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ADVISOR THOUGHTS
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2018 – New Year brings changes to tax laws that may have an effect on one's estate/financial plans

Let's begin with the *Tax Cuts and Jobs Act of 2017*. The Bill was signed into law on December 22, 2017 with an effective date of January 1, 2018, with a few exceptions. There are pertinent provisions in the Act that will have an effect on Estate and Investment Planning and will highlight a few significant changes.

Estate Planning

If you have not reviewed your estate plans in some time, 2018 is the year to take the time to confirm that your estate plan is up to date, even if it will *not* be affected by the new tax law. As you review your estate plan, you may discover that your current plan no longer meets your needs either because of changes in your life or changes in the lives of your heirs, including: your divorce or the divorce of your son or daughter; the birth of a grandchild or grandchildren; inheritance; sale of your business; your retirement; chronic illness or death of a family member. It is also possible with the new tax law that provisions in your estate plan may now be obsolete. As you prepare to review your estate plan, you may want to consider:

- *Estate tax* – this is the tax that estates pay the government upon ones death. This is known as the *Federal Estate Tax Exemption*.
- The amount that you can transfer tax-free, during ones' life or upon death has changed from $5.6 million for individuals (lifetime) and $11.2 million for married couples. **With the new law the tax exemption has doubled to $11.2 million for individuals and $22.4 million for married couples.**
    - Thereby an individual could die with $11.2 million of assets in 2018 and the Estate will owe no Federal tax.

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- *Portability*, which started in 2011 and revised in 2012, remains the same. Widows/widowers can carry over any unused exemption of the spouse who died and add it to their own. It currently allows married couples to transfer as much as $22.4 million together tax-free.
    - The estate planning documents of the surviving spouse must invoke portability correctly, using the right language. If not, they may need to create a ByPass Trust which can be costly and in the end could reduce the amount(s) heirs will receive in the end.
    - The executor handling the estate of the deceased spouse must file an Estate Tax Return – Form 706 to elect 'portability' even if no tax is due, nine months after death of the spouse.
- The *unlimited marital deduction* from Estate and Gift Tax which postpones the tax on assets spouses inherit until the second spouse dies is known as the marital deduction and applies only if the spouse is a US citizen.
- The *annual Gift Tax Annual Exclusion*, which is the amount you can give each person before you use some of your Estate Tax Exemption (or owe Gift Taxes), has **changed from $14,000 per individual to $15,000 per individual.**
    - If your annual exclusion gift to anyone exceeds $15,000 you must report that gift by filing with the IRS Form 709 – Gift Tax Return, which is due in April of the year after you make the gift.
    - If you are married and your spouse consents to a joint gift *aka* a 'split gift' the amount is doubled to $30,000.
- Costs basis adjustments, often referred to as "step up" to the FMV (fair market value) on the date of the owner's death, will continue for all estates. (There was discussion to eliminate). This limits the capital gains tax that those that are to inherit must pay if they elect to sell the asset. Unlike the Estate Tax Exemption, which now concerns only the wealthy; capital gains tax will affect everyone.
- Due to the above change there will be less people potentially that will pay estate tax on money and assets they inherit.
- The new law has eliminated the tax on estates for many wealthy families.

<u>Charitable Giving</u>

With the new tax law there will be fewer deductions for charitable donations during life or through one's estate plan.

- Charitable Bequests – reduce the value of one's estate, with the exemption amount now at $11.2 million, this will be an issue for less people.

- Lifetime Gifts – one can take an income tax deduction for the year the gift is made, however you will need to itemize. With the new tax law capping and/or eliminating deductions and raising the standard deduction, this will more than likely decrease the amount of itemized returns.
    - Those who no longer itemize will lose the ability to take the income tax deduction for contributions to charity. People who continue to itemize will benefit from the increased deduction for cash gifts from 50% of AGI (adjusted gross income) to 60%.
- Individuals 70½ and older can still transfer as much as $100,000 per year from their Traditional IRAs to Charity. Their donation can count against their RMD (Required Minimum Distribution).

Re-characterization of ROTH IRAs – could have impact on financial planning

Commencing in 2018 and onward, you will no longer have the ability to re-characterize ROTH IRAs under the new tax bill. What you need to know:

- One has until October 15, 2018 to re-characterize their 2017 ROTH IRAs.
- Re-characterization are not completely removed by the new tax bill –
    - You contribute to your ROTH IRA early in the year and, if you earn too much (there are limits), it will disqualify you from being able to contribute to a ROTH IRA for the year.
        - You can undo your contribution and not be subjected to an excess contribution penalty tax.

Ways one can get money into a Traditional IRA or ROTH IRA

- Annual contribution
    - For 2017 & 2018, the total contribution cannot be more than
        - $5,500 if you are under 50
        - $6,500 if you are 50 or older

ROTH IRA contributions are phased out if

- You earn too much money
    - In 2018 if you are single – your ability to contribute to a ROTH IRA phases out once you reach $120,000 and completely at $135,000 level.
        - In 2017 the income limits were $118,000 to $133,000
    - In 2018 if you are married and filing jointly – your ability to contribute to a ROTH IRA phases out once you reach $189,000 and completely at $196,000 level.
        - In 2017 the income limits were $186,000 to $196,000

529 Plans

Under the new *Tax Cuts and Jobs Act of 2017* the **529 Plan** is *no longer limited to higher education*. It is now possible to make untaxed withdraws up to $10,000 per year, per beneficiary, to pay for Private Elementary and High School expenses. The key with 529 Plans is to start an account early and let it accumulate over time, tax-free.

As you can see 2018 brings much change and gives each and every one an opportunity to review their estate/financial plans to see how it affects them now and in the future. I encourage you to reach out to your Financial Advisor and your Estate Planning Attorney to assist you in achieving your long term goals.

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