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THE NEW TAX ACT AND MY ESTATE PLANS: NOW WHAT?

This article is the third and last part of a multi-part series regarding the new "Tax Cut and Jobs Act" ("TCJA").

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In part two we went over levels 1 and 2 of the tax planning zones and the new higher estate tax exemption amount ($11.2 million). In this final part of the multi-series, we will go over levels 3 and 4.

3. SINGLE INDIVIDUAL GREATER THAN $11.2 MILLION IN ASSETS:

In this zone, we are thankful for the increase in the exemption, but we must also consider some of the options that were available before the increase, for example:

- Annual gifts of up to $15,000 (for 2018) per individual;
- Educational and medical gifts paid directly to institutions/providers;
- Charitable Trusts;
- Irrevocable Life Insurance Trusts;
- Grantor Retained Annuity Trusts;
- Qualified Personal Residence Trusts; and
- Intra-family sales, for example to a "defective" grantor trust, and other "freeze" techniques such as low-interest loans.

The use of these and similar options will help eliminate or minimize estate taxes attributable to assets in excess of the $11.2 million limits.

4. GREATER THAN $22.4 MILLION IN ASSETS:

For married couples, the combined exemption of $22.4 million will exempt most estates from estate taxes. For those above this level, the higher exemption will save significant taxes, however additional planning to minimize taxes above that level suggests consideration be given to the use of the options described above.

Overall, the new tax law provides significant opportunities and requires new considerations. A review and adjustment of your current estate plans and documents are in order. For example, if you have an older "tax will" with a formula tax adjustment clause (for example a "marital trust" and "family" or "credit shelter" trust) your spouse may be significantly *underfunded* by reason of the new exemption amount. The next step is to review your documents and consult with your advisors. After properly conforming your documents to your wishes, watch for new laws or IRS Regulations that may affect your decisions. Lastly, plan on repeating this process as we approach the "sunset" of this legislation in 2025. Your family will benefit from your diligence. For additional information, please contact the authoring attorney.

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