

Simplified Summary

2010

Estate Tax

Exclusion amount	\$5,000,000
Maximum tax rate	35%
Carryover basis	Option to elect carryover basis instead of estate tax

Gift Tax

Exclusion amount	\$1,000,000 (no change)
Maximum tax rate	35% (no change)

2011-2012

Estate Tax

Exclusion amount	\$5,000,000
Maximum tax rate	35%

Gift Tax

Exclusion amount	\$5,000,000
Maximum tax rate	35% (no change)

Detailed Summary

2010

Estate Tax

* <i>Basic</i> exclusion amount	\$5,000,000 (formerly called "applicable exclusion amount")
Unified credit	\$1,730,800
*Maximum tax rate	35%
Level where 35% rate begins	\$500,000. But no tax until taxable estate + gifts > \$5M
*Step-up in basis	Full step-up, unless estate elects out of estate tax
State death tax deduction	Still available on line 3b (as it was in 2005-2009)
*Due date	No earlier than nine months after date of enactment
*Carryover basis	Applicable only if estate elects out of estate tax
*Max basis increase available	\$1.3M (plus \$3M for property passing to spouse)
*Due date of new form (8939)	No earlier than nine months after date of enactment Penalties: 1) Failure to report to the IRS: \$10,000 per failure 2) Intentional disregard: 5% of FMV of property 3) Failure to report to beneficiaries:/donees: \$50 per failure
Capital gains rate	Proceeds in excess of adjusted tax basis subject to tax at the applicable capital gains rate when sold (currently 15%)

Gift Tax

Exclusion amount	\$1,000,000 (no change)
Maximum tax rate	35% (no change)
Due date	April 18, 2011 (Emancipation Day observed on Friday, April 15, 2011)

2011-2012

Estate Tax

*DSUEA	"Deceased spousal unused exclusion amount" (new in 2011)
<i>Basic</i> exclusion amount	\$5,000,000 [2012: indexed for post-2010 inflation]
<i>Basic</i> unified credit	\$1,730,800 [+35% of increase over \$5M due to indexing - 2012 only]
*Maximum tax rate	35%
Level where 35% rate begins	\$500,000. But no tax until taxable estate + Gifts > \$5M + DSUEA
State death tax deduction	Still available on line 3b (as it was in 2005-2009)
Portability of exclusion	DSUEA only from estate of spouse who dies in 2011 or 2012
Last deceased spouse	DSUEA available only from last deceased spouse. Thus, DSUEA could be lost if surviving spouse remarries, and is then "rewidowed."
* <i>Applicable</i> exclusion amount	<i>Basic</i> Exclusion Amount + DSUEA

<i>Applicable</i> unified credit	<i>Basic</i> Unified Credit + 35% of DSUEA
Step-up in basis	<p>Assets in first estate placed in bypass trust get no additional basis step-up at survivor's death, but are protected from tax on any appreciation at second death.</p> <p>Same assets instead given directly to surviving spouse (and protected from tax in second estate by DSUEA) do get step-up.</p> <p>But trade-off is that appreciation of these assets between first and second deaths could be taxable if they exceed combined exclusions.</p>

Gift Tax

Exclusion amount	\$5,000,000 + DSUEA Same as estate tax " <i>applicable</i> exclusion amount"
Unified credit	\$1,730,800 + 35% of DSUEA Same as for estate tax (now "reunified")
Maximum tax rate	35% Same as for estate tax
Due date	Same as for estate tax, except that a donor could use the DSUEA's from multiple deceased spouses during the donor's lifetime.