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# Federal Gift and Estate Tax: A Unified Tax System

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### Federal Estate Tax Rates At-a-Glance

The top federal estate tax rate decreases from 48% in 2004, to 47% in 2005, 46% in 2006, and 45% in 2007-2009. The federal estate tax is scheduled to be repealed in 2010, and reinstated in 2011 with a top rate of 55%.

#### 2004 Estate Tax Rate Schedule

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000
\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000	\$2,000,000	\$555,800	45%	\$1,500,000
\$2,000,000		\$780,800	48%	\$2,000,000
<b>2004 credit shelter amount</b> <b>\$1,500,000</b>		<b>2004 credit amount</b> <b>\$555,800</b>		

#### 2005 Estate Tax Rate Schedule

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000

\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000	\$2,000,000	\$555,800	45%	\$1,500,000
\$2,000,000		\$780,800	47%	\$2,000,000
<b>2005 credit shelter amount \$1,500,000</b>		<b>2005 credit amount \$555,800</b>		

**2006 Estate Tax Rate Schedule**

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000
\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000	\$2,000,000	\$555,800	45%	\$1,500,000
\$2,000,000		\$780,800	46%	\$2,000,000

<b>2006 credit shelter amount</b> <b>\$2,000,000</b>	<b>2006 credit amount</b> <b>\$780,800</b>
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**2007 Estate Tax Rate Schedule**

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000
\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000		\$555,800	45%	\$1,500,000
<b>2007 credit shelter amount</b> <b>\$2,000,000</b>		<b>2007 credit amount</b> <b>\$780,800</b>		

**2008 Estate Tax Rate Schedule**

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000

\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000		\$555,800	45%	\$1,500,000
<b>2008 credit shelter amount</b>		<b>2008 credit amount</b>		
<b>\$2,000,000</b>		<b>\$780,800</b>		

**2009 Estate Tax Rate Schedule**

Taxable Estate		Tentative Tax Equals		
exceeds	but does not exceed	base tax	plus	of amount over
\$0	\$10,000	\$0	18%	\$0
\$10,000	\$20,000	\$1,800	20%	\$10,000
\$20,000	\$40,000	\$3,800	22%	\$20,000
\$40,000	\$60,000	\$8,200	24%	\$40,000
\$60,000	\$80,000	\$13,000	26%	\$60,000
\$80,000	\$100,000	\$18,200	28%	\$80,000
\$100,000	\$150,000	\$23,800	30%	\$100,000
\$150,000	\$250,000	\$38,800	32%	\$150,000
\$250,000	\$500,000	\$70,800	34%	\$250,000
\$500,000	\$750,000	\$155,800	37%	\$500,000
\$750,000	\$1,000,000	\$248,300	39%	\$750,000
\$1,000,000	\$1,250,000	\$345,800	41%	\$1,000,000
\$1,250,000	\$1,500,000	\$448,300	43%	\$1,250,000
\$1,500,000		\$555,800	45%	\$1,500,000
<b>2009 credit shelter amount</b>		<b>2009 credit amount</b>		
<b>\$3,500,000</b>		<b>\$1,455,800</b>		

## Federal Gift and Estate Tax

### What is federal gift and estate tax?

Federal gift and estate tax is generally referred to simply as estate taxes, although your estate may be subject to other kinds of estate taxes (i.e., state death tax and generation-skipping transfer taxes).

When you die, you will leave behind all your possessions, property, and debts. What you leave behind is called your estate. Not surprisingly, estate tax is imposed on your estate, but it is also imposed on gifts you make while you are living (hence the name federal gift and estate tax). The IRS treats all the wealth you give away in the same way, whether you give it away during life or at death.

The estate tax rates reach as high as 45 percent for the estates of persons dying in 2009. This means that estate taxes could be one of the largest expenses your estate may pay. It also means that a significant part of your estate may be going to Uncle Sam and not to your loved ones.

If your estate planning goals include minimizing estate taxes and preserving your estate for your heirs or beneficiaries, you need to understand how the estate tax system works, how to estimate your potential estate tax liability, and what techniques are available that may minimize your estate tax liability.

### How does the federal gift and estate tax system work?

The estate tax system is a unified system; that is, the gift tax system and the estate tax system are combined. Before 1976, the tax systems were separate. Gifts (i.e., taxable gifts) made during life were reported--and any gift tax owed was paid--on an annual basis. After death, estate tax was imposed only on at-death property transfers.

Since 1976, generally, taxable gifts are still reported--and any gift tax owed is paid--annually. (Generally, you must file a gift tax return and pay gift tax due, if any, by April 15 of the year following the year in which you make a taxable gift.) But, upon death, all gifts are added to your gross taxable estate for estate tax calculation purposes, even though a gift tax return may already be filed and gift tax paid (gift tax paid is deducted from the estate tax owed).

The effect produced by unifying the gift tax system and the estate tax system is (1) lifetime gifts and at-death property transfers are taxed using the same tax rates (under the Unified Tax Rate Schedule), (2) an applicable exclusion amount (formerly known as the unified credit) can be applied to lifetime gifts and at-death property transfers, and (3) the estate tax imposed at death is computed by adding lifetime gifts to at-death property transfers (this pushes your estate into a higher tax bracket).

**Caution:** The applicable exclusion amount for gift tax purposes is currently fixed at \$1 million while the estate tax applicable exclusion amount is \$3.5 million in 2009. In 2010, the estate tax, but not the gift tax, is scheduled to be repealed. The estate tax will then be reinstated in 2011, and the estate tax applicable exclusion amount will decrease to \$1 million. Any portion of the gift tax applicable exclusion amount used for lifetime gifts effectively reduces the amount of your estate tax applicable exclusion amount.

