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Multigenerational Financial Planning and the New Tax Law: Points to Consider for Family Stewards

Perhaps the biggest financial and political news for the end of 2017 and beginning of the new year was the US Congress's passage of the largest tax overhaul bill since the Reagan administration. President Trump signed this landmark legislation into law on December 22, 2017, calling the bill "a tremendous thing for the American people."

For many who are concerned, not only with their personal finances and tax liability, but also with what they will be able to pass along to their children, grandchildren, and other important beneficiaries, the tax law contains some important changes. These changes require careful appraisal in light of individuals' estate planning strategies. The good news is that for many estates, the new law presents enhanced opportunities to save on the tax costs associated with transferring wealth.

Perhaps the best good news is that beginning in 2018, the exemption for estate taxes has

been raised from \$5.49 million to just over \$11 million. This means that an estate probated in 2018 will not be subject to estate tax until it exceeds \$11 million in value. The vast majority of estates in the US will pay no taxes; only about 5,000 estates per year will exceed the new, higher exemption, according to most estimates.

But there is another important provision in the law: the higher exemption only lasts until 2026, at which time it reverts back to the pre-2018 level. As under the old tax law, the estate tax exemption would then be raised each year by increments indexed to inflation.

Because the \$11 million exemption is not permanent, those with estates approaching the \$11 million threshold may wish to assess various strategies for wealth transfer that could allow them to keep their estates under the exemption amount when it is reduced in 2026, in accordance with the new law. These strategies could include planned gifts, charitable donations, trusts, and other lifetime transfer tactics.

Those with significant assets, and especially those who are currently employing trusts as a means of wealth transfer and estate tax minimization should consult with a qualified tax and legal advisor to make sure that their current documents are up-to-date and that they adequately take into consideration the most current changes in tax laws. Here are some important points to raise:

Does my estate fall within the new, higher exemption? This is the most fundamental question, and the answer requires having current valuations for all the assets in your estate.

What is the exemption limit for married couples under the new law, and do my estate documents guarantee portability? The new law preserves portability, which refers to the ability of a surviving spouse to avoid estate tax on amounts inherited from the deceased that were below the exemption limit. But it is important to verify that your estate documents use the correct language to preserve this important wealth transfer right.

Does the new law affect my state estate tax situation? Fifteen states have some form of estate taxation, some of which are tied to federal limits. For those in states that have this linkage, the new federal exemption automatically raises the state exemption, as well. But some states do not link these exemptions—including some states with exemptions as low as \$1 million. You need to know the laws for your particular state (you can look them up at the [Tax Foundation website](#)).

Are my documents specific enough to insure that my wishes are carried out? Especially when boilerplate or overly vague Powers of Attorney (POAs) are involved, beneficiaries of estates can legally make or withhold transfers or gifts to persons or entities or make investments or other changes not contemplated by the grantor of the estate.

When do we need to review all this again? Generally, it's a good idea to review estate

documents at least every three years and also following any major life event: marriage; death of a parent, spouse, child, or grandchild; divorce of a grantor or a grantor's child; purchase or sale of a business; receipt of a significant inheritance; retirement; or significant health changes. Any of these and other major occurrences can create the need to review and possibly make changes in the provisions of your estate documents.

The other thing to keep in mind is that the current laws for taxation of estates are almost certain to change. The first estate tax laws were passed during the Civil War, and since then, they have been repealed, re-instated, and changed, all multiple times. In other words, the estate tax is a moving target. Those with large estates should remain vigilant in order to insure that the wealth they have accumulated is passed down to future generations, both in accordance with their wishes and in tax-efficient ways that maximize the tangible benefit for those who will receive the bequest.

A final point: research consistently demonstrates that those who work with a trusted, qualified, and professional financial advisor are more confident in their financial decisions and the future well-being of their families and their estates. In a recent study, one-fifth of those surveyed who were working with an advisor also reported parents working with an advisor, and half of that one-fifth reported sharing the services of an advisor. Significantly, the single largest benefit cited by those sharing the services of an advisor with their children or parents was that the advisor would be able to understand the family's financial context and thus provide better guidance as wealth transitioned from generation to generation.

The moral of the tale is that no matter how accurate and up-to-date your estate planning documents are, they will still require the skillful communication that can best be provided by a trusted advisor who is familiar with all parties involved. So, whether you are a family steward who is working to insure the smooth and tax-efficient transfer of wealth to children or grandchildren, or one of those fortunate enough to be benefitting from the good planning of a parent or grandparent, make sure that you are working with a qualified professional advisor who can tailor strategies, tactics, and plans to fit your unique goals and circumstances.

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