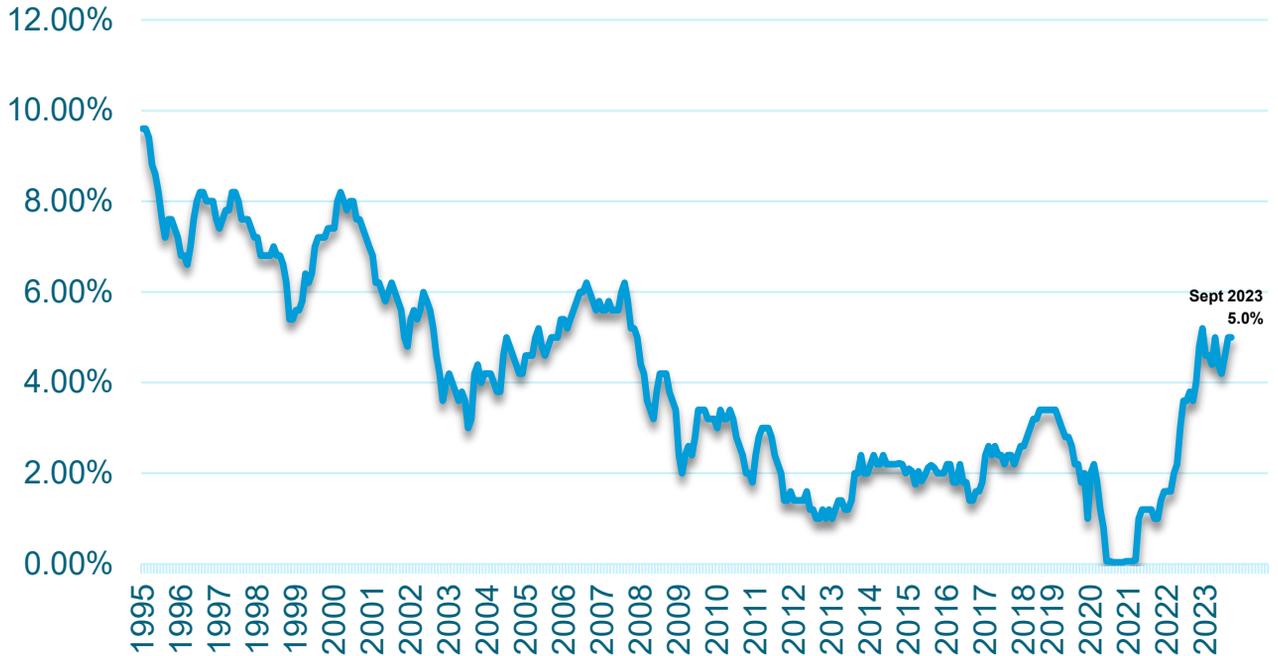
- Distributions at death subject to estate tax and income tax.
- General rule for beneficiary designation.
- For those interested in charity, good asset to leave to charity at death.
- Gifts from retirement plan to charity during lifetime (\$100,000 limit per year – age 70 1/2).
- Gifts from retirement plan to life income vehicles during lifetime (\$50,000 lifetime limit).

# Estate Planning Affected by Interest Rate

- Intra family loans
- Installment sales to family members (Defective Grantor Trusts)
- GRATS, CLATS, Gift of Remainder Interest in Residence

# Historic Interest Rates

## Section 7520 Rate



# Combining Estate Planning Techniques

- Charitable Remainder Trust (“CRT”)
  - Appreciated assets placed in trust – no tax on sale.
  - Income stream to trustor.
  - Remainder to charity – income tax deduction.

# Combining Estate Planning Techniques

## (Continued)

- Irrevocable Life Insurance Trust (“ILIT”)
  - Appreciated assets placed in trust – no tax on sale.
  - Income stream to trustor.
  - Remainder to charity – income tax deduction.
  - Trust assets avoid estate tax.
- Combining CRT & ILIT
  - CRT provides tax free sale, stream of income and gifts to charity.
  - ILIT provides children assets to replace assets that went to charity.