

In this high level overview, we focus on the tax proposals that could significantly impact our clients and their planning. In future commentary, we will drill down into each specific proposal.

ESTATE TAXES

The Senate Budget Committee, led by Senator Bernie Sanders, recently released the “For the 99.5% Act.” This legislation proposes significant changes to the current estate tax regime beginning on 1/1/22:

- The current estate tax exemption would be reduced from \$11.7M per person to \$3.5M.
- The maximum estate tax of 40% would be eliminated. The new tiered structure would be as follows:
 - 45% from \$3.5M to \$10M
 - 50% from \$10M to \$50M
 - 55% from \$50M to \$1B
 - 65% in excess of \$1B
- Dynasty Trusts would be limited to a 50 year duration.
- The grantor may no longer pay income taxes on trust earnings unless assets are included in the estate.
- The gift tax exemption would be reduced to \$1M.
- GRATs would have a minimum 10 year term and at least a 25% value for the remainder interest.
- Each person would be limited to \$30k in annual exclusion gifts in total.

The tax advantage nature of life insurance provides compelling solutions to many of these provisions including estate tax liquidity, shelter from new taxes imposed on grantor trusts, flexibility for estate administration, an equivalent step-up in basis and gifting leverage.

STEP-UP
IN BASIS

Under current estate tax law, when an individual dies, the cost basis of their assets are “stepped up” to market-value, therefore there is no taxable gain upon death. Recently, President Biden proposed the following changes in the administration’s “American Families Plan”:

- The first \$1M in unrealized gains will be excluded from tax.
- Beyond the \$1M, all gains will be taxed at the appropriate capital gains rate.
- They propose a \$500K capital gain exclusion for a personal residence.

This is a significant change in the law that will affect inherited assets. Life insurance provides relief from this tax burden. Within the life insurance structure, all gains are automatically converted into an income tax-free death benefit. This “conversion” is the equivalent of a step-up in basis.

INCOME TAXES,
PAYROLL TAXES,
& CAPITAL GAINS

Legislation has not been drafted as of the date. However, several ideas are being floated by the Biden administration (taxpolicycenter.org):

- Currently, payroll taxes are capped at income of \$142,800. The administration is seeking to impose additional payroll taxes on income above \$400k.
- The capital gains rate would increase to 39.6% for those with annual income greater than \$1M.
- The top tax rate will be raised from 37% to 39.6% for couples making more than \$400k per year.

A properly designed life insurance structure eliminates all investment related taxes.

1. Policy value can be accessed on a non-taxable basis
2. All gains at death are converted into an income tax-free benefit