Estate Tax Changes on the Way?

westwoodgroup.com/insight/estate-tax-changes-on-the-way/

With changes in Washington around the corner, we took a look at Biden's platform to indicate what types of changes might be on the horizon. Given the ongoing uncertainty related to control of the Senate, it's difficult to know how much of Mr. Biden's platform will become law. Nevertheless, now is a good time to be planning ahead. In addition, under the CARES Act, there are several strategies that can reduce your tax burden in 2020 if you act before the new year.

Unique Tax Planning Strategies in 2020 Charitable Planning with the CARES Act Three strategies to consider this year:

1. Increase your giving and reduce your income tax — a win, win!
   The Tax Foundation estimated that only about 14% of taxpayers itemized in 2019. If you are part of the 86% of American taxpayers who did not itemize in 2019, you may be able to write off an extra $300 this year. In 2020, taxpayers may deduct a charitable contribution of up to $300 in addition to their standard deduction.For those who plan to itemize, charitable donations might be even more beneficial than usual this year. Individuals with larger charitable contributions may be able to deduct more as the limits for cash gifts have been temporarily modified from 60% to 100% of AGI with excess amounts being carried over for the next five years. It should also be noted that the AGI limits applicable to gifts to a donor-advised fund or private foundation were not increased.
2. Exercise your way to a deduction
   Donors with stock options may be able to exercise their options and apply their gains as a gift, then enjoy the tax benefit in the form of a deduction of up to 100% of AGI.
3. Utilize QCDs
   Qualified Charitable Distributions, or QCDs, enable individuals who are age 70. and older to donate up to $100,000 from an IRA directly to a charity, while excluding some or all of the amount donated from their taxable income. Though RMDs are waived for 2020 under the CARES Act, if you intend to make a charitable contribution in 2020, it may still be more tax efficient to utilize QCDs as the distributed amount would otherwise be subject to income tax when distributed in future years.

Taxes	Biden Proposal	Current Rules
Capital Gains	Eliminate the preferential treatment of capital gains and dividends for income over $1 million by taxing them at ordinary rates.	The top tax rate for capital gains and qualifying dividends is 20% for individuals with income over $441,450.

Estate and Gift	• Raise estate tax rates (to a top tax rate of 45%), and lower estate and gift tax exemption back to the 2009 levels ($3.5M per person estate tax exemption, $1M per person gift tax exemption). • The IRS finalized rules last year saying that it wouldn't claw back lifetime gifts if/when the exemption is lowered, meaning if you make estate planning adjustments before any changes are made, those changes should not impact your plans.	• In 2020, under the Tax Cuts and Jobs Act (TCJA) — which is currently set to expire at the end of 2025 — the standard estate tax exclusion for 2020 is $11.58M for individuals or $23.16M for a married couple and $11.7M and $23.4M for 2021. • Transferred assets that exceed these thresholds are taxed at as much as 40%. • Separate from the estate tax exclusion, there is a gift exclusion of $15,000 per recipient, which can be doubled for a married couple. For example, a married couple can gift $30,000 to each of their three children for a total exclusion of $90,000. Separately, you can make unlimited direct payments for medical and tuition expenses.

There are a few strategies to consider that could result in lower transfer taxes in the event Biden's proposal becomes law:

1.

Spousal Limited Access Trust (SLAT)

With this type of trust, assets can be moved from an estate to an irrevocable trust, allowing distributions to the grantor's spouse according to the terms outlined in the trust agreement. SLATs can also benefit children or grandchildren. Assets held in the trust at the death of each spouse should not be subject to estate tax. This allows a taxpayer to utilize his or her increased gift exemption prior to any tax law changes while still allowing the taxpayer's spouse to access funds if needed. As with any trust, there are pros and cons for each situation, with death and divorce being the key risks for SLATs.

2.

Grantor-Retained Annuity Trust (GRAT)

This IRS-tested trust allows for the appreciation of assets (in excess of a rate set by the IRS) to be passed to heirs free of taxes, essentially enabling you to give away most of the upside of assets tax-free.

3.

Intentionally Defective Grantor Trust (IDGT)

An intentionally defective grantor trust is an irrevocable trust that is usually set up to benefit either a spouse or future generations. All income of a grantor trust is taxed to the grantor (instead of being paid by the trust). When structured properly, the trust assets can grow for the benefit of future generations without the burden of income tax (as the grantor pays the bill) or transfer tax.

4.

Irrevocable Life Insurance Trust (ILIT)

If you own a life insurance policy outright at your death, the death benefit will be subject to estate tax. If the policy is instead held by an ILIT, it should avoid estate tax.

Reminder — RMD Rules Have Changed in 2020

Required minimum distributions (RMDs) are waived for most retirement plans including 401(k), 457(b), 403(b) and IRA account owners as well as beneficiaries for 2020.

Bringing it all together

Biden's platform impacts how certain groups of people might approach charitable giving. Raising the top marginal long-term capital gains rate by approximately 20% for those with income above $1 million would make donating appreciated securities and avoiding capital gains quite compelling for those taxpayers. On the other hand, capping itemized deductions at 28% for anyone earning $400,000 or more, de-incentivizes charitable giving for such taxpayers.

As always, when approaching charitable giving, it is important to determine what you want to accomplish and which charities you most want to help, and then review your portfolio to develop and implement a plan to help you achieve those objectives in the most tax-efficient manner.