WEBINAR

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Last Chance Tax Planning: The Golden Age of Estate Planning Won't Last Forever

If You're Not Doing Estate Planning Now, What Are You Waiting For?

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In 2021, Congress shined a spotlight on many of the best tools in our toolbox that we use to avoid estate tax. Previously, many of these techniques were flying under the radar. Now that the general public is aware, there is a growing outcry to shut down these benefits. This is a wake-up call that, sooner or later, the tax landscape will likely drastically change. Now is the time to engage in "Golden Age" tax planning. We'll discuss key provisions of the various tax proposals still on the table, the Biden Administration's latest tax proposals, and what kinds of planning clients should be putting in place before it's too late.

The "Golden Age" of Estate Planning

Conditions for estate planning have never been better:

- Doubled estate tax exemption
- Valuation discounts
- Low interest rates
- Wide array of "squeeze & freeze" planning tools
- Use of grantor trusts to supercharge estate tax planning
  - Grantor avoids recognizing income on sales between grantor and grantor trusts
  - Grantor's personal payment of income tax on the trust's taxable income isn't a gift

Congress has not closed an estate planning loophole in over 30 years.

Key Legislative Developments

- December 2020: Consolidated Appropriations Act (longest bill ever passed by Congress) became law, at a cost of $2.3 trillion and no revenue in it to pay for it.

- March 2021: American Rescue Plan became law—$1.9 trillion of spending, with no revenue in it to pay for it.

- November 2021: Bipartisan Infrastructure Bill became law, spending $1.2 trillion on infrastructure (roads and bridges, etc.) but does not include tax increases to raise the funds for the spending.

- November 2021: Build Back Better Act passed the House and is pending in the Senate. It is legislation intended to implement President Biden's social and educational reforms (provisions for education, labor, childcare, healthcare, taxes, immigration, and the environment) with an expected cost of between $1.75 trillion and $3.5 trillion.

    - There's speculation that the Build Back Better proposals may either be slimmed down in order to get approval from all 50 Democrat Senators or may be broken into pieces and the smaller pieces passed individually. However, to pass the Senate with 50 instead of 60 votes requires that the provisions be included in a budget reconciliation bill. Generally, only one reconciliation bill may proceed to the floor of the Senate each fiscal year, unless a majority of the Senate Budget Committee grants an exception. The Budget Committee has 11 Democrat and 11 Republican members, so the 11 Republicans could boycott any vote on additional reconciliation bills.

    - Clary Redd, a nationally recognized estate planning lawyer, said, "I'd bet my car—but wouldn't bet my house—that the BBB Act won't pass."

- March 2022: Biden Administration released its budget recommendations for fiscal year 2023. At the same time, the Treasury Department released their "Greenbook," a document detailing proposed tax increases aimed at generating revenue to cover the budget.

What's the Latest?

Not in Build Back Better Act

Were in Original Proposals but are not in Revised Build Back Better Act

- Early sunset of lifetime gift and estate tax exemption (accelerated from December 31, 2025).
- Limitation of valuation discounts when transferring entities holding "non-business assets" (passive assets not used in the active conduct of a trade or business).
- Grantor Trust assets includable in grantor's estate.
- Sales to Grantor Trusts recognized for income tax purposes and therefore subject to tax on the gain.
- Distributions from a grantor trust subject to gift tax if made to someone other than grantor or grantor's spouse.
- Grantor trust status ending treated as a gift of the entire trust on that date.
- Increase to income tax rates and change to thresholds for brackets.
- Increase to highest long term capital gains tax rate.
- Increase top corporate tax rate from 21% to 26.5%.
- Cap on maximum allowable Section 199A 20% pass-through deduction.

Title search: Last Chance Tax Planning: The Golden Age of Estate Planning Won’t Last Forever (If You’re Not Doing Estate Planning Now, What Are You Waiting For?)

Also available as part of the eCourse
Last Chance Tax Planning: The Golden Age of Estate Planning Won’t Last Forever

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