Planning *Insights*

# Estate & Generation Skipping Tax (GST) Planning

The Tax Cuts and Jobs Act of 2017 doubled the estate and GST tax exemption amounts to $11.2 million for singles (and $22.4 million for married couples). The exemption level is indexed for inflation meaning, in 2025, you can pass up to $13.99 million during life or at death before paying federal estate taxes. (It's scheduled to be reduced in 2026).

The Act is noteworthy for two major reasons:

- There has never been a lifetime exemption this large in history (if only temporary)
- Because the GST exemption is coupled with the lifetime exemption (currently $13.99 million for 2025), a large portion of an individual's estate can be GST exempt. This is also cause for contemplation as a large portion of an individual's assets can potentially benefit future generation.

## Why Does the GST Exist?

The federal generation-skipping transfer ("GST") tax is primarily designed to prevent the tax-free transfer of wealth from a grandparent to their grandchildren or great-grandchildren (a skip generation). Prior to the advent of the GST tax in 1976, families could avoid the tax that is imposed upon each generation at death by skipping a generation or two with at least a portion of their wealth. The GST tax represents Congress's effort to stop these generation skipping tax-free transfers by imposing a tax at each generation. Because GST Trusts allow for GST exempt trust assets to remain outside of the transfer tax system until the trust terminates, they are sometimes referred to as Dynasty Trusts or Legacy Trusts.

## GST Trust:

Unlike a revocable trust which you can change at any time during your life, a GST Trust is irrevocable. Once you establish and fund the trust, you cannot change the terms. It becomes a separate entity with its own tax identification number. The assets are also permanently removed from your estate.

## GST Trust Essentials:

### Beneficiaries

It seems logical to have the beneficiaries be your skip generation (grandchildren). However, the trust can also be drafted to provide benefit to other classes including your children.

### Income Interest for Future Beneficiary Spouse

Some GST trusts grant a beneficiary to, upon death, appoint the trust's income to their spouse for their lifetime. It's not a necessity but, given the potential value of a GST trust presently, it's a planning technique worth noting.

### Choice of Trustee

Many times, clients use the same trustees as their revocable trust, family members, or appoint professional co-trustees.

### Trust Terms

Our recommendation, generally, is to provide the Trustee with total discretion over distributions. It provides greater protection and flexibility. However, you can also consider a "HEMS" standard which allows the Trustee to distribute based on a standard of health, education, maintenance, and support.

**Termination**
We recommend a trust continue for as long as is possible under current law. You can accomplish this but drafting the trust to terminate 21 years after the last to die of measuring lives at the time the trust was created. The if often referred to as having the trust “run to the rule”.

**Funding**
You have several options when funding a GST trust. An option we typically see is to fund the trust with a portion or all of your available GST exemption before the high exemption amounts expire. If the exemption continues to grow, you can “top off” the trust to meet the new amounts each year or upon your death.