

2025-2026 IRS Priority Guidance

Quick-Take: Apparently the IRS will not spend the balance of this fiscal year providing much, if any, guidance on federal gift, estate or generation skipping transfer tax questions.

Background: On September 30, 2025, the IRS published its Priority Guidance Plan for the period ending on June 30, 2026. Earlier this year the IRS published Notice 2025-19 that invited the public to comment or recommend items to be included in the Plan. The Plan identifies the projects that the IRS intends to work on over the next 9 months, primarily in the form of publishing Regulations or clarifying Regulations when it comes to the Tax Code. The Plan is usually a helpful guide to identify what the IRS considers to be important, or where it feels the need to address tax abuses.

Executive Orders: In the context of this customary practice from the IRS to provide annual Priority Guidance Plans is the recent Executive Order 14219 that directed those who make recommendations to the IRS identify existing Regulations that (i) may be unconstitutional, such as exceeding the scope of power vested in the federal government; (ii) are based on unlawful delegation of legislative power; (iii) do not reflect the ‘best reading’ of an underlying statute; (iv) which implicate matters of social, political or economic significance that are not authorized by clear statutory authority; or (v) which impose undue burdens on small business and impedes private enterprise.

[Am I the only one who finds it ‘rich’ that our President, in his Executive Order, is concerned about the protecting Constitution or preventing an unlawful delegation of power by Congress?]

The Notice also references another Executive Order [14192] which states that “*unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least 10 existing regulations to be repealed.*”

The clear message from these and other recent Executive Orders is that the mandate coming out of Washington is **deregulation** at every step and with every agency.

2026 Priority Guidance: Rather than summarize the 5 Priority Guidance areas for the fiscal year ending June 30, 2026, it should come as no surprise that one is the One Big Beautiful Bill Act (OB3), and another is to clarify some of the murky provisions of the SECURE 2.0 Act. (The other ‘projects’ are not all that exciting e.g., to look at the public policy against racial discrimination, especially with the eligibility of private schools that seek tax exempt status, or to prohibit 501(c)(3) organizations from intervening in political campaigns.)

What is more telling are the projects that were in the 2024-2025 Priority Guidance Plan that **no longer appear in this most recent Priority Guidance Plan.** A list of those abandoned priority projects that pertain to estate planning include:

Regulations that pertain to the duration of an election to treat a revocable trust as part of a decedent’s estate. [IRC 645.]

Final Regulations that pertain to reporting basis consistency between an estate and a person who acquires property from a decedent. [IRC 1014(f) and IRC 635.]

Regulations that address whether gifts that are included in a decedent’s gross estate should be excepted from the special inclusion rule under Regulation 20.2010-1(c). [IRC 2010.]

Regulations that pertain to the imposition of restrictions on estate assets during the six-month alternate valuation period. [IRC 2032(a).]

Final Regulations that pertain to the deductibility of certain interest expenses or amounts paid under the decedent’s personal guaranty, along with present value concepts in determining the amounts that are deductible from the decedent’s gross estate. [IRC 2053.]

Guidance regarding the amounts that will qualify as ‘distributions’ of income exempt from estate tax for a qualified domestic marital trust (QDT,) for a foreign surviving spouse. [IRC 2056A.]

Regulations for qualified domestic trust (QDT) elections on estate tax returns. [IRC 2056A.]

Regulations that govern the allocation of generation skipping transfer (GST) exemption if the IRS grants relief [IRC 2642(g)], clarify the definition of a *generation skipping trust* [IRC 2642(c)] and provide ‘ordering rules’ when the GST exemption is allocated in excess of the transferor’s remaining GST exemption. [IRC 2642.]

Final Regulations that pertain to the transfer tax imposed on U.S. citizens and residents who receive gifts or bequests from expatriates. [IRC 2801.]

Regulations that pertain to the redetermination of the GST inclusion ratio on the sale of an interest in a trust for GST exemption purposes. [IRC 2642.]

Final Regulations that identify a transaction that involves certain uses of a charitable remainder annuity trust (CRAT) as a ‘listed transaction. [IRC 6011.]

Guidance on updating the ‘user fee’ charged for estate tax closing letters.

All of these topics that were at one time *priority* projects of the IRS have now disappeared in priority. Candidly, some of these projects that were on the IRS’s Priority Guidance Plans for several years now were probably abandoned because 13% of the IRS’s Chief Counsel’s Office personnel are no longer with the IRS after January 1, 2025.

Conclusion: The take-away from the recent 2026 Priority Guidance Plan is to not expect much guidance from the IRS in the gift, estate, and GST areas for the next 18 months. If

questions remain on the interpretation of gift, estate or GST taxes, individuals, will be forced to request (and pay for) Private Letter Rulings.

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