

How the New Estate Tax Law Affects You and Your Estate Plan

By Darlynn Morgan, Orange County Estate Tax Lawyer

Finally, a tax deal is in place!

To the relief of many estate planners, financial planners and concerned citizens across the United States, the controversial tax compromise was successfully passed through Congress and ultimately signed into law on Friday.

This comes after an entire year of uncertainty as professionals and taxpayers alike were losing hope that Congress would act before the pre-2001 tax rates reverted back into law at the beginning of the year.

Of course while there are still a number of people unhappy with this 11th hour deal (including the President himself), it's still a better solution than tax hikes across the board and an estate tax that was bound to affect even the middle class.

So what did Congress ultimately pass with regards to the estate tax?

As of now, the law permits someone to pass \$5 Million of their assets (or \$10 Million per couple) tax free to their beneficiaries upon death. For anything else above that, the tax rate is set at 35%.

That's a far cry from the \$1 Million exemption and 55% tax rate that would have taken affect on January 1st had Congress done nothing.

So what does that mean for you and your estate plan?

Well for many of my clients, it means business as usual. The folks worth over \$10 million have historically planned for estate taxes, as their net worth has always pushed them over the Bush-era exemption level. So nothing changes there.

And of course anyone with a net worth under \$5 million (or \$10 million for couples) can now rest easy knowing they will legally escape the grasp of Uncle Sam should they pass away over the next two years.

Yet what's important to remember is that this new tax law is not permanent. In fact, the Democrats are already vowing to lower the estate tax exemption levels as early as next year. So while it's safe to stop worrying for now, I'd advise you to keep this issue on your radar as things could still change at any time.

Of course that's not necessary if you are an estate planning client of mine. I keep these issues on MY radar at all times so you don't have to. That way if anything happens on a Congressional or state level that could potentially impact your estate plan, you will be notified promptly and we'll work on making the appropriate changes.

I would say that's one of the major benefits of working with an Orange County estate tax lawyer who cares enough about your plan to make sure it stays updated as your life, and the law, changes through the years. Otherwise, your plan could fail when your family needs it the most.

Yet for those of you now wondering whether you even need an estate plan now that the estate tax issue is temporarily out of the way, the answer is YES, ABSOLUTELY—every adult needs some form of an estate plan!

In fact, the majority of my clients (including high net worth clients) don't even come in for estate tax planning. Instead they create estate plans to:

- Make sure their children would be cared for by the people they want, in a way they want, if something unexpectedly happened to them
- Avoid probate court and ultimately keep their affairs private upon death
- Put safeguards in place so their inheritance is not lost due to reckless spending, divorce, lawsuits or bankruptcy on the part of their beneficiaries
- Plan for incapacity and ensure their assets aren't eaten up by nursing home costs or long-term care expenses at the end of their life
- Plan for blended families or non-traditional relationships
- Make things easy for their family
- Make sure someone can make important medical or financial decisions for them if they are incapacitated but do not die for whatever reason.

That's why I always like to remind people that estate planning is about so much more than avoiding taxes. Instead, it's about making sure the people and things that matter the most to you are securely protected if something unexpectedly happens.

Of course if you are still not protected as we go into 2011 (whether you need advanced estate tax planning or not), please feel free to give me, your neighborhood Orange County estate planning attorney a call at 949 260 1400 so we can discuss how to put a rock-solid hedge of protection around your family this year.