### Why estimate estate taxes?

Understanding how your estate tax liability is calculated may help you achieve your estate planning goals, such as:

#### *Saving your property for your heirs or beneficiaries*

As mentioned, estate tax rates currently reach as high as 45 percent for estates of persons who die in 2009. This means that an enormous chunk of your estate may go to the federal government instead of your loved ones. If

you want to preserve your estate for your heirs or beneficiaries, you need to know how to keep your property transfers from being subject to the estate taxes. This means that you should know what lifetime gifts are taxable gifts and what at-death gifts will be included in your gross estate.

**Example(s):** Fred's son Tim goes to a state college. Tim takes out loans to pay for his tuition and works a part-time job to make money for books and other expenses. Fred wants to help his son, so he gives Tim a monthly allowance. Fred is making a taxable gift to Tim that is subject to gift tax (assume no other variables). However, gifts for educational purposes made directly to an educational institution are exempt from gift tax. If Fred paid part of Tim's tuition directly to the college instead of giving the money to Tim, Fred's gift would be tax free. Tim could then use the money he saves on tuition for his other expenses.

For more information on nontaxable gifts, see Nongift Gifts.

### ***Reducing estate tax liability***

Under the unified tax system, every individual is allowed an applicable exclusion amount that will reduce estate tax liability. In addition, there are exclusions, deductions, and other credits available that allow you to pass a certain amount of your estate tax free. You need to understand what these exclusions, deductions, and credits are and how they work in order to take full advantage of them.

**Example(s):** In 2009, Mary wins \$100,000 in the lottery, which she wants to share with her daughters, Denise, Dolores, and Debbie. Mary gives \$20,000 to each of her three daughters (\$60,000 total). The annual gift tax exclusion allows Mary to give the first \$13,000 to each daughter free from tax. Mary incurs tax on \$21,000 ( $\$60,000 - [\$13,000 \times 3]$ ). If Mary gives \$13,000 to each daughter in 2009 and then \$7,000 to each daughter in 2010, she would be able to give the entire \$60,000 tax free because the annual gift tax exclusion can be applied each year.

**Tip:** The annual gift tax exclusion is indexed for inflation. For 2009, it's \$13,000, but this may increase in future years.

### ***Providing for payment of estate taxes***

Generally, your personal representative must pay estate taxes within nine months after your death using assets from your estate. To avoid depriving your beneficiaries of what you intend for them to receive, your estate plan should provide that specific and sufficient assets be set aside and used for this purpose. In addition, these assets should be sufficiently liquid to pay this expense when it is due.

**Example(s):** Alison dies, leaving a will. Alison's gross estate includes two homes, one of which she leaves to her son Sam and the other of which she leaves to her daughter Ella. Besides the two homes, Alison's gross estate includes only a small amount of cash, which is used to pay her final expenses. Alison makes no provision in her will for the payment of estate taxes. Her personal representative calculates the taxes owed on her estate, and informs Sam and Ella that the only assets available to pay the taxes are the two homes. After a dispute with Ella, Sam decides to sell the home he received in order to pay for the estate taxes that are owed. Because the taxes are due within nine months after Alison's death, Sam reduces the selling price of the home in order to get the cash in time.

**Tip:** Purchasing a life insurance policy payable to your estate, the proceeds of which would be used to pay estate taxes, may be one solution to this situation.

### ***Planning for estate tax expense***

Although calculating estate taxes can be complex, you should estimate what the amount of the estate taxes may be so that you can arrange to have sufficient funds to pay the tax bill.

**Example(s):** Sally had built a substantial estate over her long life. Extremely devout, Sally promised her church that upon her death she would leave enough money to replace the steeple and make other much needed repairs. Sally executed her will and specifically provided for her family

and friends. She also felt very satisfied that by leaving whatever remained in her estate (the residuary) to the church, as she had promised, the church would have all the money it needed to make the required repairs. Without calculating what her estate tax liability might be, Sally took a guess and put aside an amount she thought would be sufficient. Sally died. Sally's personal representative calculated the estate taxes owed on her estate. The actual amount owed far surpassed the amount Sally had put aside, so Sally's personal representative had to take an additional amount out of the residuary to make up the difference. The amount left over for the church was only enough to make a few small repairs. The steeple was not replaced, and several larger repairs were left undone.

Although estimating estate taxes can be complex, don't be overwhelmed. If you proceed step by step, you can do it. The peace of mind that comes with implementing a successful master estate plan should be worth your time and trouble. For detailed instructions, see [Estimating Estate Tax Liability](#).

## **What is minimizing estate taxes?**

Understanding how the unified tax system works and using the system to your benefit can help you save your property for your beneficiaries and reduce your potential estate tax liability. There is another method you can use to accomplish those goals: the estate freeze. As the name implies, an estate freeze fixes the value of your estate at its present value. This may save estate taxes because no future growth of your assets will be included in your estate when you die.

Estate freezing techniques range from relatively simple (e.g., installment sale ) to the more complex (e.g., gift- or sale-leaseback). You need to know what these techniques are and how they are used in order to know which, if any, are best for you. For more information, see [Minimizing Estate Taxes](#).

# Taxation of Expatriates

## The HEART of the matter

The Heroes Earnings Assistance and Relief Tax Act Of 2008 (the HEART, or "Heroes" Act), enacted on June 17, 2008, applies new tax rules both to certain U.S. citizens who relinquish their U.S. citizenship and to certain long-term U.S. residents who terminate their U.S. residency.

### *Relinquishing citizenship*

An individual who has relinquished U.S. citizenship is treated as having done so on the earliest of four possible dates:

1. The date that he or she renounces U.S. nationality before a diplomatic or consular officer of the United States (provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality);
2. The date that he or she furnishes to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (again, provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality);
3. The date that the State Department issues a certificate of loss of nationality; or
4. the date that a U.S. court cancels a naturalized citizen's certificate of naturalization.

**Caution:** Relinquishment may occur earlier under Treasury regulations with respect to an individual who became at birth both a citizen of the United States and of another country.

