



# DID CONGRESS SAVE YOU? (HINT: NO)



*“The forecast calls for pain.”*

— Robert Cray

Many have asked about what the new federal tax law means for their estate and wealth planning. There is a tendency to think now is a time to relax and leave prior decisions alone since Congress passed a bill that's become law. This law, like all laws, is temporary.

Interestingly, the federal estate tax used to apply to about 5,000 estates each year. Now, with the new federal estate tax law in place, it is likely that less than 2,000 estates will be taxed annually. Diverting your attention away from your plan may be tempting, but it can be a surprisingly expensive decision. Here's why:

- **Illinois Taxes.** Planning for Illinois income and estate taxes is now of even greater importance. Remember, the Illinois estate tax starts at \$4MM. The Illinois estate tax liability on \$4.1MM is about \$28,500. That's a whopping marginal 28.5% on the first taxable dollar! Additionally, even if you reside in a state free of income and estate taxes, Illinois can still tax you on Illinois-based assets. Finally, the Illinois income tax increased by about 30% last year, and there is at least one bill in Springfield that could raise Illinois income taxes to nearly 8% next year.

- **Tax Basis.** Put simply, when you sell an asset, the IRS taxes you on the difference between an asset's sale price and its original cost to you – its tax basis. Tax basis is as relevant to stocks as it is to residential or commercial real estate investments. There are various techniques and strategies that can be employed to maximize your tax basis and thereby reduce the taxes paid on the sale of an asset. Federal income, state income, and health care taxes combined can easily approach 30%. For example, if you have an irrevocable trust, it is imperative that you know – and actively manage, if

possible – the tax basis of the assets owned by your irrevocable trust. Surprisingly, it is possible to actually lose basis through a rarity called a “step-down” in tax basis, if you are not careful.

- **Lifetime Giving.** Being charitable while you are living is now possibly even more valuable. Many clients include philanthropy in their estate plans, with charity benefitting only after a person has bid farewell to this planet. A better approach may be to accelerate that philanthropy during your lifetime. First, lifetime charitable gifts typically lessen your income tax liability, essentially making the IRS a co-contributor to your favorite charities. Also, gifting appreciated, marketable stock that you have owned for at least a year saves you even more and makes the IRS an even larger supporter of your charitable intent.

The new federal tax law is scheduled to sunset in 2025. Nobody knows if the law will terminate sooner or be amended before or after then. Taxpayers are well advised to look beyond the new, temporary federal estate tax limits and recognize that Congress has not saved them from the need to actively plan and protect themselves. Failure to actively protect from more than just the federal estate tax can be unnecessarily expensive.

