



the value of cash value flexible estate planning

Congress recently enacted and President Obama signed legislation that, at least temporarily, settles an estate tax debate that has often left your need for planning suspended.¹ The legislation, as described below, is itself only temporary. After a decade of declining estate tax rates, all estate taxes were temporarily eliminated in 2010. Had Congress not acted, estate taxes were scheduled to return to their pre-2001 rates, which included a \$1,000,000 exemption for individuals and a top rate of 55%. This temporary fix is part of a larger tax compromise enacted in the final weeks of the 2010 Congressional session.

Estate Tax Changes

The following estate tax changes enacted by Congress are effective through 2012:

- Exemption of \$5 million per individual and \$10 million per couple for estate, gift, and generation-skipping transfer (GST) taxes. Exemption amounts are indexed for inflation beginning in 2012.
- Maximum estate, gift, and GST tax rate is 35%.
- Estate and GST tax exemptions along with the 35% top tax rate are effective January 1, 2010. This means they will be the default option in the event a taxpayer does not opt for the modified carryover basis previously in place for estates of decedents dying on or after January 1, 2010 and before January 1, 2011. Gift tax exemption is effective on January 1, 2011.
- Reunification of estate and gift taxes, effective for gifts made after December 31, 2010.
- Portability of the \$5 million estate tax exemption so that a deceased spouse's estate may transfer any unused exemption to the surviving spouse without creating a bypass trust.
- Due date for any extended estate and generation-skipping tax return for the estates of decedents dying (and generation-skipping transfers made) after December 31, 2009 and before the date of enactment, to nine months after date of enactment.

To put the estate tax changes into perspective, in 2001 Congress was unable to address a permanent repeal, and for the past decade many expected Congress to act. However, other issues and partisan issues clouded any debate or negotiations. During that period, the deficit increased dramatically. This patch is scheduled to be in place only for two years, after which the issue will resurface. If Congress is unable to act, there again remains the prospect of a renewed debate or another possible return of pre-2001 rates.

This piece is intended to do more than simply relay the news. It is also focused on putting your need for planning and life insurance into perspective. Individuals who might continue to be frozen into inaction or hope for a different Congress and Administration should consider not deferring their estate planning. What follows is an overview of planning that can be done at all estate levels.

¹ Tax Relief Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

Also see the wide array of materials offered by AXA Equitable that highlight the value of cash value life insurance for Flexible Estate Planning so that funds used for premiums generate cash value and options. These materials are designed to show a range of planning techniques that will allow you to begin estate planning and address potential life insurance needs accompanying that planning, realizing that planning needs to occur, regardless of whatever the tax law brings, and that tax laws will continue to change over the decades. The chart on the final page of this piece emphasizes this point.

Proper estate planning does not only address taxes at the time of death. Many people should consider wealth transfer and legacy transfer during his or her life. Wealth transfers should be part of a systematic and organized plan developed with the financial advisors. The estate planning tools that are accessible to you largely depend upon your net worth and how many (or few) transfers you want to occur during your life.

Estate Level	Recommended Estate Planning Techniques
Up to \$5,000,000	<ul style="list-style-type: none"> • Wills, including “pourover” wills coordinated with trusts • Revocable Trusts (or testamentary trusts) <ul style="list-style-type: none"> – A-B or A-B-C planning (community property) <ul style="list-style-type: none"> • Qualified Terminable Interest Trusts – Need proper titling – Need proper execution • Other documents <ul style="list-style-type: none"> – Durable powers of attorney, living wills, HIPAA release, guardian appointments, virtual assets • Annual gifting <ul style="list-style-type: none"> – 2503(b) gifts to move assets out of the estate. Possibly leveraged by life insurance to build a legacy. • Irrevocable life insurance trusts (ILIT) to hold life insurance for any estate tax growth • IRA and qualified plan distribution planning (see comments in the next section) • State inheritance taxes/estate tax planning • Charitable and Special Needs Planning
Up to \$7,500,000	<p>All of the above, plus:</p> <ul style="list-style-type: none"> • ILIT planning, including flexible designs using cash value products such as: <ul style="list-style-type: none"> – Spousal Lifetime Access Trusts (SLAT) – Powers to Compel Loans – Funding Trusts through Private Split-Dollar techniques • Premium Financing to handle large gifts • Lifetime exemption gifting • Discounting techniques <ul style="list-style-type: none"> – Family Limited Partnerships/Limited Liability Corporations – Qualified Personal Residence Trusts
Estates over \$10,000,000	<p>All of the above plus:</p> <ul style="list-style-type: none"> • Intra-family loans/installment sales • Estate Freeze Techniques <ul style="list-style-type: none"> – Grantor Retained Annuity Trusts (GRATs) – Intentionally Defective Grantor Trusts (IDGTs) • Dynasty Planning <ul style="list-style-type: none"> – Beneficiary Defective Grantor Trusts (BDITs) – Delaware/Nevada/Alaska, etc. trusts • Asset Protection • Advanced Charitable Techniques <ul style="list-style-type: none"> – Charitable remainder and lead trusts – Zero Estate Plan – Family Foundations
Other Items to Handle in Any Planning	<ul style="list-style-type: none"> • Special Needs Trusts • Long Term Care Coverage – for covering either LTC expenses or as an estate preservation technique • Alien spouses • Buy-sell planning for closely held businesses <ul style="list-style-type: none"> – ESOPs • Correct beneficiary designations on accounts • Roth Conversions • Domestic partners • Second marriages (or third, fourth and fifth marriages)

