Wealth Transfer Planning Under the Tax Cuts and Jobs Act of 2018

After a contentious political battle and widespread media attention, Congress passed the Tax Cuts and Jobs Act on December 20, 2017. This final bill adds a measure of certainty, while creating significant opportunities, for wealth transfer strategies across the planning spectrum.

Federal Estate Tax

THE FEDERAL ESTATE TAX IS NOT REPEALED.

Marginal Rate – 40% (unchanged).
Exemption Equivalent of the Unified Credit – doubled and indexed.

- **$11.2mm per individual;**
- **$22.4mm for married couple.**

"Business As Usual"
Estate tax reverts to pre-2018 law in 2026. Unified Credit will be $5+mm indexed.

Planning Opportunities

1. Buy life insurance with return of premium funding as an uncertainty "hedge."

- Scheduled reversion.
  - Coverage in place to provide liquidity for increased estate tax liability
  - Mortality / age change risk "hedged."
- No reversion.
  - Surrender coverage.
  - Sell coverage on secondary market.
  - Keep coverage to help achieve other wealth accumulation objectives.

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2. Consider lifetime exemption gifts with (temporarily) larger lifetime exemption.*

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3. Repay outstanding intra-family loans used to fund insurance premiums.

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4. Make discounted gifts using larger lifetime exemption.*

Income Taxes

Seven tax brackets with accompanying lower tax rates, scheduled to expire in 2025. Increased limits on filers subject to AMT.

Planning Opportunities

1. Charitable Giving

- Increase charitable giving to lower income tax liability (individual AMT must be considered).
- Use income tax savings to fund wealth replacement and other wealth accumulation objectives.

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* Restrictions and Limitations May Apply; Internal Use Only; Not Tax or Investment Advice – for Tax or Investment Advice Please Consult Your Professional Advisor; Life Insurance Benefits are Subject to Various Restrictions and Limitations, and May Not Be Guaranteed.

** Some concern about possible "clawback" of lifetime exemption gifts if the unified credit reverts to a lower threshold in future years. IRS has the regulatory authority to make this problem "go away." Whether it will do so remains to be seen.

2. Reacquire appreciated assets from Grantor Retained Annuity Trusts ("GRATs") / Intentionally Defective Grantor Trusts ("IDGTs").

- Reacquired assets obtain "step-up" in income tax basis at death.
- Increased exemptions "hedge" transfer tax risk.

3. Consider taking qualified plan or annuity distributions at lower income tax rates.

- Use after-tax proceeds to fund tax- free death benefit for heirs.

Tax-Efficient Savings

Planning Opportunities

1. After-tax income will increase for many due to lower income tax rates.

- Fund overfunded IUL, VUL, WL to shield earnings from taxes going forward.
- Consider recognizing deferred compensation if possible before individual rates sunset.
- Investments can be repositioned with no tax friction inside a VUL.

2. Invest in guaranteed VUL.

- Provides cash value appreciation potential.
- Provides downside protection with guaranteed premium and death benefit.

3. Non-deductible qualified plan contributions.

- Roth conversion on market pullback.

Business Planning

Top corporate tax rate drops to 21% in 2018. For pass through business owners, 20% of their K-1 is deductible. There are limits on the 20% deduction for personal service corporations. Corporate AMT fully repealed.

Planning Opportunities

1. 162 Bonus Plans more attractive.

- Recognize income now; provides certainty.

2. Loan Regime Split Dollar with forgiveness of loan interest at today's lower income tax rates.

3. Companies will have more cash flow given lower rates. Easier to pay for:

- Key Person Insurance.
- 162 Bonus Plans.
- Split Dollar Plans.
- Funded Buy-Sell with Life Insurance Death Benefit / Cash Value.

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