

Consider Wealth Transfer Strategies

In Advance of Proposed Tax Law Changes

You've worked hard to leave a legacy to charities and loved ones. With potential tax law changes ahead, now may be a good time to work with your advisor to take advantage of current wealth transfer strategies.

Gifts

Gifts this year is a sound strategy, especially while the generation-skipping transfer (GST), lifetime gift and estate tax exemption of \$11.7 million per individual are still in place. You can make annual gifts of up to \$15,000 per person (\$30,000 for married couples). There's no limit to the number of people to whom you can gift, and those annual gifts don't count toward your lifetime gift and estate tax exemptions.

In late March 2021, the "For the 99.5% Act" (The Act) was introduced to Congress and proposes changes that could significantly impact how wealth is transferred and would affect gifts and estates occurring after Dec. 31, 2021.

The Act would significantly reduce the GST, estate and gift tax exemptions from their current level, as follows:¹

- The proposed estate tax and GST exemptions could be lowered from \$11.7 million to \$3.5 million.
- The gift tax exemption could be reduced from \$11.7 million to \$1 million per individual.
- In addition, the tax law change, proposed to start in 2022, would reduce the annual gift exclusion to \$10,000 per year per recipient and limit the donor to \$20,000 total in annual exclusion gifts. These limits would greatly

restrict an individual's ability to make gifts without using their lifetime exemption.

Proposed estate tax rate would increase to:¹

- \$3.5 million-\$10 million: 45%
- \$10 million-\$50 million: 50%
- \$50 million-\$1 billion: 55%
- \$1 billion and greater: 65%

Intra-Family Loans

You can make an intra-family loan at lower rates than by commercial lenders without the loan triggering additional gift tax. Wealth may be shifted if the loan assets are invested by the borrower and earn a higher return than the required interest rate. Interest is to be paid within the family rather than to a third-party lender.

The intra-family loan establishes both a creditor relationship and the payment of interest. While family loans



can be financially advantageous, they can also be challenging when it comes to family dynamics, so consult with your wealth team to see if it makes sense. Your estate planning attorney will create the proper documents, and all involved need to be clear on the requirements.

Potential GST Changes

The GST tax is assessed when you transfer wealth to generations two or more removed from you, in addition to gift or estate tax. Similar to the gift and estate tax, you can take advantage of an exemption. In addition, you can structure trusts to maximize the use of this exemption to pass wealth to multiple generations without being subject to GST tax.

The Act is proposing lowering the GST exemption and capping the duration of trusts that are exempt from GST tax to 50 years. That means the GST tax would be assessed at the end of the period at the same rate as the estate tax. This change would become effective if the Act is passed by Congress.

Irrevocable Grantor Trusts

Irrevocable grantor trusts remove assets from an individual's taxable estate but are structured so that the individual owns the trust assets for income tax purposes. By having the grantor pay the income tax, the trust property remains intact, while further reducing the grantor's taxable estate.

The Act would require that grantor trusts be included in the taxable estate of the grantor upon death, and any distributions to beneficiaries would be subject to gift tax. This proposal would also apply to insurance trusts, which would affect more than just the ultra-wealthy.

Grantor Retained Annuity Trusts (GRATs)

These irrevocable trusts allow you to make a gift of property in trust and transfer appreciation on assets outside the taxable estate. A "zeroed out" GRAT allows for a transfer with little to no gift tax due. The GRAT pays the grantor an annuity for a certain term, and the appreciation of the trust's assets that exceed the applicable rate are transferred out of the taxable estate to the beneficiaries. Keep in mind, if the grantor dies within the annuity term, the entire value of the trust generally will be included in the estate, as if it had never been created.

The Act would require a minimum GRAT term of 10 years and proposes that a gift tax be assessed on the greater of \$500,000, or 25% of the fair-market value of the property used to fund the trust. This would eliminate the most beneficial aspects of using this type of planning.²

Inherited Assets

Upon death, certain assets receive a "step-up" in cost basis, meaning its basis becomes its value at death. This can result in the elimination of taxable gains on inherited assets. Capital gains and dividend tax rates are currently 23.8%. The top individual income tax rate is 37% (would increase to up to 39.6% under Biden's tax plan, with an exception for bequests to charities).

Biden's tax plan proposes an elimination of the step-up in basis. This will likely mean that, upon one's death, a capital gains tax would be imposed on all unrealized gains that exceed \$1 million (\$2 million for married couples).

For example, under current law, if a person buys a stock for \$10 and never sells it, and the stock is worth \$100 when the person dies, the \$90 gain isn't taxed, and the basis of the stock in the hands of the heirs will be increased (or "stepped up") to \$100.

Under the proposed tax plan, the \$90 gain would be taxed, but only if, and to the extent that, the total gain in all unsold assets exceeds \$1 million. The \$1 million exemption is intended to exclude smaller estates and would not apply to charitable gifts.



Partner With Your Advisor

Since no one knows the extent to which these proposals will be enacted or when, now is a good time to meet with your advisor and be proactive about your wealth transfer strategies. If many of the above changes are enacted, it will significantly impact how and how much you can transfer to heirs and charities.

At Mariner Wealth Advisors, our estate and trust team and tax professionals are in-house, so they will be able to easily partner with your wealth advisor on wealth strategies to help you leave a legacy in the most tax efficient way possible.



For more information visit: marinerwealthadvisors.com

Sources:

¹["Unprecedented Changes Proposed to Gift and Estate Tax Laws"](#)

²["No More Gift Tax Exemption? Additional Planning Strategies to Consider for 2021"](#)

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