Be Certain to Take Into Account Asset Growth

Be certain to take into consideration the potential for estate growth. Despite recent drops in the stock market, resulting in what many call “The Lost Decade,” you should still anticipate reasonable growth. AXA Equitable provides a number of tools to help you calculate projected estate growth based on current values and what you believe is reasonable growth. Consider the following example:

George is a 60-year-old client with a \$4,000,000 estate, made up of his residence, investments and retirement assets. He doesn’t believe that he needs to do any planning because he is below the \$5,000,000 estate tax threshold (exemption). However, his assets have historically grown at approximately 6% after taxes; and he expects both a pension and his retirement assets to cover most of his retirement expenses. At even reasonable growth, George would see his estate grow as follows:

Age	At 5% Growth	At 6% Growth	At 7% Growth
70	\$6,515,579	\$7,163,391	\$7,868,605
80	\$10,613,191	\$12,828,542	\$15,478,738

The younger and healthier George is, the longer he is likely to live. The longer he lives, the greater he is likely to see his estate grow, and at a rate faster than Congress might be able to act or faster than any cost-of-living adjustment that the IRS might apply.

Tax-deferred growth is not something to be overlooked. Let’s assume that George has a \$1,000,000 IRA and that he lives off only the required minimum distributions (RMDs). For an IRA growing at even reasonable rates, it is likely that the \$1,000,000 IRA will continue to grow even as it is drawn down by the owner, George. The chart below shows how a \$1,000,000 IRA, subject to annual required distributions, will continue to grow for decades before it drops below its starting point.

important note

If you have tax deferred assets, such as IRAs, annuities and retirement plans, special planning is needed. This is because they:

- Grow Tax Deferred, and
- They are not eligible for any date of death adjustment (step up in basis).

As such, your heir will also face an income tax on these assets. This is sometimes referred to as the Double Tax.

Required Minimum Distributions on an IRA Account of \$1,000,000 appreciating at 8%			
Current Age	Uniform Table Life Expectancy	Minimum Distribution	End-of-Year Account Balance
70	27.4	\$36,496	\$1,040,584
75	22.9	\$52,545	\$1,242,806
80	18.7	\$74,177	\$1,417,961
86*	14.1	\$107,544	\$1,521,528
95	8.6	\$152,360	\$1,250,572
100	6.3	\$150,258	\$860,078

At life expectancy,* the IRA is worth over 50% more than at age 70. This is planning you need to address; and the IRA can also be a source of life insurance premium dollars.

Why AXA Equitable?

Many reasons: high cash value product options, breadth of portfolio, illustration support capability. AXA Equitable maintains a strong life insurance portfolio. In conjunction with its product riders, AXA Equitable’s products offer significant planning flexibility. Its products and riders offer significant planning opportunities where policy cash values are important to planning.

Estate Tax Repeal?

Estate taxes have been part of U.S. history since the 18th Century. For better or worse, the economy and war have been the primary drivers of this tax. Over the years, the estate tax has increased and decreased. If history is any indicator, any drop in estate taxes will eventually be followed by an increase. Below is a sampling of legislation from the past 200 years.

Do you want to count on Congress staying at today's rates or plan for flexibility?

Year	Legislation
1797-1802	To cover expenses, a Federal Stamp Tax is imposed on certain estates. It remains in place until 1802.
1815	Congress debates an estate tax to finance the War of 1812.
1864-1870	Estate tax is introduced due to budgetary pressures from the Civil War.
1898-1902	After several attempts by Congress, an estate tax is introduced on estates greater than or equal to \$10,000.
1916	Estate tax is levied on estates over \$50,000.
1924	Estate tax is increased to 40%. Gift tax is added.
1926	Gift tax is repealed.
1932	Gift tax is reinstated.
1934	Estate tax increases to 60% for estates over \$10 million.
1948-1953	Various bills increase and decrease estate and gift taxes. Estate taxes rise as high as 77% and gift taxes rise as high as 57.75%.
1954	Most employer qualified plans are exempted from estate taxes. By 1982, this exclusion is reduced to only \$100,000. It is repealed in 1988 and a 15% excise tax is imposed, which remains in place until 1997.
1976	Major legislation combines estate and gift taxes into a unified rate.
1986	Generation-skipping taxes at a flat 55% rate are imposed. Remain in place to this day.
2001	Congress votes to gradually decrease estate taxes.
2010	Estate taxes repealed for one year.
2011	Rates set at a \$5,000,000 exemption and a 35% top rate through 2013.
2013	Under current law, all estate, gift and generation-skipping transfer taxes are scheduled to be reinstated at their 2001 rates.

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