Tax Webinar: Potential Tax Changes Ahead: Plan Smart, Stay Flexible

Dave DiLuigi
Welcome and thank you for joining us today. I'm Dave DiLuigi head of US Markets for Wilmington Trust Wealth management. And one of our constant objectives is providing timely and interesting thought leadership to our clients. One of the topics dominating headlines the last several weeks has been the proposed changes to tax policy. The budget reconciliation bill passed the house and is now under review in the senate. And although a final outcome remains uncertain, it's important to be informed and proactive.

So during the next hour, senior leaders of Wilmington's Advanced Planning team will outline potential changes to personal business and estate taxes and share practical strategies to help you prepare. So I'm pleased to introduce my colleagues, Wilmington Trust's Chief Wealth strategist, Alvina Lo, and Senior Wealth strategists, Josh Landsman and Matt Lee.

So, let's get started. Alvina, there's a lot to cover this morning, but let's start with the basics. Would you walk us through the current tax landscape and the most important new proposals.

Alvina Lo
Sure I'll be happy to and it's a pleasure to be with all of you today. So I thought what we'll do is set the stage a little bit and go through a brief timeline so that cause I think it will really help frame our conversation for the next hour. So a big part of the reason of why we are where we are today is because actually of a piece of legislation, tax legislation that was passed back in December 2017 during president's Trump's 1st term in office. And that piece of legislation is called the tax Cuts and Jobs Act, otherwise known as TCJA, which we're going to refer to throughout the presentation.

Now this tax bill was vast, encompassing and contained a lot of tax cuts provisions. However, many of those task cuts provisioned were only for a certain period of time and are set to expire at the end of this year. Such that if the law does not change and they are left the way they are, what will happen is upon the expiration of these tax provisions, we will have what is the revert back to the old law which is pre 2017 where the rates and provisions are higher. Now, what happens in between is that we had an election, and the result of the election is that we have now Republican control in the white house, as well as both chambers of Congress. And tax policy is very much on the agenda. And in fact, just two and a half weeks ago, the House of Representatives passed their budget Reconciliation bill, otherwise known as one big beautiful Bill Act, and what maybe the opening rounds on the 1st set of tax legislation. Now, that is not law today. In order for that to become law, the standard has to pass it and the president has to sign it. And as all things that goes on in Washington, we expect there to be a lot of changes in negotiation before it gets to a final enactment, if at all.

So what that means is today where we are the time of this webinar, which is June tenth, we basically have seven months to the end of the year to see what would happen to the fate of the TCJA. Now indeed on the next slide, you'll see that there is a lot at stake.

The TCJA was thousands and thousands of pages and what we did here and was to take out the provisions that we believe are the most relevant and the most pertinent for our private wealth clients. You see here we broke it down to individual tasks.

The states and gift tax, and because a lot of our clients are also business owners, we also highlighted the top corporate and business tax provisions that we believe to be relevant. Now I'm not going to go through each and every one of these because throughout the presentation, my colleagues is going to address the most pertinent ones. But note that what the takeaway from this point, this slide is really.

The number on the bottom or the price tag that goes along with it. Because together if we were to extend all these tax cuts past beyond this year, you're looking at a total of $4 trillion that needs to be, that could be extended or that hits the budget, ok? Now, on the next slide, what you'll see is the possible outcome or the fate of the TCJA. So there's really four possible scenarios. The 1st is that, and it's the least resource.

Which is that we are going to simply let everything expire because if nothing happens in DC, then that is what's going to happen. Now we think that this is very unlikely, even though it is a path of least assistance because the because our president as well as congressional proposal thus far have indicated that there is an enormous appetite and push to at least get.

That's some of these provisions extended. It's also possible that this gets extended. Generally speaking, this is in line with lower tax sentiments of the Republicans. Now, this would be basically enacted to basically punt this down the line for a little bit. And the other thing that can happen is that this could be made permanent.
We also think this is very unlikely because it is extremely expensive to the tune of $4 trillion if all these task guys were made permanent. So what we believe is likely to happen is the bottom one, which is extending the TCJA in part and basically picking and choosing some of these provisions.

Right, whether it's changing the rate, changing the amount or maybe the timeframe, and indeed, this is what happened with the tax bill that gets gotten act, that got past two and a half weeks ago. And so here what you see in the next slide is that in addition to the TCJA, which is what we've been talking about thus far, what's important to note is that in addition to all those task cards, there's also been a number of proposals during the campaign, and in fact some even got passed in the tax bill that I mentioned, or the, well, the house bill that was mentioned two, two and a half weeks ago. And here's the list of all of them. I'm not going to go through all of them, but just keep in mind that, you know, when we're talking about balancing the budget and making fiscal decision, we are not only talking about the $4 trillion, that is the tax custom jobs acts, but also these new proposals that are out there. But rest assured.

