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## REPEALING ESTATE TAXES WON'T REPEAL THE NEED FOR ESTATE PLANNING

The battle over whether to repeal federal estate and gift taxes may be a long one. For the moment, the federal estate and gift tax system remains intact following President Clinton's veto of Congressional legislation to repeal so-called "death taxes." But even if estate taxes are eventually wiped off the books or dramatically reduced under a future Congress and president, that won't eliminate the need for estate planning, point out many Certified Financial Planner practitioners.

That's because good estate planning is first and foremost a method for ensuring that your property, however much you have, goes to the people and organizations you want it to go to in the most efficient and cost-effective way. Even if you don't have an estate large enough to be vulnerable to the current estate tax system-and 98 percent of the people who die each year don't-you need to develop a sound estate plan, or the state will do it for you.

Take trusts, for example. Probably nothing is more associated with sheltering wealthy estates from taxes than the use of trusts. It's true that some types of trusts might disappear, or at least lose their principal usefulness, if estate taxes were eliminated. But trusts serve many other purposes, as well. For example, a revocable or living trust doesn't save taxes, but it avoids the expense and hassle of probate. Families use incentive trusts to encourage a beneficiary to take certain actions, such as doing certain philanthropic work or earning a certain level of income in order to receive distributions from the trust. Trusts may not parcel out money beyond basic support to a child until the child reaches a certain age. A trust can ensure that the trust's property is well managed for a beneficiary who is not financially mature. Special needs trusts are established for persons receiving public benefits because of special physical or mental problems.

In a time of high divorce rates and remarriage, trusts such as

the qualified terminable interest property trust can be used to ensure that assets go to children from a previous marriage. Without such a trust and the properly written will, the current spouse, and even the spouse's new marriage partner or new children, could end up with your assets.

Life insurance is another area of estate planning that won't disappear merely because estate taxes do. Larger estate owners would no longer need to buy life insurance to provide the cash to pay for estate taxes, nor would they have to employ strategies such as irrevocable life insurance trusts solely to keep the insurance policy out of their estates. However, they may still want life insurance to support surviving children and spouses, to help heirs pay potential capital gains taxes or to contribute at death to their favorite charity. Business owners will continue to have a need for life insurance. For example, they may want to pass on the family business to a designated heir while using life insurance to compensate the other heirs.

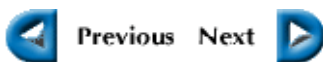
Some observers assume that charitable giving will decline if estate taxes are reduced or repealed because assets gifted to charity aren't subject to gift or estate taxes. However, there remain important income tax benefits for gifting during lifetime. More important, many people give because they want to give; the tax benefits are secondary.

Finally, the most basic elements of any estate plan, large or small, will not disappear should repeal occur. All adults should have a will, for example, whose main job is to specify to whom property goes upon their death. Do you want Aunt Mabel to inherit the china, Brother Bill to get the golf clubs and children from a previous marriage to inherit your stocks? A will and an accompanying letter of instructions can make that clear. Wills also are needed to name guardians for your children.

Additionally, living wills and medical powers of attorney are needed to ensure that you aren't given certain life-saving treatments you don't want should you be unable to make the decision yourself. A durable power of attorney is invaluable for allowing someone to step in legally and financially on your behalf if you are incapacitated.

So while the prospect of not having to pay estate taxes may be appealing, don't make the false assumption you won't need to do any estate planning.

This column is produced by the San Diego Chapter of the Financial Planning Association. We can be a continued resource for your personal finance coverage. If you use this column in whole or part, please credit the chapter or one of our Certified Financial Planner members.



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