



PRESTIGE WEALTH MANAGEMENT GROUP
Retirement Planning & Distribution Specialists

Special Report

Estate Planning Essentials

It is often said that there are two certainties in life: death and taxes. Unfortunately, for many Americans, death does not mean that you are finished paying taxes. The year 2010 completed an unusual period for estate taxes. A 10-year plan that was enacted in 2001 to ease the burden of Federal estate taxes offered its most generous reward to those who died in the year 2010 – no federal estate taxes!

Beginning in the year 2011, Federal estate taxes were scheduled to reset at rates that were in effect back in

the year 2001. It appeared as if the heirs of parents who saved or accumulated wealth were once again going to be subject to Federal estate taxes (something referred to as “death taxes”) at the same rate that they were almost a decade earlier.

H.R. 4853 (The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010) was passed by President Obama on December 17, 2010. This bill is in effect for January 1, 2011 through December 31, 2012 and holds significant changes to estate, gift and generation skipping transfer tax (GST). Unless Congress takes further legislative action, these laws will sunset on December 31, 2012 and revert back to pre-2001 rates.

Uncertainty and confusion still reign supreme when it comes to estate planning. Many estates might still not owe any federal estates taxes. But for those who have accumulated a large amount of wealth, there are a few advantages and opportunities that may be considered during 2011 and 2012.

Many current wills and trusts are written with the assumption of when the estate tax kicks in. This could therefore become problematic for a surviving spouse or beneficiary.

When planning your estate, those of us who are expecting to live to 2013 and beyond should be very aware of these changes. It is always best to sit down and talk with us and an estate planning attorney. It is also helpful to become familiar with some of the rules and background information so you can plan properly.



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Here is some information about the new laws concerning estate planning and federal estate taxes for 2011 and 2012.

In 2011 and 2012, the gift, estate and GST tax exemption is \$5 million for an individual and \$10 million for a couple, with a top tax rate of 35%, unifying the three. Unless Congress passes any new legislation, starting in 2013 the gift, estate and GST tax exemptions will be \$1 million with a top tax rate of 55%. A surviving spouse also has the ability to use the “portability” provision. This means the executor of the estate can transfer any unused estate tax exemption to a surviving spouse and that surviving spouse can use that as well as their own exemption when that spouse later dies. Discuss with us this option and Credit Shelter Trusts (Bypass Trusts) to decide what is most appropriate for you.

Beneficiaries of estates whose individual died in 2010 have the option of a \$5 million federal estate tax exemption with a 35% top estate tax rate on any assets above \$5 million and a full step-up basis, or they can elect no estate tax with a modified carryover basis. Any election would be revocable only with the consent of the IRS.

Federal Estate Tax Exemptions and Rates (2010-2013)

YEAR	FEDERAL ESTATE TAX EXEMPTION	FEDERAL ESTATE TAX RATE (Top Rate)
2010	\$5,000,000 or \$0	35% or 0%
2011	\$5,000,000	35%
2012	\$5,000,000	35%
2013*	\$1,000,000	55%

*If no new legislation passed.

What do these changes in federal estate taxes mean to you? Is your estate plan in top order?

Here are some steps to consider:

Organize Your Records

Everyone involved will benefit if you organize all of your records now to show the assets and the cost basis of those assets on anything that your heirs will inherit. In fact, if you are helping a sick parent or family member, it is probably worth your time to see if they kept records in order to avoid possible bookkeeping nightmares should you be affected by the carry-over basis rule. Make sure all of your records are safely stored!

Give Your Estate Plan a Complete Check-up

No matter what your net worth, you should still have an estate plan. Estate planning goes far beyond taxes and is essential to all investors. Your estate plan should include your will, power of attorney, living will and trust. It should also take into account federal as well as state laws governing estates. Because of all these elements, whether estate taxes are a concern for you or not, it is always helpful to give your estate plan a check-up. Make sure you assess your current financial situation, identify the planning alternatives for your specific estate and implement any changes you have to your estate plan.

Review Your Will and Living Trust

If you have these documents, please make sure they include language that protects you against the change in estate tax exemption amounts.

Instead of naming a specific sum that will fund a trust, many investors refer to a percentage. Phrases such as “that amount,” or “that fraction,” or “that portion” are many times standard practice.

Review all of Your Beneficiary Designation Forms and Documents

Some of your assets will not pass through a Will or Living Trust. For example, if you have life insurance or retirement accounts, you need to make sure that your beneficiary designation forms are current with the beneficiary designations that you want. Remember, a beneficiary form will always override any trust or will directive.

Consider a Credit Shelter (Bypass) Trust

A Credit Shelter Trust often includes a formula clause that allocates the maximum tax-free amount to the trust if you die before your spouse. This trust can then distribute your assets as you specify in the trust document. For example, it can leave money to your spouse and family members while your spouse is still alive and eventually pay what is left to the family members upon the death of your spouse. By using a trust rather than



leaving your funds to your spouse outright, you can be sure that neither the assets nor their appreciation will be considered a part of your spouse's estate and therefore will not be subject to tax when he or she dies. Although there is currently no estate tax if you die, depending on how your formula clause is worded, it is possible that all of your assets can go into a Bypass Trust. Please proceed with caution because this strategy could lead to some potentially painful scenarios. For example, if the trust is not set up to make payments for your spouse, your spouse may get nothing. Another possibility is that if your trust is not set up to benefit your spouse, all of your money could be locked up into the trust and your spouse may wind up in a very awkward situation. Once again, it is time to review your Credit Shelter Trust (sometimes called a "Bypass Trust"). See if there is a formula or clause that was specifically put in place to satisfy the inheritance tax that now potentially becomes a problem because of current tax laws. This is an area you should definitely review with a knowledgeable attorney. With this new legislation, for estates under \$5 million, Credit Shelter Trusts (Bypass Trusts) under older wills may unintentionally disinherit the surviving spouse.

Review what state estate taxes, if any, exist.

Please keep in mind that most states honor a will that was signed within that state. You should check with a local lawyer to make sure the state you currently reside in honors your will if you have moved states recently.

Use trusts as needed.

Trusts still continue to be an important part of estate planning and can sometimes protect against financially irresponsible family members, former spouses and creditors. They are still a helpful piece of estate planning but may need to be reviewed and updated.

Think about not just the present, but also the future.

This is a good time to revisit your current arrangements and make sure you understand the tax consequences on funds going to your spouse and your grandchildren. With the Tax Relief Act, you may have to amend your current trust accordingly.

Last but not least, take care of yourself and make sure that what you have spent your lifetime accumulating moves in the direction that you'd like!

In conclusion, the primary purpose of estate planning is to preserve your wealth and try to assure that it is transferred to your designated beneficiaries at the time and in the manner of your choice at very reasonable costs with the least amount of pain and suffering.

As part of our Personal CFO Services, we offer the ability to review and coordinate not only your investment strategies, but how these strategies affect and interact with your tax and estate planning needs and concerns.



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