### *Terminating U.S. residency*

An individual is considered to terminate long-term U.S. residency when he or she ceases to be a lawful permanent resident of the United States (i.e., loses his or her green card status through revocation or has been administratively or judicially determined to have abandoned such status). Under the HEART Act, however, an individual ceases to be treated as a lawful permanent resident of the United States for all tax purposes if he or she commences to be treated as a resident of a foreign country under a tax treaty between the United States and such foreign country, does not waive the benefits of the treaty applicable to residents of such foreign country, and notifies the Secretary of the commencement of such treatment.

### *Individuals covered*

The new tax rules apply to any U.S. citizen who relinquishes citizenship and any long-term resident who terminates U.S. residency, if such individual:

1. Has an average annual net income tax liability for the five preceding years ending before the date of the loss of U.S. citizenship or residency termination that exceeds \$145,000 (in 2009, up from \$139,000 in 2008);
2. Has a net worth of \$2 million or more on such date; or
3. Fails to certify under penalties of perjury that he or she has complied with all U.S. Federal tax obligations for the preceding five years or fails to submit such evidence of compliance as the Secretary may require.

Exceptions (these exceptions do not apply to an individual who fails to certify under penalties of perjury that he

or she has complied with all U.S. Federal tax obligations for the preceding five years or fails to submit such evidence of compliance as the Secretary may require):

- An individual who was born with citizenship both in the United States and in another country; provided that (1) as of the expatriation date he or she continues to be a citizen of, and is taxed as a resident of, such other country, and (2) he or she has been a resident of the United States (under the substantial presence test of IRC Section 7701(b)(1)(A)(ii)) for not more than 10 taxable years during the 15-year taxable year period ending with the taxable year of expatriation.
- A U.S. citizen who relinquishes U.S. citizenship before reaching age 18½, provided that he or she was a resident of the United States (under the substantial presence test of section 7701(b)(1)(A)(ii)) for no more than 10 taxable years before such relinquishment.

## The changes of HEART

### *In general*

The HEART Act imposes the following new tax rules on those individuals affected:

- Such individuals are subject to income tax on the net unrealized gain in their property as if the property had been sold for its fair market value on the day before the expatriation or residency termination ("mark-to-market tax").
- Gain from the deemed sale is taken into account at that time without regard to other Internal Revenue Code (IRC) provisions.
- Any loss from the deemed sale generally is taken into account to the extent otherwise provided in the IRC, except that the wash sale rules of Section 1091 do not apply.
- Any net gain on the deemed sale is recognized to the extent that it exceeds \$626,000 (in 2009, up from \$600,000 in 2008).
- Any gains or losses subsequently realized are to be adjusted for gains and losses taken into account under the deemed sale rules, without regard to the exemption.
- Deferred compensation items, interests in nongrantor trusts, and specified tax deferred accounts are excepted from the mark-to-market tax but are subject to special rules, as noted below.
- A transfer tax is imposed on certain transfers to U.S. persons from certain U.S. citizens who relinquished their U.S. citizenship and certain long-term U.S. residents who terminated their U.S. residency, or from their estates.

### *Deferring payment of tax*

Under the HEART Act, an individual may elect to defer payment of the tax imposed on the deemed sale of property. Interest is charged for the period the tax is deferred at the rate normally applicable to individual underpayments. The election is irrevocable and is made on a property-by-property basis. Under the election, the deferred tax attributable to a particular property is due when the return is due for the taxable year in which the property is disposed (or, if the property is disposed of in a transaction in which gain is not recognized in whole or in part, at such other time as the Secretary may prescribe). The deferred tax attributable to a particular property is a prorated portion of the total mark-to-market tax (calculated according to the ratio of gain attributable to the property to the total gain taken into account for the mark-to-market tax). The deferral of the mark-to-market tax may not be extended beyond the due date of the return for the taxable year which includes the individual's death.

In order to elect deferral of the mark-to-market tax, the individual is required to furnish a bond to the Secretary. The individual is also required to consent to the waiver of any treaty rights that would preclude the assessment or collection of the tax.

### ***Special transfer tax on gifts and bequests***

Under the HEART Act, a special transfer tax applies to certain “covered gifts or bequests” received by a U.S. citizen or resident. A covered gift or bequest is any property acquired:

1. By gift directly or indirectly from an individual who is a covered expatriate at the time of such acquisition, or
2. Directly or indirectly by reason of the death of an individual who was a covered expatriate immediately before death.

A covered gift or bequest, however, does not include any property:

1. Shown as a taxable gift on a timely filed gift tax return by the covered expatriate,
2. Included in the gross estate of the covered expatriate for estate tax purposes and shown on a timely filed estate tax return of the estate of the covered expatriate, and
3. With respect to which a deduction would be allowed under Section 2055, 2056, 2522, or 2523, whichever is appropriate (these sections allow deductions for transfers for charitable purposes or to spouses, for purposes of determining estate and gift taxes).

The tax is calculated at the highest marginal estate tax rate or, if greater, the highest marginal gift tax rate, both as in effect on the date of receipt of the covered gift or bequest. The tax is imposed upon the recipient of the covered gift or bequest and is imposed on a calendar-year basis. The tax applies to a recipient of a covered gift or bequest only to the extent that the total value of covered gifts and bequests received by such recipient during a calendar year exceeds the annual exclusion amount in effect under section 2503(b) for that calendar year (\$13,000 in 2009, up from \$12,000 in 2008). The tax on covered gifts and bequests is reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

Special rules apply to the tax on covered gifts or bequests made to domestic or foreign trusts. In the case of a covered gift or bequest made to a domestic trust, the tax applies as if the trust is a U.S. citizen, and the trust is required to pay the tax. In the case of a covered gift or bequest made to a foreign trust, the tax applies to any distribution from such trust (whether from income or corpus) attributable to such covered gift or bequest to a recipient that is a U.S. citizen or resident, in the same manner as if such distribution were a covered gift or bequest. Such a recipient is entitled to deduct the amount of such tax for income tax purposes to the extent such tax is imposed on the portion of such distribution that is included in the gross income of the recipient. For purposes of these rules, a foreign trust may elect to be treated as a domestic trust. The election may not be revoked without the Secretary's consent.

