Estate Tax Uncertainty –

Will We or Won't We? A Potential Solution for Married Couples

For almost a decade, the wealthy have had less to worry about when it came to potential federal estate and gift taxes, thanks to the Tax Cuts and Jobs Act of 2017 ("TCJA"). The TCJA doubled the estate and gift tax exemption amount from $5 million to $10 million, adjusted annually for inflation, per person. In 2024, the exemption amount is $13.61 million. In 2025, it will be around $14 million, after inflation adjustments. That means that a married couple can pass on over $27 million today through lifetime gifts or at death. However, the TCJA also includes a provision that this doubling will expire at the end of 2025, causing the exemption amount to revert back to somewhere around $7 million on January 1, 2026. That's still about $14 million for a married couple. While still a lot of money, that will expose many more wealthy couples to estate taxes. In addition, for practically all married couples, estate tax planning assumes that any estate tax liability will be paid on the death of the last surviving spouse.

2024 is an election year. Given political uncertainty, economic and social pressures, no one can predict where the future of estate taxes will be. Also, Democrats have consistently campaigned for an even lower estate tax exemption amount, possibly $3.5 million, to "tax the rich." One thing is certain, though: You won't find too many people who want to pay more in taxes than they have to.

Let's look at a simple example: Joan and Bill are worth over $16 million. When the TCJA estate tax provisions sunset, they will have a potential estate tax exposure when the second spouse dies. However, at their net worth, they can't afford, nor are they comfortable with, giving away most of their assets to take advantage of the current $13.61 million exemption. Their estate planning attorney has suggested purchasing life insurance inside of an irrevocable life insurance trust ("ILIT") because it is a common estate tax planning strategy. The insurance in the ILIT can be used to create liquidity for the estate so that the estate has the money to pay the estate tax bill when due, generally nine months after death. Alternatively, the ILIT can replace wealth lost to taxes.

A common problem of the ILIT, however, is that the cash values in the life insurance policy are generally inaccessible to the grantor or person creating the ILIT. Also, depending upon potential future tax legislation, the ILIT may not be necessary, the policy may no longer be needed, or removing the life insurance from the ILIT could be problematic.

Fortunately, Joan and Bill consult with their Security Mutual Life insurance advisor. She tells them that there is another potential solution. They could purchase a second-to-die or survivorship life insurance policy with a single premium payment. The owner of the policy will be the person with the shorter life expectancy, in this case Bill. This insurance will only pay a death benefit at the latter spouse's death to cover estate tax liabilities, if any. Indeed, in 4 to 5 years, depending upon policy performance, there could be enough cash value in the policy to recover the initial premium, if necessary. Also, during the first few years, Joan and Bill will still have access to the cash value[i]. This gives Joan and Bill several more years to wait and see how the estate tax laws are looking and to decide if they really need to place the insurance inside an ILIT or to do other planning.

Second-to-Die Universal Life - Single Premium: $1,000,000

Joan and Bill: Same Ages	Policy Year	Guaranteed Cash Values	Guaranteed Net Death Benefit	Non-Guaranteed Cash Values	Non-Guaranteed Net Death Benefit
65	4	$993,965	$3,250,000	$1,037,317	$3,250,000
	5	$1,027,358	$3,250,000	$1,084,087	$3,250,000
70	4	$988,824	$2,700,000	$1,034,138	$2,700,000
	5	$1,020,174	$2,700,000	$1,080,489	$2,700,000
75	4	$973,731	$2,325,000	$1,025,011	$2,325,000
	5	$999,881	$2,325,000	$1,070,405	$2,325,000

** Note that the above illustration is hypothetical and is not intended to serve as a projection of any specific life insurance policy. The material presented should not be interpreted as a recommendation. This illustration is not for a Paid-Up Policy or a Guaranteed Limited Premium Payment Policy. Even when the Premium Outlay shown is zero, monthly deductions continue. Additional premiums may be required to keep the policy in force. The columns labeled as Non-Guaranteed are not guaranteed. The assumptions on which they are based are subject to change by the Company. Actual results may be more or less favorable than those shown.

Assume that several years down the road, the estate tax laws seem clearer, and Joan and Bill decide that it makes sense to have the policy owned by an ILIT. There are also several options here which we'll briefly describe without getting into the details because there may be income or gift tax consequences to some or all of the options. Bill could name the contingent owner and beneficiary of the policy an ILIT that was created previously, just for this possibility. If Bill dies first, the ownership of the policy could be contractually changed to the ILIT. This is sometimes known as a Standby Trust strategy. Alternatively, Bill could gift the policy into a pre-existing or newly created ILIT or he could sell the policy into an existing ILIT that has sufficient cash to buy the policy from him for fair market value.

For More Information Contact:

For more information and to discuss whether this strategy makes sense for you or not, please contact your local Security Mutual Life insurance advisor. Your Security Mutual Life insurance advisor will assemble your team and coordinate with your attorney and tax professional to review your situation and to help determine the estate plan that will best suit your current needs and objectives.

[i]A single premium life insurance policy is generally considered a modified endowment contract ("MEC"). Distributions, including loans, from a MEC are taxable as income at the time received to the extent that the cash value of the contract immediately before the payment exceeds the investment in the contract. In the sample provided in this document, the cash values will not exceed the investment in the contract of $1,000,000 until year 4 or 5 depending upon policy performance.

The information presented is designed to provide general information regarding the subject matter covered. It is not intended to serve as legal, tax or other financial advice related to individual situations, because each person's legal, tax and financial situation is different. Specific advice needs to be tailored to your particular situation. Therefore, please consult with your own attorney, tax professional and/or other advisors regarding your specific situation.

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The hypothetical example shown within is for illustrative purposes only and does not guarantee or predict the results of any particular product. In preparing the example, we did not take into account the investment objectives, financial situation or particular needs of a specific person. The depicted strategy may not be suitable or appropriate to your individual circumstances. Accordingly, it does not constitute a personal recommendation to you.

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Tax-free distributions assume, among other things, that withdrawals do not exceed tax basis, the policy remains in force until death, and the policy is not at policy issue, and does not become post issue, a modified endowment contract (MEC). Distributions from a MEC may be subject to income tax and possible penalties. Please consult with your attorney or tax advisor before acting.

Loans from the policy will reduce the death benefit and cash surrender value and may cause the policy to lapse. Lapse of a policy with a loan may have tax consequences.

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SECURITY MUTUAL LIFE
INSURANCE COMPANY OF NEW YORK
SECURITY MUTUAL BUILDING • 100 COURT ST.
P.O. BOX 1625 • BINGHAMTON, NY 13902-1625
607-723-3551 • www.smlny.com

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