

# How will potential changes in the estate tax impact my planning?

Will there be an adjustment to the current estate tax and if so, what planning strategies may be helpful to think about and potentially implement? Potential estate tax changes include:

## Potential change in exemption amount

Under current legislation, the federal estate tax exemption is \$13.61 million per individual.<sup>1</sup> This is set to expire/sunset in 2025, at which time the exemption amount would revert to pre-2018 levels (\$5 million per individual). There is also consideration of further reducing the exemption to \$3.5 million per individual (\$7 million for married couples). In addition to the reduction of the exemption, there may also be an increased tax rate for estates, moving from a 40% tax to 45% tax for estates in the highest bracket.

## Potential change in step-up in basis

Another change that has been proposed would impact the ability to obtain a step-up in basis. Under current tax law, upon an individual's passing, any asset includable in their estate receives a "step-up" in basis. Basis determines potential capital gains upon a sale of a stock or other asset.

- For example, consider an individual who purchased a stock when the cost was \$50 per share and now the value is closer to \$165 per share. The capital gain on that sale would be the difference between the individual's basis (\$50) and current value (\$165). Thus, the capital gain would be about \$115 per share.

A "step-up" in basis allows the decedent's beneficiaries from realizing that gain, if they decided to liquidate that same holding. Today, the cost basis would not be the donor or decedent's basis, but rather the value of the stock on the date of death ("step-up"). The basis gets a step-up to the valuation of the stock on the decedent's date of death.

- So, in our example, let's assume the decedent passes at the time the stock is valued at \$165 per share. Then the new cost basis is \$165. The beneficiary can then sell shares of that stock upon receipt of the stock without realizing much capital gain.

## Planning strategies

So, what now? What planning can be done today to help save potential estate taxes in this potentially new environment? The answer is, it depends on several factors, including the following:

- What are your needs?
- How much control do you want to maintain over assets?
- How old are you?
- Are you married?
- Do you have children?
- Are you charitably inclined?
- What is the size of your balance sheet and what are the various components?

Below are a few planning strategies that one may want to consider depending on their level of wealth, their own needs, and how it may fit into their family's goals for asset protection and preservation:

### SLAT (Spousal Lifetime Access Trust)

As the name suggests, a SLAT is an irrevocable trust where one spouse makes a gift into a trust to benefit the other spouse (and potentially other family members) while removing the assets from their combined estates. Highlights include:

- Gift assets to be held in trust for spouse
- Indirect access to funds during both lifetimes
- Allows couple to utilize existing exemption amount while still maintaining some benefit of assets
- Grantor Trusts for income tax purposes
- Careful, once the beneficiary spouse passes, the assets will pass on to other beneficiaries. There is no reversionary interest back to grantor.

## Family Limited Partnership (FLP)

A family limited partnership (FLP) is a holding company owned by two or more family members, created to retain a family's business interests, real estate, publicly traded and privately held securities, or other assets contributed by its members.

Highlights include:

- Create structure wherein family has an interest in assets
- Allows gifting of funds at potentially discounted valuations
- Donor can maintain control as the general partner

## Accelerate lifetime gifting to next generation (can also be done through FLP)

Accelerated lifetime gifting can reduce your estate taxes and also protect those assets you don't need to support your lifestyle.

- Lifetime gift to children (in name of trust)
- Removes assets from estate
- Transfer funds to an irrevocable trust for a child's benefit (which adds creditor protection, maintains a sense of control, and is not includable in the child's estate)

The above are just a sampling of strategies that can be discussed with your Mesirow wealth advisor and estate planning attorney to determine if it fits within your family's objectives and goals.

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Sources: 1. <https://www.kiplinger.com/taxes/estate-tax-exemption-amount-increases>

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