The outcome of November's elections is likely to impact tax policy, regardless of which candidates win. With some tax changes likely on the horizon in 2025, now is the time to review your tax planning and annual gifting strategies. We would advise clients to start to think about their estate planning currently, as conducting an analysis now will position you to act quickly after the election, when we will have more insight as to the likelihood and nature of potential changes.

Potential Tax Policy Changes

Both presidential candidates have emphasized tax policy in their economic agendas and the election could bring significant changes to tax laws, including income tax rates, capital gains rates and various tax credits.

Moreover, many changes to the current tax laws are scheduled to take place when the Tax Cuts and Jobs Act is set to expire at the end of 2025, which will happen without any affirmative legislative action. Given that these changes are the default, planning with them in mind might be the most practical approach. More generally, many economists believe that taxes will increase sooner or later, regardless of who is in power, in order to address the deficit. As such, these tax strategies might be useful in the longer term, regardless of the outcome of the upcoming election.

Strategies to Consider

- Recognize gains this year. For many people, year-end tax planning involves realizing losses to offset realized gains. If you have significant gains, consider realizing gains this year in the event capital gains taxes rise next year (and certainly if you expect to have higher income next year). Vice President Harris has proposed a 28% tax on long-term capital gains for Americans who earn $1 million or more annually. In addition, Vice President Harris proposes raising the net investment income tax, or NIIT, from 3.8% to 5%, bringing the top combined rate to 33%. Conversely, former President Trump has expressed support for a maximum 15% capital gains tax rate and abolishing the NIIT. The uncertainty over the prospect of an increased tax rate may be a significant incentive for taxpayers to realize gains in 2024 (with a combined top rate of 23.8%). Anyone accelerating gains should be mindful of other sources of income – like that from a grantor trust, which typically passes its income and realized gains through to the grantor (usually the person who set up the trust) –

and the impact increased overall income might have on other thresholds, such as the Massachusetts "Millionaire's Tax."

- Make gifts to family. The current estate tax threshold is $13.61 million for single individuals and $27.22 million for married couples. As noted above, these exemption levels are scheduled to decrease by 50% in 2026. Making gifts in 2024 and 2025 ensures that the expiring exemption is utilized, which could result in significant tax savings.

  For example, an individual with $25 million in assets could make a gift of $13.6 million before the exemption resets in 2026, removing that amount (and all of the future growth in that amount) from her estate, leaving an $11.4 million estate subject to estate taxes. If instead the individual waited until 2026 to make a gift, approximately $6.8 million could be given away with exemption, with $18.2 million left in the individual's estate, subject to federal estate tax at a 40% rate. If the individual passed away in 2026, the federal estate tax in the first scenario – where a gift using expiring exemption was made – would be approximately $4.6 million, while the tax in the second scenario, where the individual did not make a gift before the exemption expired, would be $7.3 million. This $2.7 million in extra federal estate taxes could be avoided.

Individual With $25 million in Assets	Gifting Before Exemptions Expire – 2024-2025	Gifting After Exemptions Expire – 2026
Approximate gift amount	$13.6 million	$6.8 million
Amount subject to estate taxes	$11.4 million	$18.2 million
Approximate Federal estate tax (if 2026 death)	$4.6 million	$7.3 million

  For those unsure about gifting such large amounts, use of "spousal lifetime access trusts" (SLATs) are a way to make a gift to a trust while still preserving the possibility of distributing some of those assets out of the trust to one's spouse, should that prove to be necessary. Moreover, gifts to a "quiet trust" can help address concerns about how a trust might impact a beneficiary's work ethic or decision-making, since the trust can be kept private until a set time.

More details about these and other estate planning strategies can be found here.

- Consider a Roth conversion. With tax increases possible, anyone considering converting an IRA into a Roth IRA could do so before income tax rates are scheduled to reset in 2026. A Roth conversion allows you to transfer money held in either a 401(k) or IRA to a Roth 401(k) or Roth IRA. Initially, income taxes will be due on the converted amount, but then the assets remaining in the converted Roth account can be withdrawn tax-free, and are not subject to required minimum distributions for the life of the owner. Another consideration is a "backdoor" Roth conversion, which is a way of moving money into a Roth IRA by making a nondeductible contribution to a traditional IRA and then converting those funds into a Roth IRA. This should be done soon after making the contribution to the IRA so that the growth in the assets (and the associated income tax due on conversion) is not significant.

Act Now

Many of these strategies require advanced planning and time to execute. By considering your options now and developing a plan, you will be prepared to act if and when the time comes.

Contact Us

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