



Estate Planning Update — The Tax Cuts & Jobs Act

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The Senate passed its version of the Tax Cuts and Jobs Act at the very end of last week. The House version of the Act eliminated the federal estate tax for people dying after December 31, 2023. The Senate version did not contain a similar provision making a full repeal of the federal estate tax now unlikely. However, the Senate version does double the federal estate tax exemption.

The House version also doubles the estate tax exemption for deaths occurring prior to the full repeal of the estate tax.

“[A] full repeal of the federal estate tax [is] now unlikely.”

The estate tax exemption is the amount that can pass free of estate tax at death. Under current law, the estate tax exemption for 2018 is \$5,600,000 per person or \$11,200,000 per married couple. Under the Senate and House versions of the Act, the estate tax exemption doubles to \$11,200,000 per person, or \$22,400,000 for a married couple, and will increase annually for inflation going forward. Based on the similarities between the Senate and House versions, it is likely that the doubled estate tax exemption amount will ultimately be enacted, along with a continued 40% estate tax rate. The estate tax rate is the rate of tax imposed on assets in excess of the exemption.

There are still several legislative steps for changes to the estate tax to become law. The House and Senate versions of the Act are currently undergoing a reconciliation process to create a unified version that can be voted on and passed by both groups and then sent to the president for signature.

For now, the best course of present action depends on your net worth in relation to the doubled estate exemption amount. If you are well under the doubled estate tax exemption amount, you can put your advanced estate tax planning on hold. Even if the estate tax is no longer a concern for you based on the increased exemption amount, keep in mind that estate planning itself is still necessary for incapacity planning, probate avoidance, inheritance planning for minors and special needs beneficiaries, charitable planning and asset protection planning.

“[T]he best course of present action depends on your net worth in relation to the doubled estate exemption amount.”

If you are close to or above the doubled estate tax exemption amount, you should continue to consider and implement advanced estate tax planning techniques because the repeal of the estate tax seems unlikely at this point.

We will continue to monitor the Act as it passes through the remainder of the legislative process and provide updates as planning points develop.

[Click here to read more about the estate and gift tax terms of the House and Senate versions of the Act in our previous newsletter on this topic.](#)

Thank you for the introduction to your friends and colleagues, and for your continued confidence.

