

Estate Planning: The Rules Change Again

The federal government is not making it easy for Americans to feel confident about their estate plans. In the past four years, the estate tax exemption has performed a jitterbug -- jumping from \$2 million with a 45% top tax rate in 2008, disappearing completely in 2010, and ratcheting up to \$5 million with a 35% top rate in 2011.

The \$5 million/35% threshold will remain in place through 2012, but after that, all bets are off. The current law expires at the end of 2012, and unless Congress acts again to extend or change it, the exemption may revert down to just \$1 million, while the top tax rate could rise to 55%.

Estate Taxes: A Moving Target

Year	Exemption	Top Tax Rate
2008	\$2,000,000	45%
2009	\$3,500,000	45%
2010	Estate tax repealed	0
2011	\$5,000,000	35%
2012	\$5,000,000	35%
2013	???	???

With so many changes over the years and so much uncertainty for the future, it is a good idea for anyone with an estate in excess of \$1 million (both individuals and couples) to meet with an estate planning professional to map out their estate planning needs.

Gift Tax Exemption: Act Before It's Gone?

As part of the new tax act, the gift tax exemption has increased from \$1 million to \$5 million. Couples can transfer \$10 million. But, as with the estate tax exemption, this "gift" is set to expire at the end of 2012.

One important item of note: While the current estate and gift tax exemptions render certain trust arrangements redundant for many, be sure to consider state tax considerations when drawing up your estate plan. Currently, nearly 20 states impose their own estate tax exemptions that can differ widely from federal law. For example, New Jersey allows an exemption of only \$675,000. Be sure to check with your advisors to see if your state imposes taxes on estates and if a trust may still be applicable to your situation.

When you do meet with your estate planning professional, you should also ensure your overall plan includes the following pieces:

- **Durable power of attorney** -- This document allows you to designate to one or more individuals access and control over your financial assets in the event you are incapacitated or unavailable.
- **Living will and health care proxy** -- A living will spells out your wishes in the event you need life-sustaining medical treatment. A health care proxy is similar to a durable power of attorney, but in this case, it allows your designee(s) to make medical decisions for you when you are unable to do so.
- **Business succession plan** -- Business owners should leave clear instructions as to the transfer of ownership of their entities upon their death or incapacitation. If you have a trust, be sure your succession plan complements your trust provisions.

The information in this article is not intended to be tax advice and may not be applicable to your situation. Please contact your tax advisor for information relevant to your own situation.

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