

Staying Atop Shifting Sands

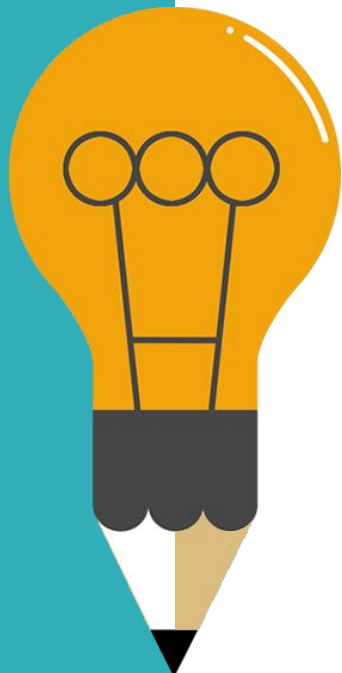
Keeping Nimble Amidst Changing Tax Laws

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Our Agenda



01

THE FEDERAL INCOME TAX LANDSCAPE

The continuing impact of the 2017 Act

02

THE WEALTH TRANSFER TAX LANDSCAPE

Living in a (permanent?) world of high exclusions

03

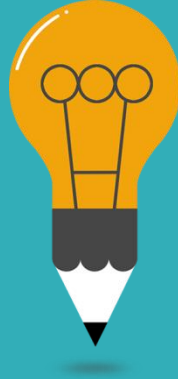
PLANNING PARADIGMS FOR MARRIED COUPLES

Planning templates for couples with small, medium, and large estates

04

OTHER CONTEMPORARY PLANNING IDEAS

Time permitting, other interesting strategies of note



The Federal Income Tax Landscape



2019 Federal Income Tax Brackets

*Individuals,
Estates,
Trusts*

**ORDINARY
INCOME**

| 2019 Taxable Income Exceeding | | | |
|-------------------------------|-----------|--------------------|------|
| Single | Married | Trusts and Estates | Rate |
| \$0 | \$0 | \$0 | 10% |
| \$9,700 | \$19,400 | | 12% |
| \$39,475 | \$78,950 | | 22% |
| \$84,200 | \$168,400 | \$2,600 | 24% |
| \$160,725 | \$321,450 | | 32% |
| \$204,100 | \$408,200 | \$9,300 | 35% |
| \$510,300 | \$612,350 | \$12,750 | 37% |



2019 Federal Income Tax Brackets

*Individuals,
Estates,
Trusts*

**CAP GAIN
DIVIDEND
INCOME**

| 2019 Taxable Income Exceeding | | | Cap Gain Rate |
|-------------------------------|-----------------|--------------------|---------------|
| Single | Married | Trusts and Estates | |
| \$0 | \$0 | \$0 | 0% |
| \$39,375 | \$78,750 | \$2,650 | 15% |
| AGI > \$200,000 | AGI > \$250,000 | | 18.8% |
| \$434,550 | \$488,850 | \$12,950 | 23.8% |

Important Income Tax Changes

HIGHER STANDARD DEDUCTION

Up to \$24,400 in 2019



NO PERSONAL EXEMPTIONS

Through 2025



\$2,000 CHILD TAX CREDIT

Higher phase-out thresholds



NO DEDUCTION FOR INTEREST ON HOME EQUITY DEBT

Plus \$750,000 cap on new acquisition debt



ITEMIZED DEDUCTION LIMIT REPEALED

No phase-out of itemized deductions.



