



Investment Management Group

Attorney/CPA Corner Estate Planning Update

May/June 2019

Greetings

Northwest Bank's Investment Management Group would like to help you stay informed on the issues shaping your clients' financial and estate planning needs.

If we can be of any assistance please contact one of our estate and financial planning professionals. We look forward to working with you.

Basis step-up targeted

There is no shortage of ideas for increasing taxes on “the rich” coming from the Democrats who have announced presidential campaigns. One of the more surprising recent ones came from former Vice President Joe Biden, who suggested that eliminating the basis step-up at death could provide enough funding to allow for free community college.

Said Biden in Pittsburgh on April 29: “We could send everyone in America to a community college for free . . . by doing one thing. Eliminating one loophole of the \$1.6 trillion [of total federal tax expenditures]—it robs the country of \$17 billion a year. It’s called stepped-up basis. . . . If you eliminate that one [provision], you can cut college cost and you could, in fact, have \$11 billion left to reduce the debt,”

Carryover basis has been tried before, and it was repealed for being impossible to administer. However, that doesn’t mean it can’t be tried again.

How to pay for Medicare expansion

Senator Bernie Sanders (Ind/D-Vt.) has outlined some of the alternatives to be considered for funding “Medicare for all.” Key ideas include:

- a 4% income-based health insurance premium to be paid by employees;
- a 7.5% premium based on payrolls to be paid by employers;
- elimination of the exclusion for employer-paid health insurance;
- increasing the top federal income tax rate to 70%;
- increasing the top estate tax rate to 77%;
- establishing a new tax on “extreme wealth.”

According to Senator Sanders, each of these alternatives would save “the average American family” thousands of dollars each year. That sounds familiar.

Permanent tax reform

A bill to eliminate the sunset of personal income tax provisions of the Tax Cuts and Jobs Act of 2017 (S. 1162) has been introduced by Senators Cruz (R-Texas), Ernst (R-Iowa), Cramer (R-N.D.), and Braun (R-Ind.). Senator Ernst stated that Iowans saved some \$1.8 billion in federal estate taxes last year, and “We need to keep this momentum going.”

Tax receipts rising

The Congressional Budget Office has estimated that total tax receipts to the federal government are up by \$33 billion for the first seven months of fiscal 2019—that’s 2% more than for the prior period. Amounts withheld from paychecks rose \$10 billion, refunds declined by \$12 billion, and tax payments other than withholding rose \$16 billion. Offsetting these was a \$7 billion drop in corporate tax receipts and a \$3 billion decline in estate taxes. The changes were attributed to the Tax Cuts and Jobs Act.

Federal spending increased by \$178 billion over the same period, the CBO estimated.

SALT arguments

Last year the states of Connecticut, New York, New Jersey, and Maryland filed a federal lawsuit challenging the constitutionality of the \$10,000 cap on state and local deductions enacted with the Tax Cuts and Jobs Act. The Justice Department asked the district court to dismiss the action because the plaintiffs failed to state a constitutional infirmity in the law. The states responded with a memorandum of law in March, and the presiding judge has scheduled oral arguments on the motion to dismiss for June.

Stretch IRAs under fire

The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 (H.R. 1994) was passed by the House Ways and Means Committee on April 2. The bill would allow penalty-free withdrawals from retirement plans upon the birth of a child or an adoption, as well as create an employer automatic enrollment credit. To pay for the various new tax benefits, the bill would limit the utility of stretch IRAs. For example, a stretch IRA would be allowed only for children who have not reached the age of majority, and once they reach that age, the IRA would have to be distributed within 10 years. Although there are exceptions, as a practical matter, the stretch IRA would be primarily available to surviving spouses.

However, the bill also includes a provision allowing for limited payment of home schooling expenses by 529 plans. That has proved controversial, and it may stall a vote in the full House.

Free filing kerfuffle

One of the great cost savings at the IRS has been moving some 90% of taxpayers to electronic filing of their tax returns, greatly speeding the processing and reducing the labor requirements. The transition began in earnest when the IRS reached an agreement with major software developers, the Free File Alliance. The group includes market leader Quicken, developer of TurboTax, and H&R Block, which has the second largest market share. Under the agreement, the IRS agreed to not develop its own tax filing software, and in return the private companies promised to make a free version of their software available to lower-income taxpayers, generally those with income below \$66,000. An estimated 70% of taxpayers are believed to be eligible to use the free software.

The Taxpayer First Act (S. 928) would reform the IRS in a number of ways. It also would make permanent the agreement between the private software companies and the IRS regarding the development of tax filing software.

Although a majority of taxpayers could use the free filing software, it's estimated that only 3% would do so. An article published by Pro Publica in April [<https://www.propublica.org/article/turbotax-deliberately-hides-its-free-file-page-from-search-engines>] alleged that one reason for the low usage rate may be that the software companies are deliberately hiding from Google indexing bots the pages on their websites that provide the free filing option. That means that when a taxpayer uses Google to search for "free tax filing," the free filing pages will not be among the results. One may easily find the pages by first going to [irs.gov](https://www.irs.gov) and searching for "free filing."

Congressional Democrats have asked the Federal Trade Commission and the IRS to investigate the matter, and Quicken reportedly already has changed its website. The controversy may delay or derail consideration of S. 928.