



FAIRMAN GROUP FAMILY OFFICE

Financial Planning | Investment Advice | Tax Preparation & Tax Planning



RECENT ESTATE & GIFT TAX PROPOSAL AND BILLS

THOUGHT LEADERSHIP PERSPECTIVES

BY MARIANNE INFORZATO, CFP® AND JULIA ZIECHMANN, JD, LLM

Legislation that would significantly change the Estate, Gift, and Generation-Skipping Tax landscape has recently been proposed. While it is hard to predict whether any of the proposals will be enacted, we feel it is wise to plan for the worst and hope for the best.

Senator Bernie Sanders has proposed a bill that would change the current estate and gift tax system. Representative Bill Pascrell and Senator Chris Van Hollen have introduced bills that would eliminate the step-up in basis at death. Given the magnitude of potential changes, we urge you to reassess your estate planning as soon as possible.

99.5% ACT

Senator Bernie Sanders introduced this legislative proposal regarding the estate, gift, and generation-skipping transfer (GST) taxes and related grantor trust income tax issues. Major components of the Act are as follows:

- **Estate Tax Exemption Reduced to \$3.5 Million**
Effective the first day of 2022, the estate tax exemption amount would drop to \$3.5 million per person from the present level of \$11.7 million per person. This means the total exemption for a married couple would be \$7,000,000. Going forward, the rate will not be adjusted annually to account for inflation. Surviving spouses who already have their portability allowance will not have the allowance reduced under this legislation.
- **Lifetime Gifting over \$1 Million Will Be Subject to Tax**
The lifetime gifting exemption will be limited to \$1,000,000 after 2021.
- **Annual Exclusion Gifting Limited for Certain Gifts**
The annual exclusion for certain gifts will be limited to \$30,000 per donor per year. These include gifts to trusts, interests in certain family entities, and transfers of assets that cannot be immediately liquidated by the donee.

- **Increase in Estate and Gift Tax Rates**

The current flat estate tax rate of 40% will also go up in 2022 if the proposed bill is passed. This increase will make the rate a progressive rate beginning at 45% for taxable estates between \$3.5 million and \$10 million, 50% for estates between \$10 million and \$50 million, 55% for estates between \$50 million and \$1 billion, and 65% for estates over \$1 billion.

- **Limits on Current Estate Planning Tools**

Some of the primary tools and strategies used in the past will not be available or will be heavily limited. These include Grantor Retained Annuity Trusts (GRATs), Grantor Trusts, and family entity valuation discounts.

- **Taxation on Multi-Generational Trusts**

The proposed legislation would limit a trust that is otherwise exempt from the GST tax to a 50-year term and cause pre-existing trusts to be deemed 'terminated' 50 years after the passage date of the Act.

H.R.2286 AND STEP ACT

H.R.2286 was introduced in the House by Representative Bill Pascrell and the STEP Act was introduced in the Senate by Senator Chris Van Hollen. H.R.2286 proposes an effective date of January 1, 2022, while the STEP Act would be retroactive to January 1, 2021. The following are the highlights:

- **Realization of Gains at Time of Gift or Death**

Property will be treated as sold for fair market value when transferred by gift, bequest, or to a non-grantor trust.

There would be exceptions for certain transfers of tangible personal property, transfers to a spouse and transfers to a charity.

- **Lifetime and At Death Exclusions**

H.R.2286 would exclude annual exclusion gifts and \$1 million of net capital gain at death. The STEP Act would provide a "lifetime exclusion" of \$100,000 of gain and at death would exclude \$1 million, less the used "lifetime exclusion".

- **Transfers to Trusts**

Transfers to Grantor Trusts which are includible in the estate of the Grantor will not be a deemed sale. In that case, the deemed sale would occur (1) when a distribution is made to a beneficiary other than the Grantor, (2) the Grantor ceased to be the deemed owner or (3) the trust ceases to be includible in the gross estate of the Grantor.

For transfers to most other trusts, the transfer would be treated as a sale. In addition, property held in a trust long-term would be deemed sold at intervals. Under H.R.2286, each asset held in trust would be deemed sold every 30 years. Under the STEP Act, all property held in trust would be treated as sold every 21 years.

The proposed 99.5% legislation will cause many individuals to have taxable estates. The STEP Act and H.R.2286 should cause you to think about planning for your low-basis assets. If you do not have an estate tax planning structure or a plan in process, we recommend that you start immediately before the huge demand for these services makes it difficult to complete documents and implement strategies before a new law may be enacted.

DURING THESE UNCERTAIN TIMES, TAKING A FRESH LOOK AT YOUR ESTATE PLAN IS ESSENTIAL. WE STAND READY TO HELP YOU ADDRESS ALL OF YOUR FINANCIAL PLANNING CONCERNS. PLEASE REACH OUT TO A MEMBER OF YOUR FAIRMAN GROUP FAMILY OFFICE SERVICE TEAM OR CONTACT OUR OFFICE TODAY.

ABOUT FAIRMAN GROUP FAMILY OFFICE

Fairman Group Family Office is a fee-only financial planning firm, located in Chesterbrook, PA, offering financial planning, investment advice, tax preparation and tax planning services to individuals and families in the greater Philadelphia area since 2002. We are a fiduciary who serves you with skill, care, prudence and diligence through a disciplined and integrated process. We do not sell products or insurance and do not accept commissions, referral fees, loads/12b-1s, trails, or any other compensation from outside sources. Investment advisory services are offered through The Fairman Group LLC. The Fairman Group LLC is registered with the Securities and Exchange Commission under Section 203(c) of the Investment Advisers Act of 1940.