

Estate Tax Law Changes Heighten Interest in Estate Planning Time to Address Your Estate Plan

“In this world nothing can be said to be certain, except death and taxes.”

– Benjamin Franklin, 1789

Actually, when it comes to death and taxes, the other clear-cut certainty is change, particularly now that a new federal administration has assumed office. As a result, expect changes to current federal estate tax law. If you have a substantial estate, now may be a good time to review – and potentially change – your estate plans.

Post-2001 Estate Tax Law

The 2001 tax act progressively raised the estate tax exemption, from \$1 million in 2002 to \$3.5 million in 2009, sharply reducing the number of estates that need to pay taxes. For example, only about 38,000 estate-tax returns were filed in 2007, compared with 49,050 in 2006, according to the IRS.

In 2010, the federal estate tax is repealed for a single year, before reverting in 2011 to pre-2001 levels: a \$1 million exemption and 55% maximum tax rate. While some individuals jokingly suggest that their “estate plan” is to pass away during 2010, the more plausible scenario is to prepare a plan that meets the needs of your heirs, and is based on current and future estate tax law.

Obama and Estate Taxes

During his campaign, President Obama supported permanently keeping the estate tax at 2009 levels: a 45% maximum tax rate on estates valued at more than \$3.5 million. He also favored making the estate tax exemption transferable from one spouse to another, essentially doubling the tax-exempt amount for the surviving spouse.

As the president and Congress determine future estate tax law changes, consider the following:

- **Start defining your estate plans now.** Following the 2001 tax act, many people delayed long-range estate planning under the false hope that estate taxes might disappear altogether. That’s highly unlikely.
- **Don’t count on zero estate taxes in 2010.** With the size of the current budget deficit, the 2009 Congress will likely not allow billions in potential revenue to go uncollected.



- **Prepare for a revised estate tax exemption.** Whatever the future level of the estate tax exemption, you should be prepared accordingly. For example, if you believe your estate will be taxable, consider setting up an irrevocable life insurance trust to provide cash for taxes.
- **Consider making gifts out of your estate.** With stock and real estate prices depressed, now may be an ideal time to make gifts of these assets. Any future appreciation will then fall to the next generation.

Plan with an Expert

Given the probable complexity of new estate tax laws, you’ll want to be sure your needs are professionally addressed. Bay Trust Company has professionals with extensive estate-planning and tax expertise. We will work for you and your family for the best outcome in line with your goals. Call us.

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