

What's the estate tax news?

Five months into the new year, and the issue of federal estate tax repeal/revision still is unresolved.

As it stands now, the transfer tax rate (for estate, gift and generation-skipping transfer tax purposes) is 45% for this year and through 2009. The current \$2 million tax exemption rises to \$3.5 million in 2009. For 2010, the tax is abolished altogether. But things revert back to 2001 levels in 2011—with tax rates jumping to as high as 55% and the exemption falling to \$1 million.

Congressional action (or lack thereof)

On March 23 the U.S. Senate considered four separate budget amendments that attempted to eliminate or significantly reduce the tax. For instance, the Senate defeated a measure introduced by U.S. Senator Jon Kyl (R-Ariz.) that called for a permanent reduction of the tax. The vote, largely along party lines, was 48 to 51. The Kyl amendment was attached to budget legislation that would have raised the estate tax exemption to \$5 million and reduced the maximum tax rate to no more than 35%.

Kyl expressed his disappointment thus: “In an age where home prices have soared and more workers are enrolled in 401(k) and other retirement plans, many estates will be subject to the death tax. Unfortunately, half of the assets people may have wished to pass on to their children and grandchildren will be subject to government confiscation.”

Also in March, Senate Finance Committee Chairman Max Baucus (D-Mont.) sponsored a budget resolution that would extend the 2009 rates permanently. The resolution, however, is nonbinding.

Changing positions

On April 5, United for a Fair Economy, a national nonpartisan, nonprofit organization, released a background report detailing significant new activity in legislation on death taxes. According to the organization, ten U.S. Senators have shifted their positions away from supporting repeal. Another five Senators, elected last November, support the tax and occupy seats previously held by opponents of the estate tax.

Repealing the estate tax, said the organization, would cost the U.S. government \$1 trillion over the first ten years of full repeal. The share of estates taxed was 0.27% of all estates in 2006 and will drop to 0.16% of all estates in 2009, when the exemption level rises to \$3.5 million.

Don't avoid planning

Thinking of estate planning means facing one's mortality, often an impediment to taking action. Pinning one's hopes on repeal or large exemptions from the tax also may lead some people to consider a delay in planning or reexamining their plans.

But it is especially important today to make certain that you have taken steps to minimize tax and maximize what you leave your heirs.

Does your current plan take into account the coming changes in tax rates and exemptions? To what extent should you be making gifts now to your loved ones in order to reduce the size of your estate? What part can a trust play in reducing your exposure to tax?

These are but a few of the questions that we would be glad to discuss with you. Please call us at any time to set up an appointment.

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