Janus Henderson INVESTORS

# LIFETIME GIVING

## Foundations of Estate Planning

**Creating an estate plan is an important part of managing your wealth.** To help simplify the process, we have created a series of frameworks to help clients work through the process.

In this guide, we address **lifetime giving** – the structure, goals, and benefits related to making gifts to loved ones during life rather than waiting until death.

While this educational tool is not intended to provide tax or legal advice, it can help investors prepare for wealth transfer issues and decisions commonly faced by families.

The list below should be viewed as a framework and may be completed or reviewed based on your specific situation.

### 1. Why make a gift now?

There are many gift-giving occasions scattered throughout each year. Birthdays, holidays, weddings, and anniversaries are all opportunities to show our love and appreciation to others. **Making a significant financial gift to a loved one during life can serve several important purposes for both the recipient and the donor and can accomplish financial and non-financial aims.** Additionally, it allows the donor to receive and acknowledge a "thank you." Some of the many reasons clients make lifetime gifts include:

- Gift-giving occasion
- Address needs of the recipient, including for a significant purchase or managing existing debt
- Reduce future estate and/or income tax liabilities
- Provide a financial teaching opportunity for the donor and learning opportunity for the recipient

Lifetime gifts can provide donors insight into how recipients might handle future distributions; such gifts reveal the financial maturity of the recipient(s) and what types of structures might be needed for future gifts.

In all cases, it is important to remember that a gift is a gift – the donor loses legal control over the gifted assets and the gift is subject to gift and/or estate tax rules.

### 2. "Choice" v. "Fair" v. "Equal"

Donors should know gifts are likely to impact not only those receiving them but also, quite possibly, those who aren't. A major hurdle to gifting in life (and at death) is the common conflict of the donor's choice, in terms of what is considered fair and equal.

- **Choice:** Donor wishes to provide for their favorite children or people, or wishes to avoid conflict
- **Fair:** Donor perceives a greater need for some or seeks to balance amounts given previously; note that recipients may have a completely different idea of what's fair
- **Equal:** Donor provides the same amount to each recipient (often hoping to remove the subjective "fairness" from the conversation)

Sadly, this conflict often prevents lifetime giving entirely and creates conflict upon the donor's death. Communicating goals during life provides the non-financial gift of peace to family members.

## 3. Gift limits and gift tax consequences

All gifts are subject to federal (and in some cases state) gift tax rules, exclusions, and exemptions. For the tax year 2024:

- **Annual exclusion** (no tax, no reporting): $18,000 per recipient ($36,000 per married couple)
- **Excluded from gifts** (no tax, no reporting):
  - Education or medical expenses paid for another (if paid directly to the provider)
  - Gifts between spouses (when both are U.S. citizens)
- **Lifetime exemption** (no tax, gift tax return required): $13,610,000 per donor ($27,220,000 per married couple); once during life or at death; scheduled to drop by half starting January 1, 2026

These exclusion and exemption dollar limits raise valuation questions when contemplating gifts of real estate, partnership interests, intellectual property interest, etc., and an appraisal may be required. There are also many caveats, additional rules, and judicial interpretations that may apply to these limits, exclusions, and exemptions. Seek good legal and tax advice when making large gifts.

## 4. Strategic gifting: Selecting asset to be gifted

A gift can take many forms:

- **Cash gifts:** Easy to value; provides maximum liquidity for recipients
- **Personal property:**
  - Clothing, household goods: Easy to transfer; economic value is nominal while emotional value can be quite high
  - Motor vehicles, boats: More difficult to value; often require a transfer of title
- **Appreciated property** (such as stocks or other publicly traded investments): Easy to value; average the high and low market price on the date of the gift; such gifts are less liquid, and the recipient takes the same cost basis in the property as the donor
- **Firearms:** State laws vary regarding transfer of ownership; consult qualified counsel
- **Real estate, artwork, collectibles** (generally see appreciated property above): Not easily valued and may require deed of transfer and recording; such property is sometimes better suited as an inheritance, which provides recipients with a date of death step-up in cost basis
- **Partnership units/LLC interests and other fractional interests:** Valuation requires a qualified appraisal; allows for valuation discounts for more efficient use of annual exclusions and lifetime exemptions

## 5. Strategic gifting: Goal-driven

What form of gift will best accomplish the donor’s goals?

- Outright gifts allow recipients greatest flexibility and control over use of the gift
- **Gifts to statutory accounts:** States provide laws creating restricted access accounts for education (529s), minors (UTMAs and guardianships), and special needs individuals (conservatorships)
- **Gifts in Trust:** Donors establish guidelines for the investment and use of a gift; often used for gifts to minors, gifts to special needs individuals, for income tax and estate tax purposes, or to limit creditor access
- **Split interest gifts:** Grantor Retained Annuity Trusts (GRATs), Grantor Retained Unitrusts (GRUTs), and Qualified Personal Residence Trusts (QPRTs)
  - GRATs and GRUTs are most useful to wealthy individuals who have exhausted their gifting exemption and wish to give more
  - QPRTs are used to efficiently make the gift of a personal residence
  - All are created by federal law and can be found in the Internal Revenue Code
- **Gifts of partial interests via LPs/LLCs:** A family limited partnership (FLP or Family LLC) can be used to facilitate business succession, gifting, and estate planning; they can allow you to leverage your lifetime gift tax exemption by making gifts of limited partnership interests, in trust or outright, to your family members on a discounted basis

## 6. Timing is everything

Often there are no issues regarding the time at which a gift is made. But in the case of gifts that are made to take advantage of the annual exclusion, it is essential that the gift be complete prior to December 31. For a gift to be complete for tax purposes, the donor must make a complete and irrevocable transfer (i.e., a personal check to a gift recipient must be cashed and be beyond a “stop payment” request by the donor).

FOR MORE INFORMATION, PLEASE VISIT **JANUSHENDERSON.COM**

Janus Henderson
INVESTORS



W-0224-512804-03-30-2025

166-20-451269 02-24