



Rochester Estate Planning Council
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Changes to Estate Planning Part 2: Taxes + Recent Legislation

Our Presenters



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Agenda

- The Legislative Landscape: an overview
- Pending changes to Estate Planning and Taxes
- Estate Planning Strategies
- Tax Planning Strategies
- 2021 Year-End Planning Checklist
- Q+A

5:00 – 5:10

Question & Answer time slot

Influx of legislation



Tax Cuts and Jobs Act



SECURE ACT



CARES ACT, CARES 2.0, American Rescue Plan



Infrastructure Investment and Jobs Act



Budget Reconciliation

Changes in the works



Estate tax changes

- Making death a realization event
- \$1M unrealized gain exclusion per person
- \$500k primary residence exclusion
- No changes to exemption and unified credit (YET!)



Income tax changes

- Increasing the top ordinary income tax bracket to 39.6%
- Increasing the top capital gains tax bracket to 39.6%
- Improved reporting of crypto transactions
- More significant focus on enforcement



Strategies





Estate Planning Strategies

2021

- Review low basis, high growth assets that you plan to hold long-term - closely held businesses, low basis securities, etc.
- Low basis assets to charity or CRTs (lifetime gifting)
- Other irrevocable trusts to get growth out of your estate (IDGTs)
- Using up lifetime exclusion
- Annual gifting

2022 + Beyond

- Re-evaluate life insurance and liquidity needs at death
- Low basis assets to charity or CRTs (estate gifting)
- Fill up the 20% Capital Gains bracket annually
- Consider income tax arbitrage with heirs (who is in the higher capital gains bracket?)
- Annual gifting
- Charitable gifting

Income Tax Planning Strategies

2021

- Accelerate capital gain income
- Accelerate ordinary income in the top bracket
- Defer SALT payments + Charitable donations
- Consider Disqualifying ISOs
- Evaluate depreciation vs. Sec. 179 elections
- Roth Conversions
- Consider impact of state + local taxes, client's geographical preferences and plans

2022 + Beyond

- Fill up the 20% Capital Gains bracket annually
- Review ISO exercising strategies
- Max out pre-tax accounts
- Charitable gifting
- Non-qualified annuities
- Non-qualified deferred compensation plans (Sec. 409A)

2021 Planning Checklist

1. Identify impacted clients (i.e. unrealized gains over \$2.5M, top income tax bracket, top capital gains bracket, etc).
2. Re-evaluate goals - (i.e. what are our priorities - maximum terminal wealth, maximum control, maximum charitable gift, minimum taxes, tax now vs. tax later, etc).
3. Consider actions with minimal downside - (i.e. paying 23.8% for capital gains in 2021, doing a Roth conversion at 37% if always in top bracket, deferring charitable gifts, accelerating planned lifetime gifts, etc)
4. Develop your action plan if this becomes law - (i.e. transferring more stock, taking more gains, implementing these trusts, etc)
5. Implement the plan! - Changes like this are our Super Bowl - let's help our clients through it!

Questions + Answers

