

Estate Planning Changes in Flux

Most people would agree that the tax code in the United States is anything but straightforward.

And many people (us included) would also agree that the tax code is anything but fair, as it provides significant giveaways to those with the greatest ability to pay their fair share.

Estate Taxes in Flux

The \$900 billion dollar tax bill that was passed at the end of 2010 is no exception. For the years 2011 and 2012 The bill relaxes the estate tax to 35% for the portions of estates above \$5 million, down from 45% in 2009. (see chart below).

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2010	Estate tax repealed	0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	???	???

Regardless of one's opinion on the fairness or justness of the tax code, it's important to note the element of uncertainty that currently exists in the estate tax arena. While the current \$5 million/35% threshold will remain in place through 2012, unless Congress acts again to extend or change it, the exemption could very well revert down to \$1 million, while the top tax rate could rise to 55%.

With so many changes over the past few years and so much uncertainty for the future, it's a good idea for anyone with an estate in excess of \$1 million (both individuals and couples) to meet with

financial, legal, and tax professionals to map out their estate planning needs.

Gift Tax Exemption Also in Flux

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.

February 2011—This column is produced by the Financial Planning Association and Goodfunds Wealth Management, the membership organization for the financial planning community, and is provided by Eric A. Smith, CFP®, AIF®, a local member of FPA. Mr. Smith is registered with KMS Financial Services, Inc. of Seattle and manages branch office Goodfunds Wealth Management. For contact, disclosure, and disclaimer information: www.goodfunds.com.