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Summit

160 Bovet Road
Suite 405
San Mateo CA, 94402
info@summit-advisors.com
650-357-9410

Mark Pietrofesa

mark@summit-advisors.com
650-357-9410

Rafael Velez

rafael@summit-advisors.com
650-357-9410

William Fisher

william@summit-advisors.com
650-357-8812

Michael Radakovich

michael@summit-advisors.com
503-445-6661

Cristina Petersen

cristina@summit-advisors.com
650-357-8812

Navigating the Future

The good news is that next year, the level of wealth you can pass on to heirs free of federal estate tax is set to rise dramatically, up from the current \$2 million to \$3.5 million. It then phases out completely in 2010, before kicking back in at a low \$1 million in 2011. That is, unless it doesn't.

Confused? The yo-yo-like nature of the estate tax is a quirk of legislation. But the higher level in the near term doesn't mean you no longer need to worry about maintaining an effective wealth-transfer plan. With a new administration, a new Congress and a new economic reality, you can expect significant changes in the estate tax exemption and the estate tax rate. It's important to revisit your estate plan now, as well as every year going forward, to ensure that your plan is in line with both your goals and the shifting laws.

Traditionally, the end of the year is a busy period for families looking to adjust their estate strategies for the upcoming year. This year is no different, even taking higher exemptions and mostly lower levels of wealth into account. An annual year-end review helps you address the new tax laws, your new life situations and the new economic situation. This can ensure that whatever the future of the estate tax, you'll minimize your taxes and maximize your legacy.

THE UNCERTAIN FUTURE OF THE ESTATE TAX

It's important to consider how the 2009 increase affects your heirs. For example, your current plan built on a \$2 million exemption may divide your \$5.5 million estate between your children and spouse, designating the full estate exemption (\$2 million) for the children and the remaining

\$3.5 million for your spouse. Next year, you could leave your children an additional \$1.5 million tax-free, leaving your spouse the smaller balance. That also means when your spouse dies, you are lowering or eliminating the estate tax that will be owed at that time.

But keep in mind that this is short-term thinking. While there can be no definitive answer on where the estate tax is going, it's worth noting that Sen. Barack Obama's plan calls for the upcoming \$3.5 million level to be made permanent, while Sen. John McCain's plan calls for a \$5 million per person estate tax exemption and a 15% tax rate, far lower than the current 45%. A prudent married couple, then, should put a plan in place with an eye toward a total \$7 million exemption from federal taxes, but also be flexible enough to change it.

SOME (SO FAR) TIMELESS STRATEGIES

Keep in mind that upon your passing, your spouse, as long as he or she is a U.S. citizen, can still inherit an unlimited amount without paying estate taxes. But many estate plans rely too much on this unlimited marital deduction. Smart planning recognizes that estate taxes will kick in when the spouse passes on. For families who will eventually face the estate tax—either next year or beyond—there are some burden-lowering strategies to discuss with your financial advisor. Among them:

Start giving it away now. The gift tax law hasn't changed, leaving this a smart way to start distributing some of your assets. The law allows you to give up to \$12,000 per calendar year to as many recipients as you like without paying any gift tax. A couple could make the maximum gift to two children and their children's spouses and move

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\$96,000 out of their estate without paying tax on it. Add in some grandchildren, and it can really add up. You can also pay someone's tuition or medical bills, or give to a charity, without paying a gift tax on the amount. This reduces the size of your estate and, ergo, the eventual estate tax bill.

Set up a credit shelter trust. Here, instead of giving your spouse all or part of your estate, you can fund a credit shelter trust that would both allow the spouse to benefit from the assets and then, when he or she dies, pass those same assets on to heirs, potentially eliminating or lowering the estate tax bill.

Put your life insurance into trust. When structured properly, an irrevocable life insurance trust lets you pass on the value of your life insurance proceeds outside your estate, and thus estate-tax-free.

Help a charity. A charitable trust lets you to remove assets from your estate while still benefitting from them. Generally, these take two forms: A charitable remainder trust produces an income stream for the donor or designated beneficiary for a set term of years or life. At the

end of the term or life, the remainder of the trust passes to the charity. A charitable lead trust produces an income stream for the charity for a set number of years or during the donor's life and then passes the trust to the family, possibly at a reduced gift and estate tax rate.

Particularly during a time of major economic transition, when the future tax rates and exemption levels remain unknown, it's critical to remain on top of your estate plan. One of the biggest challenges is gathering all the information needed to make the best decisions to support every element of your life and secure a future legacy. Collaborating with an expert team about your financial and estate planning goals is a good place to start, and return to, each year—building on past plans to achieve the best possible future.

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