

Review your estate plan in light of a new presidential administration

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As President-elect Joe Biden moves forward with the transition and prepares for the inauguration next month, you may be wondering how the federal estate tax may be affected.

During the campaign, Biden pledged to roll back many of President Trump's tax policies. In response to the Tax Cuts and Jobs Act ("TCJA"), Biden has promised a progressive approach to taxation, focused primarily on increasing the burden on high-income individuals and businesses.

The odds of translating Biden's proposals into legislation in the next couple of years largely hinges on the outcomes of runoff elections for the two Georgia seats in the U.S. Senate. The Democrats need to win both seats to take control of the Senate (Vice President-elect Kamala Harris would cast the deciding vote if there is a 50/50 deadlock between Democrats and Republicans in the Senate). The Georgia runoff elections are scheduled for January 5, 2021.

Proposals for gift and estate taxes

The TCJA temporarily doubled the federal gift and estate tax exemption to \$10 million (adjusted annually for inflation), through 2025. The 2020 exemption is \$11.58 million for individuals and \$23.16 million for married couples; for 2021, it's \$11.7 million for individuals and \$23.4 million for married couples. These TCJA amounts are scheduled to expire after 2025 and go back to the pre-TCJA exemption amounts of \$5 million for individuals and \$10 million for married couples, adjusted annually for inflation.

Biden has proposed reducing the exemption to \$3.5 million for estate taxes and exempting \$1 million for the gift tax. He also favors imposing a top estate tax rate of 45%, an increase from the current rate of 40%.

In addition, Biden would like to end the "step-up" in basis that spares beneficiaries substantial tax liability for capital gains on inherited assets that have appreciated in value, such as stock or a house. If a beneficiary sells an inherited asset now, the capital gain generated is the difference between the asset's fair market value at the time of sale in excess of the stepped-up basis (i.e., the fair market value of the asset at the date of the deceased's death), rather than the basis at the date of the original purchase. Without the step-up in basis, the capital gains generated on sale would be a larger amount.

Review your estate plan

As mentioned above, the ability of Biden to implement his proposals rests largely on the outcome of the Georgia runoff elections for Senate early next month. In the meantime, it would be worthwhile to review your current estate plan and make any necessary revisions. Potential tax law changes are a reason to trigger a review, as well as life changes, such as a marriage, the birth of a child or a divorce. Please turn to us for help reviewing your plan and making changes based on your specific circumstances.

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The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com