

# Gift and Estate Tax Planning

## Stay Current to Avoid the Consequences



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**OVER THE PAST 12 TO 18 MONTHS**, our gift and estate planning has been based on the current federal gift and estate tax exemption of \$11.7 million per individual or \$23.4 per married couple. Then came the news that the Biden administration's tax proposal included a provision to lower the exemption to \$3.5 million per individual. If the change were to be implemented, the difference of about \$8 million dollars in exemption would mean about \$4 million in taxes.

So we began adjusting our clients' plans to address the anticipated provision. One solution: a spousal limited access trust (SLAT), an irrevocable trust set up outside the estate that allows the surviving or beneficiary spouse to take distributions and exempts the value of the trust and any appreciation from federal estate taxes when the surviving spouse dies.

Then as the Biden plan evolved, it dropped the provision to lower the current gift and estate tax exemption amount. The current exemption would remain, at least for this round of new tax legislation, which means at least until 2023 when a newly elected Senate and House — power typically shifts in the middle of a presidential term — might not be inclined to reduce the exemption amounts.

The administration is also considering lowering the gift tax exemption to \$1 million, where it was before the Tax Cuts and Jobs Act of 2017. And eliminating the "step up in basis," which allows someone inheriting an asset to sell it at its fair market value at the time the person who owned it died without incurring capital gains taxes.

Much of our considering and planning is based on speculation. But speculation alone is reason enough to consider and plan. Plans can be implemented now that might serve to prevent serious financial consequences should there be substantial changes in the tax laws.

Tax plans  
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The SLAT is an excellent opportunity to put money into a trust that, in perpetuity, can grow tax-free.

In fact, all you can do with estate and tax planning is the best job you can do given the current laws. No one knows what the law will be in two or three years, much less 20. We're using insurance and trusts to provide tax-free liquidity at death; second-to-die insurance in an irrevocable trust to pass along assets outside the estate, and therefore free of estate tax; and, tax law changes or not, the SLAT is an excellent opportunity to put money into a trust that, in perpetuity, can grow tax-free. Family foundations and grantor retained annuity trusts are other ways to minimize taxes on large financial gifts to family members. And a donor-advised fund can be used to manage charitable contributions.

If you haven't looked at your estate planning documents in three or four years, you should. The more you have at risk, the more imperative it is to dust off your plan and run it by a team of tax and financial planning professionals who can review your it, gather relevant information, and propose solutions that understand the existing laws.

For more information or to schedule a meeting with an HBKS® financial advisor, call 866-536-5776.

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A founding principal of HBKS Wealth Advisors, Christopher Sorce serves clients throughout the U.S. from his offices in Erie, Pa., and Naples, Fla. As a senior financial advisor and principal of the firm, he directs a team of ten professionals, including five certified financial planners.

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