

What might happen to Estate Taxes under Trump?

Dear Mr. Premack: With the inauguration less than a month away, I am wondering what to expect regarding changes to the federal estate tax under the Trump administration. My estate is currently exempt from the estate tax and I want to make sure it stays that way. - CV

The official Trump campaign website contains this statement: “The Trump Plan will repeal the death tax, but capital gains held until death and valued over \$10 million will be subject to tax to exempt small businesses and family farms. To prevent abuse, contributions of appreciated assets into a private charity established by the decedent or the decedent’s relatives will be disallowed.”

Let’s analyze the statement. 1) “repeal the death tax”. Currently, the estate tax is imposed when a single person’s assets at death exceed \$5.45 million in value, or a married couple’s assets exceed \$10.9 million in value. Expect the new President to support legislation to eliminate the tax, so unlimited amounts of wealth can pass from generation to generation without taxation. Take for example, Bill Gates. His net worth is estimated to be \$81 billion. Under the existing system, when both he and his wife have died, the tax would be about \$32 billion, 395 million dollars. Under the Trump proposal, Mr. Gates’ estate tax will be zero.

That is roughly equivalent to the amount that Gates has already donated to charity, largely to the Gates Foundation (which has assets of about \$40 billion). His donations helped reduce future estate taxes he would pay. If there is no estate tax, charitable giving will be reduced. Studies estimate that repeal of the estate tax would reduce charitable giving in the US by between 22 and 37 percent.¹ Government revenue will also be reduced (the last available figure from the IRS is that about \$28 billion was collected in estate taxes in 2014).

2) “...capital gains held until death and valued over \$10 million will be subject to tax to exempt small businesses and family farms.” Currently, inherited assets are given a “free-step-up in basis,” which eliminates capital gain taxes on inherited assets. It appears that the President-elect’s proposal will limit the exemption to the first \$10 million in inherited value. Most Americans will not be affected while those whose estates exceed \$10 million will be exposed. The wording “subject to tax to exempt small business and farms” is awkward, but likely means the value added to an estate by a small business or a family farm will remain exempt from the capital gain tax.

3) “To prevent abuse, contributions of appreciated assets into a private charity established by the decedent or the decedent’s relatives will be disallowed.” To avoid the capital gain tax, people will not be able to utilize private charitable foundations (like the Gates Foundation, the Trump Foundation or the Eric Trump Foundation). The proposal may continue to allow donations to other charities (like the Heart Association or the Animal Defense League).

It is possible, with the upcoming Congress, that a plan like this campaign proposal could become law. Speaker of the House Paul Ryan supports repeal of the federal estate tax. Another possibility (if compromise is necessary) would be an increase in the current exemption from \$10.9 million to a much higher figure, still requiring the ultra-wealthy to pay an estate tax (as is supported by figures like Gates and Warren Buffet). We’ll see what the new Administration brings forward as its formal tax proposal next year and how it affects your estate planning.

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ⁱ <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/310810-Effects-of-Estate-Tax-Reform-on-Charitable-Giving.PDF>