

# 2017 Tax Reform Update

November 13, 2017

Brian Seigel, JD, AEP®

BUI - Director of Advanced Planning



The House and Senate have proposed separate tax reform plans, with some significant differences. The House proposal includes an increased federal estate tax exemption followed by full estate tax repeal beginning in 2024. The Senate proposal includes an increased estate tax exemption without full repeal. In addition to the requirement for the House and Senate to agree on a unified proposal in joint committee, several other factors should be taken into account as clients plan (or don't plan) with expectations of a significantly increased estate tax exemption or estate tax repeal.

- Without a supermajority, the Senate would likely have to pass tax reform legislation through the Budget Reconciliation Process, which would enact legislation for a 10 year period followed by sunset and reversion back to the current law. Similar to the conditions in which EGTRRA passed in 2001, any estate tax repeal or significantly increased exemption would likely be temporary.
- The Republican stronghold on the Alabama Senate seat is in jeopardy with a special election scheduled on December 12, 2017. If the Democratic candidate wins this seat, Republicans would hold a slim 51-49 majority in the Senate. With at least two Republican Senators already stating they are not in favor of estate tax repeal, any proposal that includes repeal would be in serious jeopardy.
- While Republicans currently control the presidency and have a majority in both the House and the Senate, recent gubernatorial election results swung significantly in the favor of Democrats. Many political pundits suggest this transfer of power to Democrats was a result of dissatisfaction with President Trump, as his approval ratings continue to sink. If these pundits are correct, there could be a major shift in congressional power to Democrats in 2018, followed by the possible election of a Democratic President in 2020. Whenever the transfer of power to Democrats occurs, whether in 2020 or beyond, the estate tax exemption could very well be reduced below the current \$5.49 million exemption per individual.

History has taught us that the only certainty with tax law is change. An increase in the estate tax exemption or full repeal of the estate tax may lull your clients into a false sense of security. Their natural reaction may be to put planning on hold or to unwind prior planning. Recognizing the likelihood of further future change that could negatively impact their estates, now is the optimal time to remind clients to continue their existing estate planning strategies and, when appropriate, to implement new ones. As many of these strategies involve use of annual exclusion gifts, failure to use these annual exclusions may cause your clients to lose out on a tremendous opportunity to transfer wealth to future generations on a tax free basis.