The Weekly Scenario: The Build Back Better Act

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The Build Back Better Act did not pass in 2021. However, this is not to say that Congress won't try to get something through in 2022 by piecing out the legislation into two bills or further trimming down programs. This takes us into the new year with the same uncertainty regarding taxation as we had in 2021.

Estate and Gift Tax Exemption

In 2022, the estate and gift tax exemption will climb higher to $12.06 million per individual – up from $11.7 million per individual in 2021. As such, an individual can leave $12.06 million to heirs and pay no estate or gift tax, and a married couple can pass $24.12 million estates and gift tax-free. (One version of the BBB Act included a provision that would have cut the estate and gift tax exemption to about $6 Million.)

Gift Tax Annual Exclusion Amount

In addition, the gift tax annual exclusion amount will increase to $16,000 for 2022, up from $15,000 since 2018. Individuals and couples will be able to give away $16,000 to as many people as they like – children, grandchildren, friends, fellow citizens, and anyone else – with no federal or gift tax consequences. Multiple annual exclusion gifts can add up significantly and do not reduce the $12 million credit. This is a simple way to reduce one's estate. You can also make unlimited direct payments for medical and tuition expenses for as many people as you like with no gift, estate, or income tax consequence.

Reducing the Likelihood of Estate Taxes

The IRS taxes estates above the threshold at rates of up to 40%. By making gifts and transferring wealth early, the wealthy can reduce the likelihood of the estate tax. The state in which you reside is another consideration for gifting strategy. Seventeen states and the District of Columbia levy some form of an estate or inheritance tax (or in the case of Maryland – potentially both!), so even if you don't qualify on the federal level, you might wind up owing taxes on a state level.

As we enter 2022, regardless of what happens with tax legislation, there are steps you can take to prepare. But, first, everyone must evaluate their situations and identify opportunities. And if you have never done any estate planning and do not have a will or trust, it is essential to get this accomplished.

As always, if you have any questions or would like to learn more, please contact Steve Shane at sshane@offitkurman.com or 301.575.0313.