### ***Other special rules***

- For deferred compensation items (including qualified plans, 403(b) plans, 457(b) plans, SIMPLE retirement plans, and any interest in a foreign pension plan or retirement arrangement), two rules apply: If the payor is a U.S. person (or a non-U.S. person who elects to be treated as a U.S. person for purposes of withholding and who meet the requirements prescribed by the Secretary to ensure compliance with the withholding requirements), and the covered expatriate notifies the payor of his status as a covered expatriate and irrevocably waives any claim of withholding reduction under any treaty with the United States, the payor must deduct and withhold from any “taxable payment” a tax equal to 30 percent of such taxable payment. A taxable payment is subject to withholding to the extent it would be included in the gross income of a citizen or resident of the United States. A deferred compensation item that is subject to the 30 percent withholding requirement is subject to tax under IRC Section 871.
- Otherwise, an amount equal to the present value of the covered expatriate's deferred compensation item is treated as having been received on the day before the expatriation date. In the case of a deferred compensation item that is subject to IRC Section 83, the item is treated as becoming transferable and no longer subject to a substantial risk of forfeiture on the day before the expatriation

date. Appropriate adjustments shall be made to subsequent distributions. These deemed distributions are not subject to early distribution tax.

- For “specified tax deferred accounts” (IRAs, 529 plans, Coverdell ESAs, HSAs, and Archer MSAs), a covered expatriate is treated as receiving a distribution of his entire interest in these accounts on the day before his or her expatriation date. Appropriate adjustments are made for subsequent distributions to take into account this treatment. As with deferred compensation items, these deemed distributions are not subject to early distribution tax.
- For the portion of any trust for which the covered expatriate is treated as the owner under the grantor trust provisions of the IRC (determined immediately before the expatriation date) the assets held by that portion of the trust are subject to the mark-to-market tax. If a trust that is a grantor trust immediately before the expatriation date subsequently becomes a nongrantor trust, such trust remains a grantor trust for purposes of the provision.
- For trusts (“nongrantor trusts”) with respect to which the covered expatriate is a beneficiary on the day before the expatriation date, the trustee must deduct and withhold from any direct or indirect distribution to a covered expatriate an amount equal to 30 percent of the portion of the distribution which would be includible in the gross income of the covered expatriate if the covered expatriate continued to be subject to tax as a citizen or resident of the United States. The portion of the distribution that is subject to the 30 percent withholding requirement is subject to tax under IRC Section 871. The covered expatriate is treated as having waived any right to claim any reduction in withholding under any treaty with the United States. If the trust distributes appreciated property to a covered expatriate, the trust must recognize gain as if the property were sold to the covered expatriate at its fair market value. If a trust that is a nongrantor trust immediately before the expatriation date subsequently becomes a grantor trust of which a covered expatriate is treated as the owner, directly or indirectly, such conversion is treated as a distribution to the extent of the portion of the trust of which the covered expatriate is treated as the owner.
- Any period for acquiring property which results in the reduction of gain recognized with respect to property disposed of by the taxpayer terminates on the day before the expatriation date. This rule applies to certain incomplete transactions such as deferred like-kind exchanges and involuntary conversions.
- Any extension of time for payment of tax ceases to apply on the day before relinquishment of citizenship or termination of residency, and the unpaid portion of such tax becomes due and payable at the time and in the manner prescribed by the Secretary.
- For purposes of determining the tax imposed under the mark-to-market tax, property that was held by an individual on the date that such individual first became a resident of the United States is treated as having a basis on such date of not less than the fair market value of such property on such date. An individual may make an irrevocable election not to have this rule apply.

## Table of Federal Estate Tax Brackets and Exemption Limits

Current federal estate tax law (1) increases the estate tax exemption from \$2 million in 2008 to \$3.5 million in 2009, (2) imposes a top estate tax rate of 45 percent, (3) repeals the estate tax for 2010 only, and (4) reinstates the estate tax in 2011, with an exemption amount of \$1 million and a top tax rate of 55 percent.

Year	Amount exempt from federal estate tax	Highest federal estate tax rates
2008	\$2 million	45%
2009	\$3.5 million	45%
2010	federal estate tax scheduled to be repealed*	federal estate scheduled to be repealed - no tax*
2011	scheduled to revert to prior law*	scheduled to revert to prior law*

\*The previous federal estate tax will be reinstated in 2011 under the sunset provisions of the Tax Relief Act of 2001 unless Congress takes additional action. The top federal estate tax rate will be restored to 55 percent, and the federal estate tax exemption amount will return to \$1 million.

**Federal Transfer Tax Exemption Amounts Under the Tax Act of 2001**

<b>Year</b>	<b>Gift Tax Exemption Amount</b>	<b>Estate Tax Exemption Amount</b>	<b>Generation-Skipping Transfer Tax (GSTT) Exemption Amount</b>
<b>2003</b>	\$1,000,000	\$1,000,000	\$1,120,000
<b>2004</b>	\$1,000,000	\$1,500,000	\$1,500,000
<b>2005</b>	\$1,000,000	\$1,500,000	\$1,500,000
<b>2006</b>	\$1,000,000	\$2,000,000	\$2,000,000
<b>2007</b>	\$1,000,000	\$2,000,000	\$2,000,000
<b>2008</b>	\$1,000,000	\$2,000,000	\$2,000,000
<b>2009</b>	\$1,000,000	\$3,500,000	\$3,500,000
<b>2010*</b>	\$1,000,000	Repealed	Repealed
<b>2011 and after</b>	\$1,000,000	\$1,000,000	\$1,000,000**

\*Estate tax and generation-skipping transfer tax are scheduled to be repealed during 2010. Lifetime gifts, however, will continue to be subject to gift tax.