HIGHER CAP FOR CASH DONATIONS

60% of AGI



CHANGE IN ALIMONY

Not income, not deductible



STATE & LOCAL TAX DEDUCTION CAP

\$10,000 maximum deduction

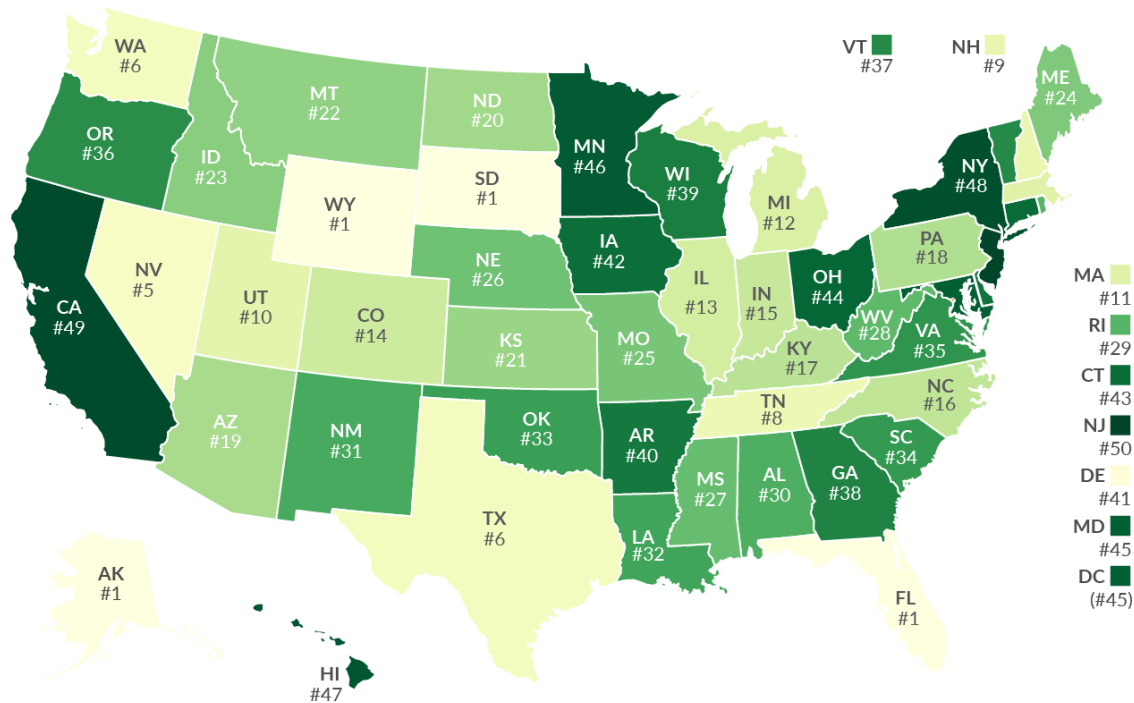


How Does Your State Rank on Individual Taxes?

Individual Tax Component Rankings, 2019 State Business Tax Climate Index

Understanding The State and Local Tax Cap

- (1) Same cap for singles and MFJ
- (2) Applies to personal taxes
- (3) IRS sensitive to some strategies
- (4) Tax benefit rule



Note: A rank of 1 is best, 50 is worst. DC's score and rank do not affect other states.

Source: Tax Foundation, 2019 State Business Tax Climate Index.



Section 199A Deduction for Qualified Business Income

T.I. \leq \$157,500

ZONE 1

Deduct 20% of qualified business income

Applies to any business activity

\leq \$315,000 for MFJ

$\$157,500 < \text{T.I.} \leq \$207,500$

ZONE 2

Deduct 20% of qualified business income

Reduced if: specified service trade or business

Reduced if: "wage-basis" amount $< 20\%$ QBI

$\$315,000 < \text{T.I.} \leq \$415,000$ for MFJ

T.I. $>$ \$207,500

ZONE 3

Deduct 20% qualified business income (or, if less, "wage-basis" amount)

No deduction if: specified service trade or business

$>$ \$415,000 for MFJ

Definitions

Qualified business income = net ordinary business income

Specified service trade or business = listed professions & those where principal asset = "reputation or skill" of 1+ employees/owners

"Wage-basis" amount = (1) 50% W-2 wages, or (2) [25% W-2 wages + 2.5% unadjusted basis after acquisition of all depreciable assets]



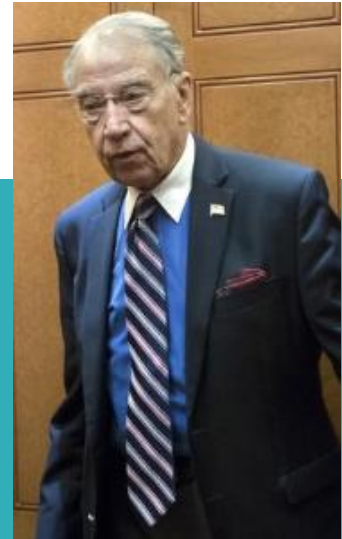
The Federal Wealth Transfer Tax Landscape

“ I think not having the estate tax recognizes the people that are investing, as opposed to those that are just spending every darn penny they have, whether it’s on booze or women or movies. ”



Iowa Sen. Chuck Grassley

December 2, 2017



The 2017 Act and the Federal Wealth Transfer Taxes

Increased basic
exclusion amount
to \$10 million,
adjusted for post-
2011 inflation

Retained complete
step-up in basis for
property acquired
from a decedent

Scheduled to
revert to \$5 million
exclusion, adjusted
for post-2011
inflation, in 2026

Estimated 10-year
revenue cost from
doubling exclusion
= \$83 billion



**Federal
Wealth
Transfer
Tax Basic
Exclusion
Amount**

| Date of death | Basic exclusion amount |
|----------------------|-------------------------------|
| 2011 | \$5,000,000 |
| 2012 | \$5,120,000 |
| 2013 | \$5,250,000 |
| 2014 | \$5,340,000 |
| 2015 | \$5,430,000 |
| 2016 | \$5,450,000 |
| 2017 | \$5,490,000 |
| 2018 | \$11,180,000 |
| 2019 | \$11,400,000 |

Section 2001(g)(2) (amended 2017)

(2) MODIFICATIONS TO ESTATE TAX PAYABLE TO REFLECT DIFFERENT BASIC EXCLUSION AMOUNTS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section with respect to any difference between—

- (A) the basic exclusion amount under section 2010(c)(3) applicable at the time of the decedent’s death, and
- (B) the basic exclusion amount under such section applicable with respect to any gifts made by the decedent.

