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How will the new tax law affect your estate plan?

BY BRIAN D. HOLMES

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Much has been written about the new "Tax Cuts and Jobs Act" and the economic impact expected from its reduced corporate and personal tax rates.

Some observers hold that the new personal tax brackets and thresholds will translate into a $100 billion tax cut, which, along with the major reduction in corporate taxes to 21 percent from 35 percent, should drive increased GDP growth. Others, meanwhile, maintain that without comparable spending cuts, deficits and inflation will soar.

What often gets overlooked, however, is the significant increase in the estate and gift tax exemption amount—a change that for some families could have tremendous estate-planning implications. Specifically, the new law raises the federal estate and lifetime gift-tax exemption to $11.2 million per person from $5.49 million and to $22.4 million for a married couple.

For those of you with considerable wealth, you now have a unique opportunity to transfer substantially more assets to the next generation free from federal estate taxes. So, now is the time to sit down and talk with your financial and estate advisors about various strategies that could accelerate your gifting. Such strategies could include establishing a new, or adding to an existing, grantor-retained annuity trust (GRAT), generation-skipping trust (GST) or irrevocable life insurance trust (ILIT).

Other possible strategies include: gifting additional family limited partnership (FLP) interests to children and grandchildren; or simply making outright gifts.

You'll also want to review the terms of your will and any trust documents you

HOW DO GRATS WORK?

GRATs are irrevocable trusts into which you transfer, at a discounted present value, one or more assets in exchange for a fixed payment for a specific number of years (or life), after which the remaining trust assets are passed to the named beneficiaries.

have, to ensure that they still accurately reflect your wishes and intentions. Some trusts use formula clauses tied to the maximum exemption amount, to determine, at your death, how much is funded in the trust—as a result, a trust could now be funded with much more than you ever intended when it was first established.

Another thing to keep in mind is that time is of the essence when it comes to accelerating your gifting. The new tax law has a sunset provision scheduled to take effect on January 1, 2026. Barring any additional congressional action, at that point the gift and estate tax exemptions will revert back to the levels that were in place prior to the implementation of the "Tax Cuts and Jobs Act" ($5 million per person, indexed for inflation).

Below the threshold: Do you need to worry?

If you're married and your estate falls below the $22.4 million threshold, don't make the mistake of assuming you are therefore exempt from any and all estate taxes. Currently, 17 states still impose significant estate and/or inheritance taxes. For example, two states in particular have an exemption of just $1 million and a maximum estate tax rate of 16 percent—so you really don't want to die as a wealthy resident of either Massachusetts or Oregon.

In addition, the "portability" feature that allows a surviving spouse to pick up his or her deceased mate's unused federal estate tax exemption and add it to his or her own is not automatic. Instead, this option must be actively selected by filing IRS Form 706, the *United States Estate (and Generation-Skipping Transfer) Tax Return,* and electing portability in Section 6.

Also, if this form isn't filed within nine months of the spouse's death, the surviving husband or wife may forfeit all of the unused exemption.

Finally, in light of the new tax law, take time to revisit your insurance estate-planning strategy. You may have one or more life insurance policies that were established to help generate a tax-free inheritance for the next generation.

In light of today's vastly higher exemption amounts, however, you may not need the same degree of coverage. But be careful to explore all your options: Don't just cash out a policy, as that action could potentially trigger a significant tax impact. And, since many of the costs associated with permanent policies are paid upfront, it may prove more cost-effective to keep it, reduce it or "1035" exchange it into a paid-up policy.

Given that still more tax code changes could be implemented at any time, investors should be exceedingly cautious when it comes to making any major adjustments to a well-diversified estate. This is an optimal time, though, to sit down with your advisor for an in-depth financial and estate plan check up. ●

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ABOUT BRIAN D. HOLMES AND TEAM

Brian D. Holmes, President & CEO is one of SEIA'S four founding partners who have shared over two decades of teamwork together. Brian's team, including Chad Bates, Christian Hutchins and Sabina Pinsky, act as fiduciaries with your best interests in mind, addressing your unique goals and objectives.

Brian is a past member of Schwab's institutional Advisory Board and UCLA'S Department of Economics Board. He is philanthropically involved in numerous charities. Brian was recently ranked in Barron's List of the Top 100 Independent Financial Advisors for the 11th consecutive year (2007-2018).

EXPERTISE

Financial Services Experience	Education	Assets Under Management
34 YEARS	UCLA, Bachelor of Science in Business Administration, College of Financial Planning, Master of Science Degree in Financial Services (MS), Certified Financial Planner (CFP®) Accredited Investment Fiduciary (AIF®)	$8.1B (SEIA & its affiliates as of 03/31/2018)

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