Elections, Gridlock and Estate Taxes.

The current Unified Gift and Estate Tax Credit shelters $12.92 Mil. per person ($25.84 Mil. between Spouses) for lifetime gifts and bequests at death.

There is also a $12.92 Mil. Exemption that applies to the Generation Skipping Transfer Tax (GST) – an additional tax on transfers to gift recipients more than a generation below the gift giver, such as a transfer from a grandparent to a grandchild.

Both the Unified Credit and GST Exemption are scheduled to revert to $5.49 Mil. per person (with inflation adjustments) on January 1, 2026.

The current Credit and Exemption amounts were legislated as part of the Tax Cuts and Jobs Act on December 22, 2017, when Republicans controlled Congress and the Presidency, using the process of Reconciliation.

Reconciliation.

Reconciliation is a process that allows certain Tax and Budgetary Bills to pass the Senate with a simple majority of 51 votes rather than the normally required 60 vote supermajority. Where the Senate vote is divided 50-50, the Vice President breaks the tie.

A special rule (the Byrd Rule) generally limits the effective period of bills that increase the Federal deficit beyond 10 years, which is why the Credit/Exemption will revert to $5.49 million per person (with inflation adjustments) on January 1, 2026.

Reconciliation does not affect other basic requirements for passage of a bill. The House and Senate still must pass an identical bill, which the President may sign or veto.

Historically.

Reconciliation has been used to fast-track bills considered key to the controlling Party's platform.

The Reconciliation process was first used in 1980. To date, Congress has sent 27 Reconciliation bills to the President – 4 were vetoed and 23 enacted.

For example:

1. From 1980 – 2000, Reconciliation was used primarily for spending cuts to reduce the deficit.

2. In 2001, 2003, and 2006 Reconciliation was used to enact tax cuts without offsetting the revenue loss.

3. In 2010, Reconciliation was used to amend portions of the Patient Protection and Affordable Care Act, shortly after its enactment.

2024 Elections Slate.

- Presidential Election Year
- 33 Senate Seats will be up for election
- 435 House seats

<u>Possible</u> Scenarios from Republican Party Win or Loss Perspective:

REPUBLICANS

Presidency	**Win**	**Win**	**Win**	**Win**	**Win**	**Win**	**Win**	**Win**
House	**Win Big**	**Win Small**	**Win Big**	**Win Small**	**Lose Big**	**Lose Small**	**Lose Big**	**Lose Small**
Senate	**Win Big**	**Win Small**	**Win Small**	**Win Big**	**Lose Big**	**Lose Small**	**Lose Small**	**Lose Big**
Possible Result	Estate Taxes repealed, or Credits Increased, or Credits Maintained	Estate Tax Credit maintained, or reverts to $5.49 Mil. in 2026	Estate Tax Credit Maintained, or reverts to $5.49 Mil. in 2026	Estate Taxes repealed, or Credits Increased, or Credits Maintained	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026

Presidency	**Loss**	**Loss**	**Loss**	**Loss**	**Loss**	**Loss**	**Loss**	**Loss**
House	**Win Big**	**Win Small**	**Win Big**	**Win Small**	**Lose Big**	**Lose Small**	**Lose Big**	**Lose Small**
Senate	**Win Big**	**Win Small**	**Win Small**	**Win Big**	**Lose Big**	**Lose Small**	**Lose Small**	**Lose Big**
Possible Result	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. possibly before 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. in 2026	Estate Tax Credit reverts to $5.49 Mil. possibly before 2026

Win House Big = More than 15 seats

Win House Small = Less than 15 Seats

Win Senate Big = More than 5 Seats

Win Senate Small = Less than 5 Seats

It is our view that of the 16 potential outcomes in 2024, 12 theoretically could result in the current Credit/Exemption being reduced in 2026 or earlier. Given the uncertainty with future availability of the increased Credit/Exemption, now is an opportune time to engage in long-term generational planning.

Other Factors.
In addition to uncertainty in tax laws, other factors encourage engaging in long-term generational planning now such as:

Lower Asset Values resulting from recent economic conditions as estimated below:

ASSET	2022 vs 2021 Value
Publicly Traded Stocks	-20% to -50%
Longer Dated Bonds	-15% to -20%
Real Estate	-25% to -35%
Privately Held Businesses	-30% to -60%

IRS Developments
IRS recently proposed regulations which would provide that the lower Credit/Exemption levels may apply at death to some gifts made while the Credit/Exemption levels were high. For example, taxpayer makes a gift while the Credit/Exemption are increased, then dies within 3 years of the gift at a time when the Credit/Exemption level has reverted to the lower amounts. In this case, the Credit/Exemption level in effect at time of death would apply for purposes of calculating the estate tax on the gift.

IRS's New Army
Over the past 10 years we have seen that well documented gift/sale transactions are either:

1. not examined by IRS, or
2. only mildly questioned with little or no impact to the taxpayer

However, the Biden Administration recently announced plans to hire 87,000 new IRS Agents.[1]

While it may take several years to train and deploy them, it is expected that audit activity will rise.

As such, we recommend using any portion of your remaining $12.92 Mil. remaining credits as soon as practical.

Stephen P. Taylor, JD, LLM
BA, Political Science, University of Michigan
JD, Villanova University School of Law
Masters in Taxation (LLM), Villanova University School of Law

[1] In January 2023, House Republicans approved a bill that would repeal funding for the hiring of the new IRS Agents.