

Update on Estate Tax Reform

BACKGROUND

It's that time of year for Congress to debate the federal budget. The Senate provided important clues this week to how it may handle estate tax reform before the current tax law expires in 2011. During the Senate's consideration of the FY2008 Budget Resolution, the following amendments were offered:

1. BAUCUS AMENDMENT: "Freeze" the estate tax exemption at \$3.5 million, and a top estate tax rate of 45%. Vote: Passed 97-1
2. KYL AMENDMENT: Extend the capital gains and dividend rate cuts, and provide a \$5 million estate tax exemption and a top rate of 35%. Vote: Failed 47-51.
3. NELSON AMENDMENT: Allow the Finance Committee to consider an estate tax reform proposal, but only if it is "paid for" by other revenue sources. Vote: Failed 25-74.
4. SECOND KYL AMENDMENT: Provide a \$5 million exemption (indexed for inflation) and a top rate of 35%. Vote: Failed 48-51.
5. DEMINT AMENDMENT: Permanently repeal the estate tax. Vote: Failed 44-55

SUMMARY

These amendments are part of the budget process, and far from law. However, it is important to note how the Senate voted. Most Senators seem to support estate tax reform rather than repeal, and only if it does not increase the deficit.

Currently, the estate tax exemption is \$2 million (\$4 million for a couple), and the tax rate on the amount over the exemption is 45%. The estate tax will be paid by less than one-half percent of all estates this year, and it will shrink even further in 2009 when the exemption goes up to \$3.5 million per person.

WHAT WILL HAPPEN?

Estate tax repeal seems remote. The most likely scenario is an exclusion amount of \$3.5 million per person, and a top tax rate of 40 to 45 percent. This means that a married couple can exclude \$7 million from estate tax with basic tax planning. An exclusion amount of \$3.5 million would eliminate almost all Americans from paying federal estate tax. Even the wealthiest, with timely planning, will still be able to shift huge amounts of assets to future generations.



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Estate Planning for Families
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