



HOW YOUR ESTATE PLAN IS IMPACTED BY THE PROPOSED TAX LAW CHANGES

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**Presentation For:
Eckert Byrne LLC Clients
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WEBINAR AGENDA:

- **Attorney Presentation (~30 minutes)**
- **Estate Tax and Gift Tax Laws 2021**
- **Proposed Changes:**
 - **For the 99.5% Act**
 - **STEP Act**
- **Tools to Reduce Estate Tax**
- **Q&A (~30 minutes)**

ESTATE AND GIFT TAX LAWS NOW

- In 2021, the Federal Estate and Gift Tax Exemption is \$11.7m/person (\$23.4m for a married couple) – 40% tax for amounts above
 - Unlimited Marital and Charitable Deductions
 - Gifts and Estate Transfer Tax is 'unified'
 - Exemption rises annually for inflation
 - It is scheduled to revert back to a \$5m+inflation base after 2025 (~\$6m/person/\$12m for married couple)
- In 2021, the Annual Exclusion for gifts is \$15,000/person (unlimited number of donees). Married couples can gift twice this amount. Any amounts over are reported on a Form 709 (gift tax return) and reduce one's lifetime/estate tax exemption. No gift tax is paid until someone uses their full lifetime/estate tax exemption amount (currently \$11.7m)

THE IRREVOCABLE GRANTOR TRUST NOW

- Irrevocable Grantor Trusts (ILITs, IDGTs, SLATs, GRATs)
 - Differing treatment for Income Taxes & Estate Taxes
 - Income tax = grantor
 - Estate tax = grantor
 - Trusts typically pay income at a higher tax rate than an individuals – grantor trusts push the income tax back to the grantor (essentially an additional tax-free ‘gift’ to the beneficiaries)
 - GRATs have a minimum 2 year term
- Valuation Discounts are often used w/ these transfers

TAX BASIS STEP-UP NOW

- Currently, assets included in a decedent's estate at death receive a 'step-up' in tax basis to date of death value
 - For example: mom buys ACME stock at \$1/share. When she dies, the stock is worth \$5/share (i.e., a \$4/share gain). If mom dies with the stock, and daughter sells post-death, for \$5/share, there is \$0 capital gains tax paid by daughter. If mom had sold the stock the day before she died, she would've realized capital gains tax on the \$4/share. If mom gifted the stock to her daughter the day before she died, and daughter subsequently sold her, she would have realized capital gains taxes (gifts pass on original tax basis).

ESTATE AND GIFT TAX LAW PROPOSED CHANGES (2022+)

- The “For the 99.5% Act” seeks to reduce the Federal Estate Tax Exemption to \$3.5m/person or \$7m/married couple (45%-65%)
 - Unlimited Marital and Charitable Deductions
 - Estate Tax and Gift Tax will no longer be ‘unified’
 - Exemption rises annually for inflation
- The “For the 99.5% Act” seeks to reduce the lifetime gift tax exemption amount to \$1m
- The “For the 99.5% Act” seeks to reduce the Annual Exclusion for gifts is \$10,000/person (indexed for inflation) and capped at 2x annual exclusion. Married couples can gift twice this amount. Any amounts over are reported on a Form 709 (gift tax return) and reduce one’s lifetime tax exemption. No gift tax is paid until someone uses their full lifetime tax exemption amount (\$1m proposed).

THE IRREVOCABLE GRANTOR TRUST (2022+)

- Proposals under the For the 99.5% Act would alter Grantor Trusts as follows:
 - Irrevocable Grantor Trusts (ILITs, IDGTs, SLATs, GRATs)
 - SAME treatment for Income Taxes & Estate Taxes
 - Income tax = grantor
 - Estate tax = grantor
 - Distributions to beneficiaries from a Grantor Trust are taxable gifts
 - GRATs would have a minimum 10 year term w/ 25% remainder
 - 50-Year Maximum for GST purposes
 - Valuation Discounts prohibited for non-business assets (like investments)

