

# Estate Taxes

Estate tax planning focuses on how assets are valued, what is included in an estate, and strategies to reduce potential tax exposure. For most families, proper planning ensures assets pass efficiently to loved ones while minimizing unnecessary tax consequences.



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## What is the “Gross Estate?”

The gross estate is the total value of everything a person owns or controls at the time of death. This value is generally based on fair market value – the price a willing buyer and willing seller would agree upon.

The gross estate may include:

- Real estate
- Investment accounts
- Business interests
- Personal property
- Life insurance
- Certain trusts
- Jointly owned property

**Important:** The gross estate is broader than the probate estate.

## Estate Tax Returns

A federal Estate Tax Return (Form 706) may be required if the estate exceeds the federal exemption amount.

Key timing rules:

- Must generally be filed within 9 months of death
- A 6-month extension may be requested

Many estates never owe estate tax, but filing may still be important for planning purposes.

## Why You Can’t Just Give Everything Away

The IRS has rules that pull certain gifts back into the estate if the person still had control or benefit from the asset.

Examples include transfers where someone keeps:

- The right to income
- The right to live in or use property
- The ability to change beneficiaries
- The ability to revoke or amend a transfer

These rules prevent individuals from avoiding estate tax while still benefiting from the asset.

## The 3-Year Lookback Rule

Certain transfers made within three years of death may still be included in the estate.

Common examples include:

- Transferring life insurance policies
- Transfers that fall under retained-interest rules

However, simple cash gifts typically are not included.

## Jointly Owned Property

Joint ownership can affect estate taxation.  
In many cases:

- 100% of the property value may be included in the estate
- Unless the co-owner can show they contributed to the purchase

For spouses, the default assumption is usually 50/50 ownership.

## Life Insurance and Estate Tax

Life insurance may be included in the estate if:

- The policy is payable to the estate, or
- The insured retains control over the policy

If the policy owner cannot change the beneficiary or control the policy, it may not be included.

## Strategies to Minimize Estate Tax

Estate planning strategies depend on each family's assets and goals.

Common tools include:

**Spousal Deduction** Assets left to a spouse generally pass tax-free.

- **Strategic Gifting** Gifting assets can move future growth outside of the estate.
- **Charitable Giving** Gifts to charities can reduce estate size and provide philanthropic impact.
- **Life Insurance Planning** Policies held outside the estate may help pay estate taxes without selling assets.
- **Credit Shelter Trusts** Allows couples to use both spouses' estate tax exemptions.
- **Portability (DSUE)** A surviving spouse may inherit a deceased spouse's unused exemption.

## Cost Basis Adjustment (Step-Up)

Many assets receive a new tax basis at death equal to their fair market value.

This is often called a "step-up in basis."

Why it matters:

- It can significantly reduce capital gains taxes when heirs sell inherited assets.

Important: This rule generally does not apply to retirement accounts or annuities.

## Powers of Appointment

A general power of appointment can cause an asset to be included in an estate.

This occurs when someone has the power to direct property to:

- Themselves
- Their estate
- Their creditors
- Creditors of their estate

If that power exists, the asset may be included in the estate for tax purposes.

## Why Estate Tax Planning Matters

Proper planning can:

- ✓ Protect family wealth
- ✓ Reduce unnecessary taxes
- ✓ Prevent forced sales of assets
- ✓ Simplify estate administration
- ✓ Support long-term family goals

### Take Action!

- Review your current plan or create your first one.
- Don't wait until a crisis hits.
- Take our estate plan quiz at [lawyerlisa.com/quiz](http://lawyerlisa.com/quiz)



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