

Wealth and Estate Planning Tips to Consider Before the Election

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As the 2020 presidential and congressional elections approach, individuals should consider taking proactive steps in their wealth management by strategically aligning their financial goals with the incentives currently available.

Below is an overview of a few key strategies to consider:

Wealth Transfer Taxation

Less than ten years ago, the estate, gift, and generation-skipping transfer (GST) tax exemption was capped at \$5 million per individual (\$10 million per married couple). In 2020, an individual may make \$11.58 million, and a married couple may make \$23.16 million, in lifetime or testamentary (at death) transfers without being subject to the 40 percent wealth transfer tax. Individuals should take advantage of these all-time high exemption amounts in 2020.

Income Taxation

Another benefit to employ before the election would be full step-up in basis adjustment at death, which effectively reduces or eliminates capital gains upon the sale of appreciated inherited assets, including but not limited to real estate, stock, and other property, if the assets were includible in the deceased taxpayer's estate at the taxpayer's death. Unlike property or other assets gifted during the taxpayer's lifetime, which retain the taxpayer's carryover basis (the basis at the time of the lifetime transfer), an asset transferred at death to a deceased taxpayer's beneficiaries receives an adjustment to make the basis equal to the fair market value of the asset at the taxpayer's death.

Wealth Transfer Planning Opportunities

Prudent taxpayers should consider taking advantage of the current wealth transfer and income tax laws to avoid missing out on millions of dollars worth of wealth transfer tax savings. The Internal Revenue Service has taken the position in a revenue ruling that, if the exemptions are reduced after 2026, it will not penalize taxpayers who took advantage of the existing estate, gift, and GST tax exemptions before the reduction by clawing back transferred assets into the taxpayer's taxable estate.

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Taxpayers should consult their counsel on strategies such as:

- Intrafamily Sale
- Swap Power for Basis Management
- Grantor Retained Annuity Trust
- Installment Sale to an Intentionally Defective Grantor Trust
- Spousal Lifetime Access Trust
- Irrevocable Life Insurance Trust

To minimize the taxes due upon death and discuss these strategies in more detail, or to update your estate planning documents, consult a Trusts & Estates attorney for more information.

About Charla M. Burchett

[Charla M. Burchett](#) is a partner in the Sarasota office of Shutts & Bowen LLP, where she is a member of the Private Client Services Practice Group. A Martindale-Hubbell AV® Preeminent™ rated attorney, Charla is a Board Certified Specialist in Wills, Trusts and Estates as certified by The Florida Bar. She has more than thirty years of experience assisting clients through challenging decisions and difficult times to preserve their legacies across generations. She focuses her practice on estate planning, estate and gift taxation, estate administration, and trust administration.

About Ashley S. Hodson

Ashley S. Hodson is a senior associate in the Sarasota office of Shutts & Bowen LLP, where she is a member of the Private Client Services Practice Group. Ashley has practiced law in Florida since 2009 and focuses her practice on estate planning, estate and gift taxation, and estate and trust administration. She designs and tailors her clients' estate plans to meet their specific personal and financial goals. She also has significant experience administering complex estates and trusts, including the preparation of federal estate tax returns.

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