



Tax Implications of Proposed U.S. Budget for High Net Worth Families

President Barack Obama's budget proposal for the 2012 fiscal year resurrects a number of tax increases previously introduced in Congress and sets the stage for an ongoing battle among lawmakers as they tackle our continuing deficit problem.

A number of the proposed increases would, in effect, unwind some of the bipartisan tax legislation recently agreed to. The White House will campaign strongly for these provisions prior to reaching an ultimate budget agreement with Republicans. Outlined below are some of the more important proposals that would impact high net worth taxpayers.

General Estate Tax Proposals

Currently, the estate tax exemption of \$5 million per person and a 35% top rate apply through 2012, with the 2001 levels of \$1 million per person and a 55% top rate taking over in 2013. The President's proposal would modify the exemption to \$3.5 million per person and change the top tax rate to 45% beginning in 2012. The current budget proposal includes a plan to make permanent the "portability" of unused lifetime exemptions between spouses (as enacted in 2010 for the years 2011-2012 only).

Grantor Retained Annuity Trust Proposal

The Obama budget proposes a minimum 10-year term for new Grantor Retained Annuity Trusts (GRATs) which was previously debated by Congress. This is an attempt to build in additional risk to an estate transfer technique, because, if the grantor dies within the term, all amounts are included in the estate.

Valuation Discount Elimination Proposal

This provision would create restrictions for valuing family-controlled entities, including Family Limited Partnerships. These restrictions would not allow for valuation discounts related to lack of marketability and control, essentially increasing the value of the entity for tax purposes when a transfer is completed for estate or gift purposes. Interestingly, the proposal attempts to make the effective date 10/08/1990 – the date of earlier tax freeze legislation.

Income Tax Proposals

The plan includes substantial tax increases on U.S. multinational corporations and on oil, gas and coal producers. In addition, higher income individuals (generally, \$200,000 single and \$250,000 married) would be subject to the following, beginning in 2013:

- Higher tax rates with the top two brackets increasing to 36% and 39.6%.
- Reduced tax savings from itemized deductions, through the use of a maximum 28% tax rate applied to such deductions.
- Increased tax rate from 15% to 20% on capital gains and qualifying dividends.

In addition to these tax increases, however, the plan does include a provision allowing the alternative minimum tax exemption to be indexed for inflation.

We anticipate these provisions will be hotly debated in the months to come. Once Congress is closer to a budget proposal that will have bipartisan support, we will provide further details. As always, feel free to contact any of our client services directors at 262-790-4960 with questions.

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