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IRS Final Regulations Confirm No Clawback of Temporarily-Doubled Estate and Gift Tax Exemptions

On November 26, the IRS released final anti-clawback regulations regarding the temporarily doubled estate and gift tax exclusions ($11 million/$22 million) in the Tax Cuts and Jobs Act (TCJA) that will revert to pre-TCJA levels on January 1, 2026.

The IRS made clear that if a taxpayer uses up the full temporarily-doubled exemption, but dies in a year when the exemption is lower, there will be no penalty—any gift amounts covered by the temporary exemption will not be clawed back into the estate.

The exclusion available at death will be either:

a. $10M adjusted for inflation since 2010 (for deaths prior to 2026); or
b. $5M adjusted for inflation since 2010 (for deaths after 2025), MINUS lifetime gifts made.

Reflecting the clear intent of the TCJA, the final guidance is good news for clients engaged in planning under current exemption levels.

View full text of the analysis

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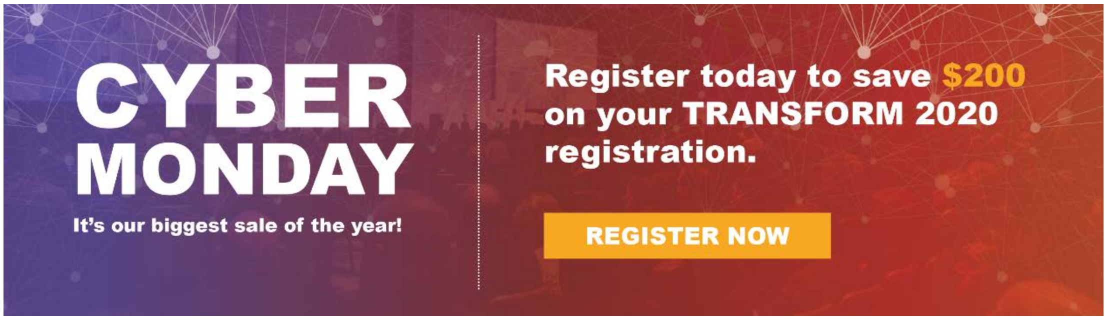

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