The change in Congress could impact wealth transition planning

On January 7, 2021, Congress certified the Electoral College votes, confirming President Joe Biden’s victory. Shortly before that, Democrats gained control of the Senate as a result of two runoff elections in Georgia. These developments present the possibility of tax legislation that could impact your wealth transition planning. Given the potential for significant change, it is important to consider planning actions to achieve your goals and preserve family wealth in the most efficient way possible.

Possible transfer tax implications

- **Elimination of income tax-free stepped-up tax basis at death:** possible carryover basis regime or deemed sale of appreciated assets at death
- **Reduction of estate and gift tax exemptions:** return of exemptions (e.g., $5m, $3.5m) and rates (e.g., 55%) to pre-Tax Cuts and Jobs Act levels
Wealth transition planning

Whether any legislation the new Congress enacts would apply retroactively to the beginning of the 117th Congress in January 2021 is not known at this time. Amid this uncertainty, it is advisable to speak with your tax professionals to best assess your situation and the planning opportunities that may be considered at this time.

How can Ernst & Young LLP support your wealth transition needs?

We have the global experience, knowledge and extensive network to support clients and their unique wealth transition needs. We are the global market leader in family business, advising 80% of the world’s top 500 largest family businesses. Our private client services practice has a national team and network of more than 100 professionals dedicated to wealth transition planning with in-depth tax technical knowledge and a wealth of experience serving as executives in family businesses and family offices, as well as insurance professionals, attorneys and investment advisors.

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<tbody>
<tr>
<td>Closely held business owners</td>
<td>Real estate investors</td>
<td>Hedge and PE fund principals</td>
<td>Families with liquid investments</td>
<td>US families living abroad</td>
<td>Non-US families with US assets</td>
<td>Younger generation family members</td>
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<td>(e.g., gift of % shares)</td>
<td>(e.g., gift of real estate partnerships or LLC interests)</td>
<td>(e.g., gift of fund carried interest – “vertical slice” or “non-vertical”)</td>
<td>(e.g., gift of marketable securities or investment MLP interests)</td>
<td>(e.g., gift of Various assets, US or non-US)</td>
<td>(e.g., gift of US assets, like real estate or funds)</td>
<td>(e.g., funding NextGen gifting program)</td>
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Transfer tax options for immediate consideration

- Evaluate whether to make current gifts and whether the doubling of the estate, gift and GST tax exemptions amounts under the Tax Cuts and Jobs Act will continue to be available
- Historically low interest rates and low asset values present opportunities to implement tax-efficient wealth transfer planning
- Implement common estate planning techniques (e.g., sales to grantor trusts, grantor retained annuity trusts, dynasty trusts, charitable lead trusts and spousal limited access trusts) to reduce your current estate

Contacts

Justin Ransome  
Partner, EY Private, National Tax Department  
Ernst & Young LLP  
+1 202 327 7043  
justin.ransome@ey.com

Todd Ankatavanh  
Principal, EY Private, National Tax Department  
Ernst & Young LLP  
+1 860 725 3928  
todd.angkatavanh@ey.com

Sean M. Aylward  
Managing Director, EY Private, National Tax Department  
Ernst & Young LLP  
+1 201 551 4377  
sean.aylard@ey.com

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