At these proposals, we are very much on top of it and keeping them on top of mind and watchable for our clients. So I think here actually Dave is off.

Where we're going to have our 1st polling question.

Dave DiLuigi
Great, thanks Alvina. So for the audience, we're curious as to what you think about when there maybe more clarity around the fate of the TCJA and future tax legislation. Do you think it might come before the 4 July independence day recess before the August summer recess, maybe by the end of the year and the Q4 or taxes and clarity rarely go together. We'll give you a few seconds here to respond.

Alvina Lo
Looks like we have some optimists here, Dave?

Dave DiLuigi
Okay, Alvina, with these answers coming in, what do you think about these responses? And can you walk us through the legislative process required for the bill to pass and ultimately be enacted.

Alvina Lo
Yeah, sure. So I see the over close to 50 % of our audience think it's going to be Q4 and year end and I actually think that that's actually a very reasonable. So here on the next slide you'll see, you know, in order to get to that, that end goal, what we think needs to happen. So here is a little bit of a history or a rationally rather a lesson on how our government works, which I think is important. So here what you see is the current composition of our Senate and house representative and the breakup between the two parties.

And you see here that the Republicans do have control of both chambers but by a very, very slim margin. And the reason that's important is because how laws are made in the United States. On the right, you see two possible avenues to getting a law pass. 1st is a legislation, which is, you know, you're, you're kind of plain vanilla, how laws get passed. And to know what.

To do that, the laws need to get passed by both the Senate and the house representative and then signed by the president. But what needs to happen is that it needs to survive what's called the filibuster in the Senate and that you need a three 5th majority, which is 60 votes. And as you can see here on the chart, the Republicans do not have 60 votes. So an alternative path to getting legislation passed is through the budget reconciliation process. And in fact, that's what's been started with the house bill that got past two and a half weeks ago. And in this process, the path to legislation is easier in term of votes because you don't need the 60 votes or three fifths majority. All you need is 50 %, which the Republicans do have.

By a very slow margin. But when we go through legislation through this path, what happens is there's also a lot of additional parliamentary rules, budget scoring rules that makes it a little bit more challenging. And that's why you're hearing the news today of all the different things and negotiation that's going on. So all this is to tell you that this is extremely.

Complex, there is a lot of moving pieces and you know in fact the team and I, when we thought about how do you represent this information to you, we really wanted to make sure that we distilled down the most important information that our clients need to know. And so what we decided to do going forward given all these variables is that we.

Basically we'll start with what is the law today, meaning what is in the TCJA and what happens when it expires because that's the law today. And then talk about what we believe might happen using the house build that was just passed as some of the compass, if you will, of what we believe will happen. And then based on those different scenarios, give you actionable advice on the planning opportunities that you should consider before year end.

Dave DiLuigi
Okay. Great, thanks Alvina for the overview, as we'll invite Josh in now and Josh, there's there's a lot of interest in whether any of the income tax provisions in the TCJA will remain in effect. So, would you mind highlighting which provisions could be extended or made permanent and which are likely to sunset and what's new.

Josh Landsman
Thanks Dave, and you know, I I was thinking we maybe we'll just read this one big beautiful bill act, all 1100 pages of it, but i'll spare everybody of that. We only have an hour today, so I certainly want to make sure that we're highlighting.

The key provisions that we believe are top of mind for clients, new proposals that were not part of the tax cuts and Jobs Act and how that that may impact impact your personal business taxation. We are circulating these materials as Alvina mentioned, so if there's anything that resonates with you, something that you want to discuss further, please reach out to your wealth advisor and we can pick up the conversation after this webinar today.

A lot's going to happen now between we have the house bill Senate, we're we're waiting on proposed legislation from the senate. It's in committee now, so we would expect in the next couple weeks to see some proposed legislation what the Senate Bill looks like. Any changes to the house bill would of course would have to be reconsidered in the house.

So, we're we're at this moment in time, a lot can change, but we, you know, we appreciate you participating in this webinar because this helps you along the planning, the planning spectrum here where some clients may wait till the last minute and if we're looking at a Q4 or year end passage of the, of the bill by it being on the president's desk, it maybe too late by then to do to make any planning moves.

