

Tax reform and estate planning

The tax reform legislation signed by President Trump on December 22 last year included an important change for many wealthier families. As of January 1, 2018, the amount exempt from the federal estate and gift tax has doubled, to \$10 million plus inflation adjustments since 2011 (so \$11.2 million in 2018, still higher in the years ahead). That's per person, so a married couple has \$22.4 million worth of transfer tax shelter so far. Here are a few points to keep in mind about the new law:

No estate tax repeal. Earlier versions of this legislation included the complete repeal of federal estate and gift taxes in the future. That change was dropped along the way.

Temporary boost? The enlarged estate tax exemption expires in 2026, along with all of the individual tax changes, so as to meet projected budgetary targets. In the past, most such temporary tax breaks have been made permanent, and the amount exempt from federal estate tax never has been reduced. Still, the uncertainty casts a cloud over estate plans for the next several years. What's more, some Democratic politicians are already on record as favoring a rollback of this provision, should the Republicans lose control of Congress.

Full basis step-up at death. For the vast majority of estates, planning for income and capital gains taxes will be more important than estate tax considerations. The new law preserves the adjustment of tax basis to fair market value for property received from a decedent's estate.

Some state death taxes remain. There has been a trend since 2001 of states abandoning their estate and/or inheritance taxes, when the federal credit for state death taxes was converted to a deduction. A majority of states have since dropped special taxes at death, but those that have kept them typically have exemptions well below what the federal government provides, some as low as \$1 million. Anyone who lives in a state—or owns property in such a state—that still has any type of death tax will need to take that fact into account in estate planning.

Estate planners and their clients will be busy in 2018, as together they sort out the implications of this new law.

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