Proposed Regulation §20.2010-1(c): An estate may compute the unified credit using the basic exclusion amount applicable to gifts made during life or the basic exclusion amount applicable on the date of death

**Proposed
Anti-
Clawback
Regulations**

Portability Election

Surviving spouse can claim the unused exclusion of a deceased spouse for estate and gift tax purposes

Basic Exclusion Amount
+ Deceased Spousal Unused Exclusion Amount
APPLICABLE EXCLUSION AMOUNT

Must timely file
Form 706 to claim!

Does not apply for generation-skipping transfer tax purposes!

Unused exclusion of the **LAST DECEASED SPOUSE**

See Rev. Proc. 2017-34 for relief from late exclusion



Planning Paradigms for Married Couples

| Year | Transfer Tax Rate | Highest Income Tax Rate |
|------|-------------------|-----------------------------|
| 2000 | 37 – 55% | 39.6% ordinary, 28% capital |
| 2001 | 37 – 55% | 39.1% ordinary, 20% capital |
| 2002 | 41 – 50% | 38.6% ordinary, 20% capital |
| 2003 | 41 – 49% | 35% ordinary, 15% capital |

| Year | Transfer Tax Rate | Highest Income Tax Rate |
|-------------|-------------------|-------------------------------|
| 2010 | 0% | 35% ordinary, 15% capital |
| 2011, 2012 | 35% | 35% ordinary, 15% capital |
| 2013 – 2017 | 40% | 43.4% ordinary, 23.8% capital |
| 2018 – 2019 | 40% | 40.3% ordinary, 23.8% capital |



**Income
Tax is the
Important
Game!**

Planning Paradigms for Married Couples

BUCKET ONE

**Up to
\$11.4 M**



BUCKET TWO

**\$11.4 M -
\$22.8 M**



BUCKET THREE

**More than
\$22.8M**



State transfer taxes may affect the size of each bucket.

BUCKET ONE PLANNING



< \$11.4M



01

DISPOSITION AT FIRST DEATH

Living Trust → Stay revocable or become irrevocable?
Will → Outright or in trust?



02

TOTAL STEP-UP AT SECOND DEATH

- Outright gift
- Trust with general power of appointment
- QTIP trust




03

PROTECTIVE PORTABILITY ELECTION



BUCKET TWO PLANNING



\$11.4M -
\$22.8M

01

DISPOSITION AT FIRST DEATH

Living Trust → Stay revocable or become irrevocable?
Will → Outright or in trust?

02

IF “OUTRIGHT” OR “STAY REVOCABLE”

Allow for disclaimer to credit shelter trust

03

IF “IRREVOCABLE TRUST”

Clayton QTIP → unelected assets pour into credit shelter trust

BUCKET THREE PLANNING



> \$22.8M

01

TRADITIONAL HIGH-WORTH PLANNING

Short-term GRATs and Long-term GRATs
Insurance strategies

02

VALUATION DISCOUNT PLANNING

Installment sales to defective grantor trusts
Family limited partnerships and LLCs

03

PASS-THROUGH ENTITY PLANNING

Minimize net investment income surcharge via trusts



Other Contemporary Planning Ideas



Contemporary Tax Strategies



01

CHANGE RELATIONSHIP WITH LAND

- \$10,000 cap on state and local taxes doesn't apply if property held for business or investment
- Rental income may qualify for 199A deduction

02

MAXIMIZE CHARITABLE GIFTS

- Bunching
- Donor-advised funds

03

HOARDING IS THE NEW BLACK

- Basis step-up may matter more
- Gifting may make sense in 2025

04

CHARITABLE ROLLOVERS EVEN BETTER

- Donors age 70.5+ can direct IRA custodian to pay RMD to charity
- No deduction, but also no income

05

ENABLE STRATEGIES IN CASE EXCLUSION DROPS

- Allow spouse to make small gift of QTIP corpus
- Contemplate "upstream" transfers to parents

06

KEEP PLANNING FLEXIBLE

- Swap powers
- Trust protectors



Thank you