So, so certainly a lot to see what happens, but, we, we kind of have some, some, at least some a path forward. So I want to focus on a few themes before I dive into specific provisions. Timing as I mentioned, is critical. The later this moves on into 2025.

If the effective date of when this legislation will be made is, you know, is up in the air. Could it be 2026, the house bill, many of the provisions kick in in in 2025? So we will have to see, you know, again, when the timing, when does it end up on the president's desk and and how this will impact when when you'll be able to see these.

Tax laws impact your, your personal or business tax matters. Tax rates generally, you know, if tax rates increase, which is part of the house bill, the tax cuts and jobs act brackets would remain in effect, so lower rates than before 2017, but when the tax rates are proposed to increase, it's generally preferable to defer deductions into later years to get more bang for your book out of your, out of your deductions.

Also want to make sure that we're, when we're looking at tax rates, we're focusing on our effective tax rate, not just our top tax rate. If you're at the top tax bracket, you're paying top taxes at 37 % at the top rate, but you're also paying at lower rates capital gains rates are of course lower, if you're at the top rate, you're paying 23.8 %. So by looking at all your income and what rates it's taxed at, you're going to get a blended rate and that is usually lower than your top tax rate. So looking at your effective rate can give you a better idea of really where you're, what, what your overall tax exposure is and and and looking at it in that lens.

Finally, some of the provisions as part of this house bill would be permanent in the, in the code, others would be temporary. So we want to make sure that we're aware of what was going to be temporary and take advantage of any of the tax, increased deductions or tax breaks, in those particular years because they'll once they expire unless Congress does something to make those either extended further or permanent, you have a limited window. E.g., bonus depreciation. I'll get into that as I move forward in the presentation. So sunrise, sunset, what may go away, what's new? We have the tax cuts and jobs Act provisions and some new proposals and i'll cover the, those in our chart. As Alvina mentioned, we are laying this out in a way so you can see what the current law is, what happens if the tax cuts and Jobs Act provisions a sunset, what the house bill says is some planning considerations. So we'll start with income tax rates. Right now the top tax rate is at 37 %. If we had a sunset in the tax cuts in Jobs Act provision, we'd be back at 39 % at the top rate.

The house bill does propose to make the tax cuts and jobs act rates permanent in the code, so we'd have a 37 % top rate. It's noteworthy though that due to some concerns in the Senate, even in the Republican party about the cost of the bill, even President Trump is proposed having a higher rate for certain high income earners or wealthy taxpayers, so potentially a 40 % rate for those taxpayers. It's not in the house bill. Could it end up in the senate bill, we'll have to wait and see but if tax rates go up, you may want to, make sure that you're again delaying certain deductible expenses into later years. Maybe if you have a traditional IRA, you consider a Roth conversion in that situation with the volatile market that we've been having.

Thing, you may consider converting to a Roth paying income taxes now when your tax rate's lower at a lower value, future distributions out of that Roth IRA in later years when tax rates are high, will be income tax free. So something to evaluate now as to whether it may make sense is speculating if taxes were to go up. But again, NO NO provision on that written, we'll have to see if it comes out in the Senate or not. The salt deduction, this is.

Is really one of the big ticket items and a sticking point for a lot of members of Congress in particular in those states such as New York, New Jersey Massachusetts California where there was a high income tax states. There was NO cap on the state and local tax deduction, what you can deduct from your federal income taxes for taxes paid in income taxes, sales taxes, property taxes and states.

It was now it was capped to $10000 as part of the tax cuts and Jobs act. The house bill would propose to increase that cap to $40000, but there are phase out rules that apply and for certain income tax certain taxpayers that are at high income levels, you may actually be back at a $10000 cap depending on how those phase out rules apply to you. So we'll have to see where this goes in the senate.

Part, part of the bill. Any reduction would probably be a non starter for many members of the house. So we got to a $40000 figure. If you can delay certain state and local income tax payments into the into a year where the cap is higher, that maybe good planning. Also trust planning with non-grantor trust maybe something to consider, and this is, we have helped clients facilitate this this type of planning especially clients that live in high Income tax states like New York or New Jersey where you would create a non-grantor trust in a state, e.g., in Delaware that doesn't have a state income tax and create a separate bucket of funds that would be taxed at a, as a separate entity, thereby you'd potentially have the opportunity to stack caps, your personal and trust levels so there's some planning that you could do.