\*\*Plus applicable inflation adjustments.

## Estate Planning: An Introduction

By definition, estate planning is a process designed to help you manage and preserve your assets while you are alive, and to conserve and control their distribution after your death according to your goals and objectives. But what estate planning means to you specifically depends on who you are. Your age, health, wealth, lifestyle, life stage, goals, and many other factors determine your particular estate planning needs. For example, you may have a small estate and may be concerned only that certain people receive particular things. A simple will is probably all you'll need. Or, you may have a large estate, and minimizing any potential estate tax impact is your foremost goal. Here, you'll need to use more sophisticated techniques in your estate plan, such as a trust.

To help you understand what estate planning means to you, the following sections address some estate planning needs that are common among some very broad groups of individuals. Think of these suggestions as simply a point in the right direction, and then seek professional advice to implement the right plan for you.

### Over 18

Since incapacity can strike anyone at anytime, all adults over 18 should consider having:

- A durable power of attorney: This document lets you name someone to manage your property for you in case you become incapacitated and cannot do so.
- An advanced medical directive: The three main types of advanced medical directives are (1) a living will, (2) a durable power of attorney for health care (also known as a health-care proxy), and (3) a Do Not Resuscitate order. Be aware that not all states allow each kind of medical directive, so make sure you execute one that will be effective for you.

### Young and single

If you're young and single, you may not need much estate planning. But if you have some material possessions, you should at least write a will. If you don't, the wealth you leave behind if you die will likely go to your parents, and that might not be what you would want. A will lets you leave your possessions to anyone you choose (e.g., your significant other, siblings, other relatives, or favorite charity).

### Unmarried couples

You've committed to a life partner but aren't legally married. For you, a will is essential if you want your property to pass to your partner at your death. Without a will, state law directs that only your closest relatives will inherit your property, and your partner may get nothing. If you share certain property, such as a house or car, you should consider owning the property as joint tenants with rights of survivorship. That way, when one of you dies, the jointly held property will pass to the surviving partner automatically.

### Married couples

Married couples have unique estate planning challenges and opportunities. On the one hand, you can transfer your entire estate to your spouse gift and estate tax free under the unlimited marital deduction. This will postpone taxation until the death of the surviving spouse. While this may be a good outcome for couples with smaller estates, couples with combined assets in excess of the estate tax exemption amount (\$3.5 million per person in 2009) may wind up paying more in estate taxes than is necessary because they've wasted the exemption of the first spouse to die. Couples in this situation need to plan in advance to avoid this result (perhaps by using a "credit shelter" or "bypass" trust, or some combination of marital trusts, often referred as an "A/B or A/B/C trust arrangement").

Note: Funding a bypass trust with funds from a retirement plan could have adverse income tax consequences.

Note: In the states that have "decoupled" their death tax systems from the federal system, using a formula provision to fund a bypass trust may increase the chance of having to pay state death taxes.

Married couples where one spouse is not a U.S. citizen have special planning concerns. The marital deduction is not allowed if the recipient spouse is a non-citizen spouse (although a \$133,000 annual exclusion, for 2009, is allowed). If certain requirements are met, however, a transfer to a qualified domestic trust (QDOT) will qualify for the marital deduction.

## **Married with children**

If you're married and have children, you and your spouse should each have your own will. For you, wills are vital because they can name a guardian for your minor children in case both of you die simultaneously. If you fail to name a guardian in your will, a court may appoint someone you might not have chosen. Furthermore, without a will, some states dictate that at your death some of your property goes to your children and not to your spouse. If minor children inherit directly, the surviving parent will need court permission to manage the money for them.

You may also want to consult an attorney about establishing a trust to manage your children's assets in the event that both you and your spouse die at the same time.

Certainly, you will also need life insurance. Your surviving spouse may not be able to support the family on his or her own and may need to replace your earnings to maintain the family.

## **Comfortable and looking forward to retirement**

If you're in your 30s, you're probably feeling comfortable. You've accumulated some wealth and you're thinking about retirement. Here's where estate planning overlaps with retirement planning. It's just as important to plan to care for yourself during your retirement as it is to plan to provide for your beneficiaries after your death. You should keep in mind that even though Social Security may be around when you retire, those benefits alone may not provide enough income for your retirement years. Consider saving some of your accumulated wealth using other retirement and deferred vehicles, such as an individual retirement account (IRA).

## **Wealthy and worried**

Depending on the size of your estate when you die, you may need to be concerned about estate taxes.

Current federal estate tax law (1) increases the estate tax exemption from \$2 million in 2008 to \$3.5 million in 2009, (2) imposes a top estate tax rate of 45 percent, (3) repeals the estate tax for 2010 only, and (4) reinstates the estate tax in 2011, with an exemption amount of \$1 million and a top tax rate of 55 percent.

There is uncertainty about the exact form the federal estate tax system will take in future years. However, it appears that individuals with estates valued at under \$1 million need not worry too much about federal estate taxes, those with estates between \$1 million and \$3.5 million should have some flexibility built into their plans, and those with over \$3.5 million need to implement plans now to avoid having to pay federal estate tax.

Whether your estate will be subject to state death taxes depends on the size of your estate and the tax laws in effect in the state in which you are domiciled.

## **Elderly or ill**

If you're elderly or ill, you'll want to write a will or update your existing one, consider a revocable living trust, and make sure you have a durable power of attorney and a health-care directive. Talk with your family about your wishes, and make sure they have copies of your important papers or know where to locate them.

## Gift and Estate Taxes

If you give away money or property during your life, those transfers may be subject to federal gift tax and perhaps state gift tax. The money and property you own when you die (i.e., your estate) may also be subject to federal estate taxes and some form of state death tax. You should understand these taxes and when they do and do not apply, especially since the passage of the Economic Growth and Tax Relief Reconciliation Act of 2001 (the 2001 Tax Act). This law contains several changes that are complicated and uncertain, making estate planning all the more difficult.

