

Estate Tax Could Be Around for Awhile

This year, the federal estate tax exemption is \$3.5 million. This means that if your estate is below \$3.5 million, it will not be liable for any federal estate tax. If your estate is over the \$3.5 million, then it will owe estate taxes starting at roughly fifty percent! Next year, the federal estate tax is set to be eliminated. So why am I writing an article on something that is going away in a few months?

The estate tax was never truly eliminated. Even under the current legislation, the estate tax was to disappear in 2010 but the unlimited "step up" in basis was to be limited based on who receives your estate (spouse, dependents or others). The current legislation "sunset" in 2011 meaning that the estate tax would reappear at the level prior to the legislation being passed (a \$1 million exemption).

Currently, there are several bills in front of Congress that address the estate tax. However, Congress is busy dealing with bigger issues right now and none of these bills are expected to progress this year. Why? Well, it seems that the 2010 problem cannot be fixed until 2010 due to Congressional budget rules. The inside scoop is that in early 2010, Congress will extend the \$3.5 million exemption into 2010 to eliminate the "step up" in basis problem.

What about 2011? Your guess is as good as mine! The easy thing for Congress to do is nothing. Inaction would result in the estate tax exemption amount returning to \$1 million by operation of the current law. President Obama ran on a platform of a permanent exemption amount of \$3.5 million; Senator McCain proposed a permanent \$5 million exemption. Historically, the estate tax has always come back in times of need or war. This year we have both!

In sum, I expect that the estate tax will be staying with us for quite some time. The government is in dire need of income. History seems to back up this view. The only question really seems to be what the exemption amount will be. Stay tuned.