A Guide to Potential Tax Law Changes

A look into changes the Biden Administration might propose and what you can do now to prepare

Prior to the Presidential election, we created the content piece, Presidential Candidate's Tax Policy Review that outlined the differences in tax policies between then President Donald Trump and Joe Biden. Since then we have had an election and our office of the President is in Democratic hands, with that comes changes, some definite and others potential. Many legal and tax professionals are predicting sweeping changes and repeals to tax laws under President Biden's administration. We outline here some potential changes that may occur and ones we feel are important for you to consider acting on.

Federal Estate and Gift Tax

Decrease in the Lifetime Exemption Amount and Estate Tax Rate Increase

The federal lifetime gift tax exemption amount is the amount individuals can gift away during their lifetimes without having to pay any gift taxes on the transfer to the individuals. The lifetime gift tax exemption is unified with the federal estate tax exemption amount, which is the total amount that can be excluded from estate taxes at death.

In 2021, the federal lifetime exemption amount is $11.7 million per person or $23.4 million per married couple. It was increased from $5.5 million per person in 2018, and will sunset at the end of 2025 to the pre-2018 levels, indexed for inflation. It is anticipated that President Biden will propose legislation to lower the lifetime exemption amount to pre-2018 levels, approximately $5.5 million per person or lower.

Additionally, the federal estate tax, which is a tax imposed on the portion of an estate that exceeds the lifetime gift and estate tax exemption, is expected to be increased by the Biden administration from the current top rate of 40% to 45% or 50%, but could go even higher.

The following are several different methods for removing existing wealth from the transfer tax base:

- Outright gifts
- Gifts to grantor trusts

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- Gifts of fractional interests in properties
- Sales of assets for lifetime annuities
- Transfer of property expected to produce a significant investment return
- Loans at low interest rates

One of the most effective ways of removing wealth from the transfer tax base, is to make annual exclusion gifts. Currently, an individual can make annual gifts up to $15,000 to any number of people without any gift tax on the transfer. Simple cash gifts, or gifts of appreciated property, can generate a significant federal estate tax savings. In substantial estates, cash gifts of $15,000 can generate a federal estate tax savings of at least $6,000 for every transferee.

For example, an individual has a significant estate and three children (two of whom are married), and five grandchildren. If the individual has an estate that would be taxed at the 40% bracket, gifts of $15,000 to each of the three children, to the spouses of the two married children, and to each of the five grandchildren would entail transfers of $150,000. These transfers would result in a federal estate tax savings of $60,000. If this gift program continues for ten years, his/her taxable estate will be reduced by $1,500,000 saving $600,000.

In addition to annual exclusion gifting, individuals can pay education or medical expenses. Tuition payments made directly to an educational organization and payments for a person's medical care made directly to the provider are not treated as taxable gifts.

The reduction in the lifetime estate tax exemption is a major change that will bring many more estates into the estate tax target range. Every dollar above the lifetime exemption is currently levied a 40% tax, but that rate could go as high as 50% with tax reform supporting gift strategies as discussed above.

It is difficult to know what the comprehensive tax package will include, but it is important to be prepared by understanding the potential changes and proactively discussing planning ideas with your financial consultant. Rockland Trust Investment Management Group's team includes several experts who are very knowledgeable on these topics and who can work closely with you and your other professional advisors to help you make the best decisions for your current and future situations.

Contributing insights from Rockland Trust Investment Management Group's Jack Gates, Vice President & Advanced Insurance Specialist; Kathleen Callahan, CTFA, First Vice President & Senior Fiduciary Officer, Relationship Manager; Bonnie Loedel, MPH, JD, First Vice President & Senior Fiduciary Officer, Relationship Manager; Rita Yeung, CPA, Vice President, Manager of Tax Services.

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