TAX BASIS STEP-UP (2021+)

- Proposals under the STEP Act (which could be retroactive to 1/1/21):
 - Elimination of step-up in tax basis to date of death value
 - Triggering gain upon a gift (like to a Grantor Trust)
 - \$1m exclusion
 - Exclusion of \$250K (individual) and \$500K (couple) for primary residence
 - Charitable Gifts Exempt
 - Reduction against Estate Tax
 - 15-year payment plan (w/ interest) for illiquid businesses and farms
 - Non-Grantor Trusts – Gain triggered every 21 years (retroactive)

	2021 (NOW)	Proposed (2022+*)
Estate Tax Exemption	\$11.7m/person \$23.4m/couple (Unlimited Marital and Charitable Deduction)	\$3.5m/person \$7m/couple (Unlimited Marital and Charitable Deduction)
Estate/Gift Tax Rate	40%	45% (\$3.5m-\$10m) 50% (\$10m-\$50m) 55% (\$50m-\$1B) 65% (>\$1B)
Annual Exclusion for Gifts	\$15,000/person (no limit on number of donees/total amount gifted)	\$10,000/person (indexed for inflation) (up to \$20,000 in total/year or 2x the annual exclusion amount)
Gift Tax Exemption	(see Estate Tax above – ‘unified)	\$1m/person (lifetime) (no longer unified w/ estate)
Valuation Discounts	% discounts on family LLCs funded w/ investments (non-business assets)	Eliminates discounts on non-business assets
Grantor Trusts (Irrev)	Income taxed to Grantor but Assets Excluded from Grantor’s Estate; distributions to beneficiaries are not gifts by the Grantor	Income taxed to Grantor AND all assets includable in Grantor’s estate; distributions after 12/31/2021 are gifts to the beneficiary
Step-up in Tax Basis <i>*STEP ACT COULD BE RETROACTIVE TO APPLY TO 2021 AND PRIOR</i>	Tax basis = value at date of death (Capital gains Tax = 0-20% (Fed)	Tax basis = original / no step-up Excludes \$1m in unrealized capital gains; charitable gifts exempt; \$250K (indiv) \$500K (couple) exclusion for house Gain Triggered at Gift or Death (39.6% tax)

HOW TO UPDATE YOUR ESTATE PLAN

- Amend Your Revocable Trust to be as tax-efficient as possible.
 - Flat Fee
 - Quick Turnaround
 - Sign at our office (drive in notary) or on your own
- Create additional Irrevocable Trust(s)
- Incorporate Charitable Planning
- Create Gifting Strategy (Cash/High Basis Assets)
- “Wait and See”
- **INCOME TAX PLANNING**
 - *NOTE: AMP Members receive 10% discount off all services.*

GET ON OUR CALENDAR NOW

To schedule a meeting with Kristin Dzialo, contact Noah Evans at noah@eckertbyrne.com.

Please note, you may schedule as far in advance as you like. We will be holding time in our calendar from now until October 1st for meetings to update your estate plan in contemplation of these changes, or in response if anything passes prior. Some techniques require time and experts, and should be contemplated well in advance of year end when possible.

QUESTIONS AND ANSWERS



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Partner

Trusts and Estates Attorney Kristin N.G. Dzialo, is a Partner at Eckert Byrne LLC in Cambridge, Massachusetts. Kristin helps individuals and families articulate and carry out their legacy. A death should allow loved ones to grieve and memorialize, and this should not be delayed or tainted through the court, financial clean-up, or confusion on someone's wishes. As a former adjunct professor at New England Law | Boston, Kristin is passionate about educating clients through a caring, personalized approach, in order to create tax-efficient strategies for preserving and passing wealth. Kristin was named a Rising Star in Estate Planning and Probate by SuperLawyer™. She is the Co-Facilitator of the Rising Stars Roundtable for USA500 Clubs and a member of the Professional Advisor Council for the Cambridge Community Foundation.

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