



Pathfinders in Elder Law



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Estate Taxes: What's a Taxpayer to Do?

After almost a decade of changes in the federal estate tax code, and many states changing their tax structure in response to the federal changes, clarity appears to be on the horizon. Congress's recently passed budget resolution would make the current estate tax rules permanent, taxing only estates over \$3.5 million in value with the tax rate set at 45 percent. Although no actual legislation has yet been voted on, the nonbinding budget resolution sets guidelines for Congress to follow when writing tax and spending legislation later this year.

In light of this and other changes, taxpayers need to review their estate plans with the following issues in mind:

1. **Simplify if possible.** The increase in the tax threshold from \$600,000 at the beginning of the decade to \$3.5 million today, coupled with the drop in most taxpayers' net worth over the past year, means that many people who had taxable estates no longer do. They may be able to significantly simplify more complicated estate plans that were

necessary in the past to eliminate or decrease taxes due at death.

2. **But beware state tax laws.** In the past, most states had very similar estate tax laws that were tied to the federal laws. As a result of changes in the federal estate tax, though, many states that were tied to the federal system found that their estate tax revenue was dropping to zero. To increase their revenue, these states "decoupled" and established their own estate tax plans. Taxpayers need to learn what the law is in their state and whether their existing plan is up to date. This is especially true for taxpayers who have moved from one state to another since signing estate planning documents.
3. **Review life insurance.** All consumers should have their life insurance policies reviewed if they have had them for more than a few years. Some universal life policies that were based on projections made when the economy was stronger may be "underwater" and may need more robust premium payments to sustain them over the long term. With other policies where the premiums were based on old tables measuring life expectancy, the consumer may be

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able to lower her premium payments or increase the death benefit. Finally, consumers should never simply drop policies they no longer need or can afford. They may be giving up a large benefit for their heirs and they may be able to sell the policy for a larger return than the policy's cash surrender value.

4. **Refocus estate planning.** The threat of the estate tax had the beneficial effect of prompting many consumers to do estate planning. But it also sometimes diverted them and their advisors from the real purpose of estate planning: to leave the legacy they want. The estate plan people leave can benefit children and grandchildren for decades to come, or it can cause familial strife that tears the family apart. The choice of executor and trustee and the terms under which heirs will receive property are vital issues that deserve your full consideration, regardless of whether taxes are an issue. 🏠

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