### Federal gift tax and federal estate tax--background

Under pre-2001 Tax Act law, no gift tax or estate taxes were imposed on the first \$675,000 of combined transfers (those made during life and those made at death). The tax rate tables were unified into one--that is, the same rates applied to gifts made and property owned by persons who died in 2001. Like income tax rates, gift and estate tax rates were graduated. Under this unified system, the recipient of a lifetime gift received a carryover basis in the property received, while the recipient of a bequest, or gift made at death, got a step-up in basis (usually fair market value on the date of death of the person who made the bequest or gift).

The law substantially changed this tax regime.

### Federal gift tax

The 2001 Tax Act increased the applicable exclusion amount for gift tax purposes to \$1 million. The top gift tax rate is 45 percent in 2009 and 35 percent in 2010 (the top marginal income tax rate in 2010 under the 2001 Tax Act). In 2011, the gift tax rates revert to pre-2001 Tax Act levels. The carryover basis rules remain in effect.

However, many gifts can still be made tax free, including:

- Gifts to your U.S. citizen spouse (you may give up to \$133,000 in 2009 tax free to your noncitizen spouse)
- Gifts to qualified charities
- Gifts totaling up to \$13,000 (in 2009) to any one person or entity during the tax year, or \$26,000 if the gift is made by both you and your spouse (and you are both U.S. citizens)
- Amounts paid on behalf of any individual as tuition to an educational organization or to any person who provides medical care for an individual

State gift tax may also be owed if you are a resident of Connecticut, Louisiana, North Carolina, Tennessee, or Puerto Rico.

### Federal estate tax

Under the 2001 Tax Act, the applicable exclusion amount for estate tax purposes is \$3.5 million in 2009 (the applicable exclusion amount for gift tax purposes remains fixed at \$1 million). The top estate tax rate is 45 percent in 2009. The estate tax (but not the gift tax) is repealed in 2010, but the estate tax applicable exclusion amount and rates revert to pre-2001 Tax Act levels in 2011.

When the estate tax is repealed in 2010, the basis rules will be changed to those similar to the gift tax basis rules. The step-up in basis rules return in 2011.

## **Federal generation-skipping transfer tax**

The federal generation-skipping transfer tax (GSTT) taxes transfers of property you make, either during life or at death, to someone who is two or more generations below you, such as a grandchild. The GSTT is imposed in addition to, not instead of, federal gift tax or federal estate tax. You need to be aware of the GSTT if you make cumulative generation-skipping transfers in excess of the GSTT exemption, which is \$3.5 million (in 2009). A flat tax equal to the highest estate tax bracket in effect in the year you make the transfer is imposed on every transfer you make after your exemption has been exhausted.

Some states also impose their own GSTT.

Note: The GSTT exemption is the same amount as the applicable exclusion amount for estate tax purposes.

## **State death taxes**

The three types of state death taxes are estate tax, inheritance tax, and credit estate tax, which is also known as a sponge tax or pickup tax.

## How can I determine what my business is worth for estate and gift tax purposes?

### Question:

How can I determine what my business is worth for estate and gift tax purposes?

### Answer:

Determining the value of your business is something you should not attempt to do on your own, especially because the IRS could challenge your valuation. Even the IRS acknowledges that no one true fair market value (FMV) exists for a closely held business. There are appraisers who specialize in determining the value of businesses. Your CPA may be one of these specialists or know someone who is.

FMV is defined by the federal estate and gift tax regulations as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." It is the sale price that a hypothetical buyer and seller would reach, not necessarily the price that the actual owner would agree to or the price that an actual buyer might be willing to pay.

You may have had your business appraised in the past for another purpose. As tempting as it might be, don't use an old appraisal for a new transaction. The purpose of the appraisal can affect the valuation assigned, and time can change the factors that go into the appraisal calculation.

Numerous factors might affect the value of a business. However, the IRS has identified a number of relevant considerations:

- Nature of the business and history of the company
- Outlook for the economy in general and an industry in particular
- Book value and financial condition of the company
- Earnings capacity
- Dividend-paying capacity
- Goodwill/intangible value
- Sales of stock and the size of block to be valued
- Market value of stock in comparable businesses

A number of different methods exist for determining the FMV for a closely held business. Generally, only an appraiser will know how to analyze these factors to reach a conclusion as to the FMV of your business.

## What will happen if I die without a will?

### Question:

What will happen if I die without a will?

### Answer:

Some people leave instructions about who gets what property in a legal document known as a will. If you do not have a will, you leave no legal instructions about how your property is to be distributed to your heirs.

The state then steps in and dictates how your property will be distributed. The state does this by following laws known as intestacy laws. Each of the states has adopted its own intestacy laws, so the pattern of distribution varies from state to state. However, a typical pattern may be that half of the property goes to the spouse, and the other half is split equally among the children.

The major disadvantage of this is that your property may not be distributed according to your wishes.

There are other drawbacks to this situation, as well. Instructions about other special matters, such as who will settle the estate or who will take care of minor children, are also left in a will. If you do not have a will, these matters will also be determined by the state. Although the state will do what it thinks is in the best interest of your family, its actions may not be consistent with what you would have wanted.

## Isn't estate planning only for the rich?

### Question:

Isn't estate planning only for the rich?

### Answer:

In a word, no. Estate planning allows you or anyone to implement certain tools now to ensure that your concerns and goals are fulfilled after you die. Your objective may be to simply make sure that your loved ones are provided for. Or you may have more complex goals, such as avoiding probate or reducing those dreaded estate taxes.

