



Families



Planning



Tax

Tax Insights: Trump factor on estate planning

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An estate tax repeal could take different forms that could have estate planning implications

For federal estate tax purposes, US citizens residents of Puerto Rico not born or naturalized in Puerto Rico benefit of the unified indexed exemption (\$5.49 million for 2017), any excess of net taxable estate will be taxed at a top tax rate of 40% and when married the surviving spouse may claim unused portion of the federal estate tax exemption of his/her deceased spouse (“portability election”).

However, the exemption of \$5.49 million and the portability election is not applicable to residents of Puerto Rico that were born or naturalized in Puerto Rico but their estate may be subject to the top tax rate if the owned assets in the United States.

President Trump’s proposal for the estate taxes

Among others, Trump’s plan proposed the following:

- repeal of estate tax, gift tax and generation-skipping transfer tax
- unrealized capital gains will be subject to income tax upon death
- elimination of the step-up basis on appreciated assets
- exemption for the first \$10 million on capital appreciation
- disallowance of contributions of appreciated assets into a private charity established by the decedent or the decedent’s relatives.

If the estate-tax is repealed, the effect of those taxes not collected would be partially offset by limiting the basis step-up at death, up to the first **\$10 million** of appreciated property. Therefore, the proposal is substituting a 40% estate tax rate for a 20% income tax on capital gains. It is time to take a closer look to income tax planning.

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But, how likely is that the estate tax will be repealed? A bill that repeals the estate tax would need Democratic support because the Republicans’ majority votes are not enough to approve the bill. In addition, as established by the “Byrd Rule”, if the legislation is deemed to substantially increase the federal deficit the same must be repealed within ten years.

Don't miss the opportunity to plan your future!

Nevertheless, the following issues are still unresolved or unclear:

- the distribution of the \$10 million exemption for unrealized capital gains among assets
- the basis upon which this allocation will be done
- timing of the determination of the value for carryover purposes

Estate tax law changes are coming and Puerto Rico is not the exception. PR Senate Bill 582 also proposes to eliminate the estate and gift tax in Puerto Rico.

Regardless of when and how, you should keep in mind that **estate planning is much more than tax planning**. Even during periods where the estate tax is repealed or reduced you should ensure that you have all your affairs in order.

Estate planning is still important

- blended families
- non-traditional families
- asset protection
- disabilities
- succession of business
- smooth transition
- young children protection
- ensure liquidity

Your estate planning should be reviewed and updated throughout your lifetime to incorporate changes in personal circumstances, financial situation and finally changes in tax laws.

Our Estate Planning Team is committed to provide guidelines and sound advice to preserve and protect your wealth. It is our goal to provide the assurance that your legacy is clearly detailed and in accordance with your desires.



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