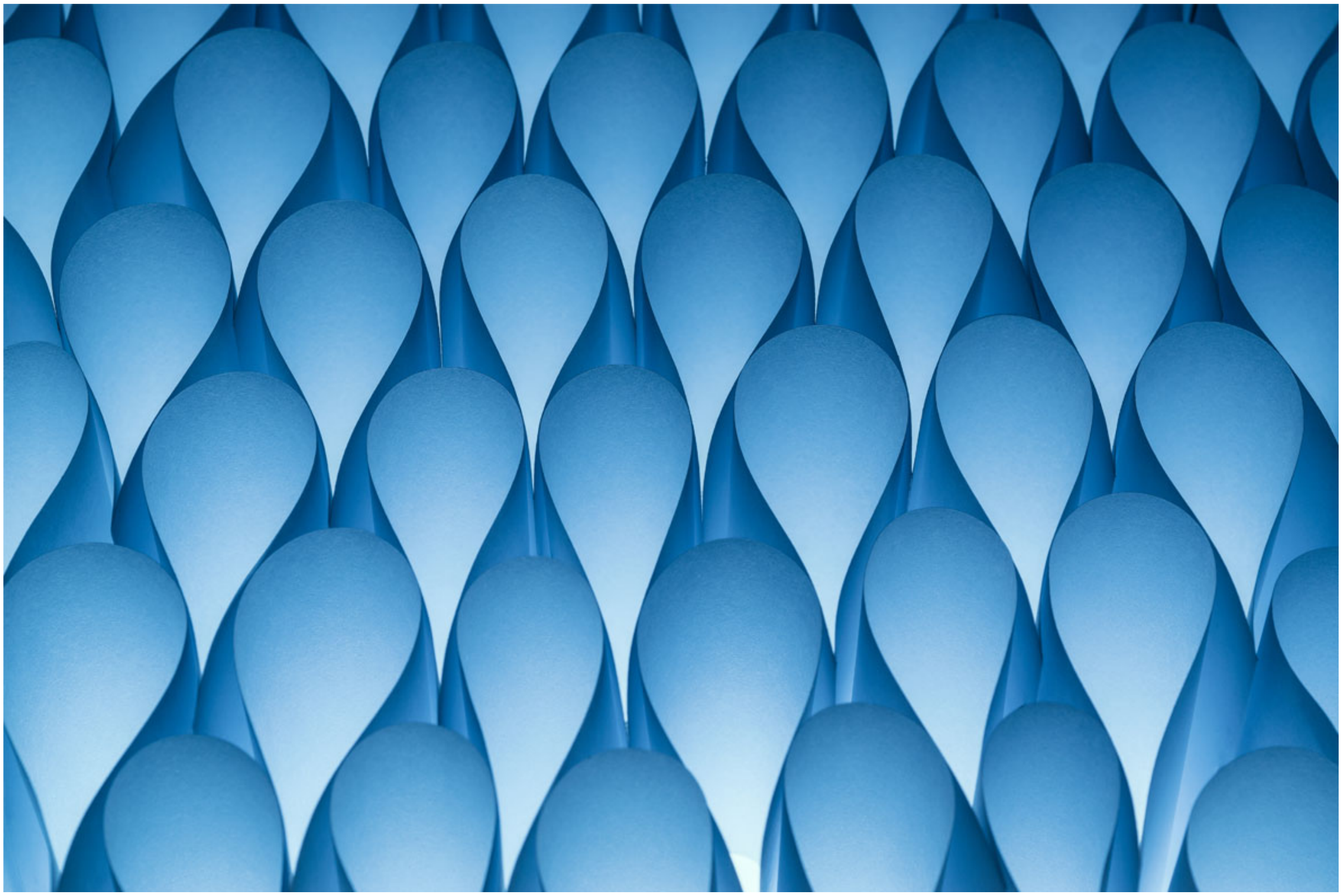
Treasury Department Agenda Changes May Impact Estate Planning Rules

westwoodgroup.com/insight/treasury-department-agenda-changes-may-impact-estate-planning-rules/



With Inauguration Day in the rearview mirror, the new administration is shifting their attention to their policy agenda, having made strides on their initial primary focus: the coronavirus pandemic.

The Treasury Department, under the prior administration, slowed its regulatory agenda on a variety of policies that could impact estate planning, such as restricting access to certain tools and/or estate tax safe havens. With newly appointed personnel settling in, there now appears to be an inclination to reprioritizing these policies, many of which are in alignment with President

Biden's campaign platform which signaled a philosophy for using taxation as a way to level economic inequalities and advocated for a broader approach to the estate taxes, with a likely outcome of higher estate taxes overall.

In 2021, the estate and gift exemption increased slightly to $11.7 million per individual or $23.4 million for a married couple. On the campaign trail, now-President Biden called for significant changes to our tax policies, including significantly lower estate planning exemptions, specifically restoration to 2009 levels of $3.5 million per person for estate taxes and a $1 million limit for gift taxes.

As these strongly different perspectives play out, regulatory changes and application of related rules can happen more quickly. With that in mind, we are closely monitoring indications from the current administration. One key area we are watching is policies related to valuations, given several proposals that have either been withdrawn or been on hold for the years since President Obama left office.

One proposal limits the ability for an estate to discount the value of certain assets, such as those in closely held family businesses. The IRS had proposed this but other priorities, along with concerns that the proposed rules were too far-reaching, placed these proposals on the back burner.

Another valuation-related effort that may turn up again is restricting the practice of using promissory notes in a trust. Currently, when a trust uses a promissory note to purchase assets, the trust must repay the loan in accordance with minimums outlined by the IRS. If the sold assets appreciate faster than the IRS minimums, the trust beneficiaries receive the benefit of that appreciation, without being subject to gift tax rules.

In addition, there may be efforts to more stringently apply rules around property valuation, ensuring the reported property value is consistent on estate tax filings and beneficiary distributions. Strengthened regulations on this were proposed in 2015 but have since languished and were never finalized.

As new appointees settle in and the administration tackles the urgency related to the pandemic, clarity around the Treasury Department's agenda should increase. Now is a great time to revisit estate plans, consider the potential impact on your personal situation, and contemplate different strategies that may help minimize the impact of potential changes in the future.

If you would like to review your estate plan with your advisor, please let us know. We would be happy to help.

compiled herein. Any statements non-factual in nature constitute only current opinion, which is subject to change. Any statements concerning financial market trends are based on current market conditions, which will fluctuate. Past performance is not indicative of future results. All information provided herein is for informational purposes only and is not intended to be, and should not be interpreted as, an offer, solicitation, or recommendation to buy or sell or otherwise invest in any of the securities/sectors/countries that may be mentioned.