Estate planning can be as simple as implementing a will (the cornerstone of any estate plan) and purchasing life insurance, or as complicated as executing trusts and exploring other sophisticated tax and estate planning techniques. Therefore, estate planning is important whether you are wealthy or whether you have only a small estate. In fact, estate planning may be more important if you have a smaller estate because final expenses will have a greater impact on your estate. Wasting even a single asset may cause your loved ones to suffer from lack of financial resources.

You may also want to plan your estate if you have special circumstances such as any of the following:

- You have minor or special needs children
- Your spouse is uncomfortable with or incapable of handling financial matters
- You have property in more than one state
- You have special property, such as artwork or collectibles

## How can I minimize taxes on my estate?

### Question:

How can I minimize taxes on my estate?

### Answer:

This question may seem simple, but the answer is not so easy. In fact, there are experts who make their living answering just this question.

Estate tax liability depends on the year in which you die and the value of your estate when you die (see the following chart).

Year of Death	Value of Estate on which Estate Tax May Be Imposed (estates in excess of the applicable exclusion amount)
2009	\$3.5 million or more
2010	Estate taxes will not be imposed on any estate
2011 and thereafter	\$1 million or more

Thus, you can minimize estate tax by reducing the value of your estate until it is below the applicable exclusion amount. There are many ways you can accomplish this. The best way(s) for you may not be the best ways for others and vice versa. (Note: We're discussing only federal estate tax here. Your estate may also be subject to state death taxes. See a tax attorney for more information about state death taxes.)

One way is to make lifetime gifts. Be aware, however, that certain lifetime gifts may trigger gift tax (Note: Though estate taxes will not be imposed in 2010, the gift tax remains in effect.). Gifts that do not trigger gift tax include the following:

- Gifts made to U.S. citizen spouses and certain charities
- Gifts of \$133,000 or less made to non-U.S. citizen spouses (in 2009)
- Certain payments made for tuition or medical expenses on the behalf of others
- Gifts up to the annual gift tax exclusion amount of \$13,000 (in 2009)
- Gifts made that fall under the gift tax applicable exclusion amount of \$1 million (Note: Any portion of the gift tax applicable exclusion amount used for lifetime gifts effectively reduces the applicable exclusion amount that will be available for estate tax purposes.)

See a tax attorney for more information about federal and state gifts taxes.

Another common technique to minimize estate taxes is to transfer assets to an irrevocable trust. Such a transfer may be subject to gift tax on the value of the assets at the time of the transfer, but the assets, plus any future appreciation, are removed from your gross estate. There are many types of irrevocable trusts, each created for a specific purpose. Be aware, however, that as the name implies, an irrevocable trust cannot be revoked or amended.

This is just a brief glimpse of some of the techniques used to minimize estate taxes. For more information, or to discuss how these techniques might apply to your own situation, you should consult a qualified tax attorney.

## I just made a gift. Do I have to file a gift tax return?

### Question:

I just made a gift. Do I have to file a gift tax return?

### Answer:

A federal gift tax return must be filed if any gifts you made during the calendar year were other than:

- Gifts to your U.S. citizen spouse
- Gifts to qualified charities
- Gifts totaling \$13,000 or less to any one individual (in 2009)
- Amounts paid on behalf of any individual as tuition to an educational organization or to any person who provides medical care for an individual

If you file a federal gift tax return, you must use Form 709 and file by April 15 of the year following the year in which the gift was made.

The federal gift tax rules are complex. If you believe you have made gifts that might be subject to gift tax, you should consult an experienced tax specialist. Check with your state about its own rules regarding gifts, too.

## What makes up my taxable estate?

### Question:

What makes up my taxable estate?

### Answer:

Your gross estate for federal estate tax purposes includes:

- All property that you own at death (e.g., real estate, investments, business interests, personal property, mortgages held by you)
- Property you have given away while retaining a lifetime interest in the income from the property, the use and enjoyment of the property, or the right to determine who ultimately receives the property
- Gifts that don't take effect until you die
- Property that you own jointly with another person except to the extent the other party contributed to the purchase price of the property
- Property over which you possess a general power to appoint the property to yourself or others
- Life insurance policies owned by you or in which you retained the right to change the beneficiary, cancel the policy, or make policy loans
- Your one-half interest in community property
- Annuities, pensions, and profit-sharing plans

From your total gross estate, your estate may take deductions for funeral expenses, administration expenses (e.g., executor's fees, court costs, attorney's fees, appraiser's fees), certain debts and income taxes, state death taxes paid, and property left to your U.S. citizen spouse or to qualified charities.

The net amount may be subject to estate taxes, if estate taxes are imposed in the year in which you die. However, the amount of taxes payable on your taxable estate may be reduced by the applicable exclusion amount (formerly known as the unified credit), and a credit for foreign death taxes.

## What is a family limited partnership, and will it help reduce estate taxes?

### Question:

What is a family limited partnership, and will it help reduce estate taxes?

### Answer:

A family limited partnership (FLP) is a partnership created and governed by state law and generally comprises two or more family members. As a limited partnership, there are two classes of ownership: the general partner(s) and the limited partner(s). The general partner(s) has control over the day-to-day operations of the business and is personally responsible for the debts that the partnership incurs. The limited partner(s) is not involved in the operation of the business. Also, the liability of the limited partner(s) for partnership debts is limited to the amount of capital contributed.

An FLP can be a powerful estate planning tool that may (1) help reduce income and transfer taxes, (2) allow you to transfer an ownership interest to other family members while letting you keep control of the business, (3) help ensure continued family ownership of the business, and (4) provide liability protection for the limited partner(s).

An FLP is often formed by a member(s) of the senior generation who transfers existing business and income-producing assets to the partnership in exchange for both general and limited partnership interests. Some or all of the limited partnership interests are then gifted to the junior generation. The general partner(s) need not own a majority of the partnership interests. In fact, the general partner(s) can own only 1 or 2 percent of the partnership, with the remaining interests owned by the limited partner(s).

