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# Post-Election Estate Planning

## Why You Should Act Before 2021

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In May of 2019, I wrote *Estate Planning: The Power of Now* to urge affluent individuals and families to consider "locking in" the current and extremely generous lifetime estate-tax exemptions. The driving force behind my message was – and continues to be – the uncertainty surrounding federal estate tax laws and the permitted exclusions.

The 2020 presidential election results, coupled with the still-to-be-determined Senate majority, have heightened this sense of urgency. On the campaign trail, President-elect Biden discussed reducing the current $11.58 million estate-tax exclusion to potentially $3.5 million and increasing the maximum transfer tax rate from 40% to 45%. Whether these proposals actually come to fruition will depend in part on which party ends up with majority control of the Senate.

### The Potential Cost of Waiting

Let's look at an example to better understand the significant impact the proposed policies could have if enacted into law. We'll assume the married couple has a total net worth of $23 million for simplicity.

**Current Federal Estate Tax Laws**

Limit

$11.58M per person
$23.16M per couple

↓

The couple can shelter the full $23M from transfer taxes

↓

Taxable Estate

$0

↓

Tax Liability

$0

**President-elect Biden's Proposals**

Limit

$3.5M per person
$7M per couple

↓

The couple can only shelter $7M from transfer taxes

↓

Taxable Estate

$16M

↓

Tax Liability

$7.2M
(45% x $16M)

**The Cost of Waiting?**

The couple loses more than 31% of their total wealth to taxes.

### Dynasty Trusts: One Common Planning Strategy

As I mentioned in my first article, multigenerational "Dynasty Trusts" are an effective way for married couples to transfer their wealth. These trusts are usually structured as irrevocable grantor trusts with spousal interests. This structure gives the individuals funding the trusts the ability to access them on an ongoing basis through beneficial distributions to their spouses, loans, or substitutions of assets. (For more information about Dynasty Trusts, please refer to *Estate Planning: The Power of Now.*)

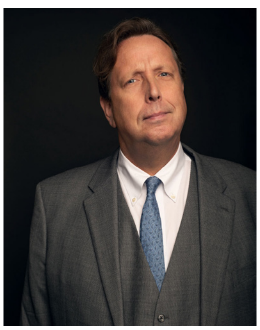
### More Reasons Not to Wait

We don't know if or when President-elect Biden will formally introduce his proposed policies or if they'll be enacted into law. But we do know that barring any legislative action, the current $11.58 million limit is set to drop back to approximately $5 million (2017 limit) at the end of 2025. Additionally, the IRS has indicated it won't "claw back" any of the exemption if you make a gift now under the current law, and the exemption amount drops in the future.

### Carve Out Time

Your estate plan may be the last thing you want to think about around the holidays. However, investing the time to review your plan before December 31 can help ensure more of your wealth is transferred to your loved ones and not lost to taxes. Contact a Cerity Partners advisor to discuss which estate-planning strategies may align best with your goals and circumstances.

For more year-end planning considerations, check out *Year-End Tax Planning: What to Consider Post-Election*.



Paul is the Chief Planning Officer and a Partner in the New York office. He has over twenty-five years of experience in helping families create and optimize their wealth planning structures. His expertise extends beyond traditional trust and estate planning to areas such as asset protection planning, income tax strategies, charitable and philanthropic structuring, and planning for international families and individuals.