

# Plan for the Worst, Hope for the Best

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As summertime kicks off, we will all hopefully have a bit more time on our hands to pause and reflect. The country has largely re-opened, and in-person activities are taking place everywhere. The mid-point of the year has arrived and with it, an optimal opportunity to reassess financial goals and objectives.

In speaking with high net worth individuals and families, the one thing that is clear this year is that nothing is. We are stuck in a frustrating holding pattern of potential tax and estate law changes that could have a significant and far-reaching impact across our financial plans. Are our hands tied until we gain clarity?

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While no one has a crystal ball, there are specific steps you can take to prepare for potential changes to tax and estate laws. Some of the key proposals<sup>1</sup> affecting individual taxpayers from the Biden administration's "American Families Plan", along with several potential planning opportunities, are as follows:

## 1. Increased income tax rates

Ordinary income tax rates may increase to a top tax rate of 39.6% for incomes over \$452,700. Charitable deductions will be more valuable in a higher income tax environment, so delaying gifts where possible may be beneficial for those who itemize deductions.

## 2. Increased capital gains taxes

Taxpayers with Adjusted Gross Incomes (AGI) above \$1,000,000 may no longer enjoy preferential lower tax rates on capital gains and qualified dividends; rather, they could be taxed at ordinary income tax rates.

If you find yourself in this upper tier of earners and expect to remain there, it may make sense to harvest gains to reset your cost basis in the near-term. If this proposal passes, consider spreading out gains across multiple years to stay below the \$1,000,000 income threshold.

Note, while the White House budget proposal assumes the increase in capital gains rates is retroactive to April 2021, consensus is that any change is more likely to happen as of January 1, 2022.

## 3. Limitation of stepped up basis at death

Currently, the cost basis of assets held at death are increased to the market value as of the date of death or within six months as of the date of passing, depending on which option the executor elects. While it's unlikely that this rule will be eliminated altogether, a \$1,000,000 exemption amount could indeed be passed.

If you think you will inherit a residence with substantial value but low tax basis, consider speaking with the homeowner about gifting the asset to you during their life. Their cost basis will carry over to you and future appreciation will be removed from their estate.

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## Proposed Federal Gift and Estate Tax Legislation

If you are planning to make significant gifts during your lifetime, proceeding with these gifts before gift limits are potentially reduced could be a smart move. The "For the 99.5% Act"<sup>2</sup>, if passed, would reduce the federal gift and estate tax exemption amount from \$11.7 million to \$3.5 million while also adding certain restrictions on annual exclusion gifting.

For many, engaging in a regular gifting program is a favored way to pass down wealth. By taking advantage of current provisions, including the \$15,000 per recipient, per donor, annual exclusion can allow families to shift assets out of their gross estate and to younger generations.

## Selling a Business

As a business owner looking to sell at a gain, you may find yourself facing the burden of an uncertain outlook. Taking preliminary steps to prepare your business for sale could be prudent if we find ourselves in the face of a tax increase. If higher tax rates become a reality, business owners should be prepared to quickly move forward. If proposed tax increases do not occur, the experience of “prepping for sale” may leave you better prepared for a later sale.

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## Final Thoughts

If none of these proposals are passed into law, the existing tax and estate system is scheduled to sunset as of December 31, 2025 when the “Tax Cuts and Jobs Act” of 2017 is set to expire. If we dodge the bullet of higher taxes and less favorable estate planning laws now, we may just be kicking the can down the road.

If you have any questions or would like to talk further about your specific financial situation, please reach out to me anytime.

All the best to you and yours.

## CONTACT US

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**Sources:**

- 1 <https://taxfoundation.org/biden-administration-tax-proposals/>
- 2 <https://www.sanders.senate.gov/wp-content/uploads/For-the-99.5-Summary.pdf>

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