There are several advantages to organizing your business as an FLP:

- Limited partnership interests that are gifted to other family members are generally valued at less than the full fair market value of the underlying assets. That is, reasonable discounts to the value of the limited partnership interests are permitted for lack of marketability and lack of control. This means that by gifting the assets via a limited partnership interest instead of an outright transfer of the business assets themselves, you may be saving gift and estate taxes.
- At death, only the value of your ownership interest in the partnership will be included in your gross estate.
- The use of the partnership entity allows you to shift some of the business income and future appreciation of the business assets to other members of your family.
- You maintain management control of the business while transferring limited ownership of the business to family members.
- Restrictions within the partnership agreement limiting the transfer of the partnership interests may help ensure continuous family ownership of the business.

## My life insurance's death benefit will be paid to an ILIT. What if it's needed to pay estate taxes?

### Question:

The death benefit from insurance on my life will be paid to an irrevocable life insurance trust (ILIT). What if those funds are needed to pay my estate taxes?

### Answer:

Life insurance death proceeds paid to a valid ILIT may escape estate taxation in your estate as long as the trust owns the policy and you haven't retained any incidents of ownership in the policy, such as the right to change the beneficiary. Typically, the terms of the ILIT provide that the insurance proceeds be distributed from the trust to your beneficiaries in accordance with your wishes, which are spelled out in the trust document.

Generally, life insurance is purchased within a trust to provide for your family while ensuring that the death benefit is not reduced by estate taxes. Unfortunately, to keep the death benefit from being included in your estate, you cannot require the trustee to use the proceeds to meet estate settlement costs. However, your estate may run into liquidity problems and need to have access to the cash in the ILIT to avoid having to sell assets in the estate.

There are two ways to solve this dilemma. One is to include a provision in the ILIT that permits (but does not direct) the trustee to buy estate assets. The other is to give the trustee permission (but not instructions) to loan the estate some of the proceeds.

If these techniques are used, the estate will have access to the funds it needs to meet its obligations without causing the assets in the ILIT to be included in your taxable estate.

## What is the applicable exclusion amount?

### Question:

What is the applicable exclusion amount?

### Answer:

The applicable exclusion amount (formerly known as the unified credit) exempts a certain amount of gifts made during your life from federal gift tax and exempts a certain amount of your estate from federal estate tax. In other words, if you are a U.S. citizen or resident, you will be able to leave a certain amount of your property free from gift tax or estate tax. The gift tax applicable exclusion amount is \$1 million.

Here is the current table for the estate tax applicable exclusion amount:

Estates of those who die during:	The applicable exclusion amount is:
2009	\$3.5 million
2010	Estate tax is scheduled to be repealed
2011 and thereafter	\$1 million (estate tax is scheduled to be reinstated)

Keep in mind that the applicable exclusion amount for gift tax purposes is \$1 million even though the applicable exclusion amount for estate tax purposes is \$3.5 million in 2009. Any portion of the applicable exclusion amount used for gift tax purposes effectively reduces the applicable exclusion amount that will be available for estate tax purposes. In addition, although estate tax is scheduled to be repealed in the year 2010, the gift tax will remain in effect.

It is especially important for spouses to understand the applicable exclusion amount. Without advance planning, the applicable exclusion amount of the first spouse to die may be lost. It is wise to seek advice from an experienced estate planning attorney so that each spouse can make maximum use of the shelter that the applicable exclusion amount provides.

## How will estate taxes be paid if I leave no provision in my will?

### Question:

How will estate taxes be paid if I leave no provision in my will?

### Answer:

The IRS places an automatic lien against your estate for any estate taxes that may be due. If your will leaves no specific provision about how these taxes are to be paid, state law generally controls how the burden of paying the taxes will be distributed among your beneficiaries. As a result, your beneficiaries may end up paying taxes out of their own pockets or selling some of the property that you left to them to meet this obligation.

Most state apportionment statutes impose the tax payment liability only on those assets that contributed to the tax imposed. Thus, your spouse will not be responsible for any taxes if he or she received all your property free of tax under the unlimited marital deduction. Likewise, charities that received property free of tax under the charitable deduction will not have to carry any of the tax burden.

In addition, most state apportionment acts divide up the tax burden on a prorated basis. For example, if your taxable estate was evenly split between two beneficiaries, each beneficiary would be responsible for 50 percent (one-half) of the taxes due. Beneficiaries who received the taxable portion of your estate must pay their share of the taxes owed when they are due--generally nine months from the date of your death. They may have to sell their inheritances to get the cash. If their inheritances are already spent, however, they still must pay the taxes, and the IRS can go after any of their other assets to satisfy the lien.

## How often do I need to review my estate plan?

### Question:

How often do I need to review my estate plan?

### Answer:

Although there's no hard-and-fast rule about when you should review your estate plan, the following suggestions may be of some help:

- You should review your estate plan immediately after a major life event
- You'll probably want to do a quick review each year because changes in the economy and in the tax code often occur on a yearly basis
- You'll want to do a more thorough review every five years

Reviewing your estate plan will not only give you peace of mind, but will also alert you to any other changes that need to be addressed.

There will be times when you'll need to make changes to your plan to ensure that it still meets all of your goals. For example, an executor, trustee, or guardian may change his or her mind about serving in that capacity, and you'll need to name someone else.

Other reasons you should do a periodic review include:

- There has been a change in your marital status (many states have laws that revoke part or all of your will if you marry or get divorced) or that of your children or grandchildren
- There has been an addition to your family through birth, adoption, or marriage (stepchildren)
- Your spouse or a family member has died, has become ill, or is incapacitated
- Your spouse, your parents, or other family member has become dependent on you
- There has been a substantial change in the value of your assets or in your plans for their use
- You have received a sizable inheritance or gift
- Your income level or requirements have changed
- You are retiring
- You have made a change in your estate plan (e.g., you created a trust or executed a codicil to your will)

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