2018 Estate Tax Changes

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With the start of a new year and the passage of the "Tax Cuts and Jobs Act," there are important changes to the federal estate tax. Everyone should take time to understand the current and any new estate tax law and to evaluate his or her estate to determine if estate tax liability may be an issue.

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Federal Estate Tax Basics

The federal estate tax is essentially a tax on a person's right to transfer property at death. If a person's taxable estate is valued over the exemption amount set by Congress, the person's estate is required to pay taxes on that amount within 9 months of death. The exemption is based upon the value of a person's "taxable estate," which is essentially the market value of their assets less certain allowable expenses and deductions such as mortgages, funeral expenses, and estate administration costs.

As recently as the early 2000's, the estate tax exemption was as low as $1 million per person. Certainly, given the value of agricultural land and farm assets, this had the potential to impact a large number of agricultural producers. In 2013, the exemption level was raised significantly to $5 million per individual, which would then be increased for inflation in following years. Studies show this is greatly decreased the number of persons facing estate tax liability. According to one estate tax lawyer, in 2016, only 682 taxable estates contained any farm assets at all.

There are a number of estate planning tools available to help someone avoid estate tax liability even if his or her gross estate may be worth more than the exemption amount.

2018 Exemptions

For persons dying in 2017, the federal estate tax exemption was $5.49 million per person. Due to changes in the tax reform bill, for persons dying between 2018-2025, the exemption will be $11.2 million. This means that in 2018, a couple may transfer $22.4 million without facing any estate tax liability. For persons with estates valued at more than the exemption, a 40% tax is imposed on the amount above the exemption level.

For example, let's calculate the estate tax liability for a person with a taxable estate worth $11 million in 2017 and in 2018. If the person died in 2017, the exemption was $5.49 million, meaning that the person's estate is $5,510,000 over that amount. At a 40% tax rate, his tax liability would be $2,204,000. In 2018, however, his estate value would fall below the $11.2 million threshold and he would owe no federal estate tax.

Take note that the "Tax Cuts and Jobs Act" did not repeal the federal estate tax, and it did not make the $11.2 million/person exemption permanent. In 2026, the exemption level will revert back to the $5 million level, adjusted for inflation.

Takeaways

It has been said that the only certainties in life are death and taxes. In light of this, everyone should be aware of the current law regarding the federal estate tax and should keep an eye on tax reform efforts to determine if any significant changes are made. For most people, particularly given the increase in the exemption recently passed by

Congress, estate taxes are likely not an issue. However, for persons with estates that may be close to the exemption amount, it is critical to talk with an attorney and account to determine what steps may be available to help minimize the estate tax liability at death.