

GOLDEN BULLETS

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THOUGHT YOU'D LIKE TO SEE THIS

THE STATE OF THE FEDERAL ESTATE TAX

Like the Perils of Pauline, the final chapter in this thriller has yet to be written. The best way to sum up where the repeal or modification of the federal estate tax stands is to repeat the words of Senate Finance Committee ranking minority member Max Baucus who stated—shortly after the horrific human and financial impact of hurricane Katrina became apparent, and even before hurricanes Rita and Wilma—that victims of the hurricane should take priority over repealing the estate tax when the Senate reconvened.

Senator Baucus said,

“I am supportive of working on repealing the estate tax. But now is not the appropriate time.”

Shortly following his statement, there was an indefinite postponement of the vote on estate tax repeal/modification.

It's likely that, particularly in light of the dire warnings of a departing Allan Greenspan about the burgeoning deficit and a host of other problems, the Federal Estate Tax will be with us in some form for quite a few more years. Certainly the political mood in Washington indicates that a total elimination of the tax isn't in the cards for the foreseeable future.

Some authorities have predicted that, sometime in 2006, there will be a compromise resulting in an exemption of about \$3 or 3.5 million per person—and that the top rate will settle at 40 or 45 percent.

But because no one can be sure if, when, or to what extent these exemptions and rates will change, when trying to determine a personal representative's potential cash needs, the best advice is probably—“plan for a worst case scenario and hope for the best.” No surviving spouse or heir ever complained—or sued—because he or she had too much liquidity.

WHAT WE DO KNOW:

There's a lot we don't know. But let's take a quick look at what we do know.

First, we know that the amount that a person can pass estate tax-free at death will increase on January 1, 2006 from \$1,500,000 to \$2,000,000. That's \$4,000,000 per couple—that can be left to anyone - in any form—completely estate tax free.

Second, if the current schedule does not change, the credit equivalent is scheduled to increase to \$3,500,000 in 2009, that would equate to \$7,000,000 per married couple that can be left at death - estate tax free!

For those wise enough to survive to the year 2010—and die in that year—current law provides that their estates will pay no federal estate tax. But then, the threshold is scheduled to drop back down to a mere \$1,000,000 in 2011 and thereafter.

MILLIONS CAN BE GIFT TAX FREE

Consider that, as of January 1, 2006, the annual gift tax exclusion goes up to \$12,000 per donee. A middle aged married couple with three children and one grandchild could—during December of 2005— each give \$44,000 (4 times \$11,000) and as of January 2006 give another \$48,000 (4 times \$12,000). So a couple could give up to \$88,000 gift tax free at the end of 2005 and up to \$96,000 during 2006 and pay no gift tax. That's close to \$200,000. If this couple were to make maximum annual exclusion gifts year after year for the rest of their lives, they can give away—possibly millions—gift tax free! And of course, if the donees leveraged those gifts—by investing the gifts they receive each year and/or by buying life insurance on the life of the donor (or donors)—an astounding amount of income, estate, and probate free financial security could be assured for them.

Of course, annual exclusion gifts can be made directly to individuals, or to special irrevocable trusts or Uniform Transfers to Minors Accounts for children and grandchildren. And don't forget that transfers made directly to medical care providers and educational institutions for qualified purposes are also gift tax exempt. And up to \$1,000,000 additional (once in a lifetime exemption) gifts—per donor—can be made without incurring any out-of-pocket gift tax! That's \$2,000,000 per couple! If just the interest on that \$2,000,000 were used as an engine to pay life insurance premiums on the life or lives of the parents, an incredible amount of tax-free wealth could be assured for the next generation. Combine or mix and match these opportunities and the amount of financial security that can be provided for future generations is astounding!

As always, please feel free to call to discuss these ideas or any other financial security issues of concern.

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“Golden Bullets” is provided as a source of general information about current developments in the practice of estate planning and related topics. If you have questions regarding this issue or estate planning in general, please contact me prior to taking action.