

Potential Tax Changes in 2017

February 2017

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Tax experts and political commentators have been discussing the potential tax changes that might take place now that the new President is inaugurated and the new Congress has convened. In addition to a wide range of changes to the personal and corporate income tax rules, the following appear to be the most relevant in the context of estate and trust planning:



- Possible repeal of the federal estate and gift tax, which currently affects estates greater than \$5.49 Million in 2017 (less than .2% of the U.S. population for Decedents who passed away in 2015, according to the Tax Policy Center);
- Possible repeal of stepped-up basis on gains over \$10 million, which could in some cases, greatly reduce the benefits of inheriting capital assets like real property;
- Possible elimination of the 3.8 percent tax on net investment income for people with modified adjusted gross income over \$200,000 (single) or \$250,000 (married), which can affect the tax rates on various irrevocable trusts.
- In most (but not all) cases, a possible reduction of personal income tax rates, and repeal of the alternative minimum tax.

Some commentators believe that there will not be sufficient support of an estate tax repeal to overcome a Senate filibuster. Other commentators point out that when the estate tax has been “permanently” abolished in the past, it has always returned. Either way, any new federal tax laws will require involvement by the Congress, starting in the House Ways and Means Committee and the Senate Finance Committee, which should give plenty of time to be aware of potential changes as the proposals move forward, or not as the case may be.

The people who will be most affected by the potential gift and estate tax law changes are people whose taxable estates are above the current exemption (or “unified credit”) of \$5.49 Million per person (or \$10.98 million per couple), or if previous lifetime gifts have been made requiring filing of a federal Form 709 gift tax return, whatever remains of the current exemption after accounting for those past gifts. If you believe you are in this situation, you might want to consider reaching out to your estate planning attorney even before new tax law changes are made, to discuss whether your estate plan might need to



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be reviewed to account for the possibility of either a gift and/or estate tax repeal or a much higher gift and/or estate tax exemption amount, even though a change is far from certain at this time.



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