Obviously we have an hour today and that would be a separate session, but we do have materials on willington trust.com and our gems podcast that we've covered this before. Please reach out to your wealth advisor, we could send you those materials, but again using a non-grantor trust to, to potentially, help stack your soft deduction depending on what the cap and and how that those rules shake shake out. Home homeowners are those thinking about buying a home. The the mortgage interest deduction limitation was at a $750000 as part of the tax cuts and Jobs Act.

This was proposed to be made permanent as part of the house bill. We'll see where this goes in, in, in the Senate as well as HELOCs. There were some major changes to the HELOC deductibility rules for interest paid on those. A lot of limitations. There was NO mention of the house bill about this, so if it does sunset, there maybe some more opportunity to deduct HELOC loan interests so something to watch out for there. On our next slide, we'll continue on with AMT exemption and phase out standard deduction and charitable donations. AMT exemption and phase out, those were increased as part of the tax cuts and Jobs Act with a sunset they'd be reduced and the house has proposed to make these increased amounts permanent. So just something to watch out for as if it does sunset, then more people, more taxpayers will be subject to the alternate minimum tax and therefore their income tax exposure may go up. So something to watch out for, for the, the standard deduction, this was doubled as part of the tax cuts and Jobs act. With the sunset it would be reduced in half. Many taxpayers were because of the doubling were pushed into the standard deduction versus itemizing.

The house bill is proposed to make this permanent, these tax cuts and Jobs Act doubling of the standard deduction and actually the house bill provides for some bonus amounts in 20 in the tax years 2025 through 2028, so there'd be some additional amounts for, for standard deduction. Again, you'll evaluate year to year whether standard deduction or itemizing makes the most sense for you. And then the charitable donation deductions, this year's a increase in the AGI limitations to 60% as part of the tax cuts in Jobs act. This would be reduced to 50% if if the Tax.

Cuts and Jobs Acts expire, so, you know, if you, you want to make sure that you're making charitable donations this year when assuming that the AGI limitations are reduced. It was not part of the house bill, so, there maybe a a situation where it does get reduced. There in the house bill, there was an introduction of a new deduction for non itemizers, a small deduction, but, something to watch out for as to what happens with the AGI limitations. Finally, we got some new stuff that we want to make sure we cover. A lot of these were result of President Trump's campaign, when he was campaigning for a president, this, this term and one of the big focuses on this is that adding these to the bill obviously adds to the cost of the bill, which may create compromise required for other provisions of the, of the code. So adding these in may come out of compromise for other provisions, so, so that's why we want to make sure that we're watching out for this. Tip income, NO tax on tip, NO tax on overtime, this was heard throughout the campaign trail, so now we have it for a limited time in the house bill, 2025 through 2028. You'd have an above the line deduction for qualified tips and for overtime pay.

So for employers on the call today that pay that have employees that receive tip income or overtime income, you'll likely have a reporting obligation there and it's not employees being able to not, include this in income, they'll have to include it in income and then make sure that they report that to their tax preparers so they can get the above the line deduction.

Other eligibility rules would come into effect. 529 accounts, there's actually an expansion of the usage in the house bill for, 529 accounts. This may be a welcome change in addition to for, for many of our clients that utilize these accounts to save for college or even elementary or lower school education expenses.

It's a great tax planning strategy by creating these 529 accounts and now you maybe able to use them for a longer period of time, e.g., under the house bill for past college graduation credentialing program. So, we'll see where this ends up in the senate. And finally, new money accounts for growth accounts are so called MAGA accounts.

This is a new financial account that was created. I would kind of look at it as a hybrid between the UGMA UTMA account and a trust that you would create for a minor beneficiary. You can start saving for a child beginning at age eight, and then the there'd be tax deferred growth on those accounts. Limited use of the funds between ages 18 and 25. These accounts are to, to encourage entrepreneurship, homeownership, financial security. So some of the reasons that you approve distribution amounts would be for purchasing a home or or starting a business, e.g.. So for for 18 to 25, you could use it for those qualified reasons at age 30 you can withdrawal for any reason, and any distributions out of that account would be for an approved reason would be given long term capital gain treatment versus ordinary income.

So something to see how this materializes in the Senate bill. And Dave, I think we're up ready. That's a lot of information.

Let's go let's go to a poll question.

Dave DiLuigi
Yeah, thanks. Thanks Josh. So for the audience, based on all of this, we're curious as to the last time you may have spoken with any of your advisors about how tax law changes might impact you. You know, did you talk to them last year. Might you have spoken with them this year or maybe this hasn't been your highest priority?

Josh Landsman
Well, I'm glad to see a lot of proactive participants on here. So obviously this has been top of news so I'm not I'm not surprised and and our participants are here, so, so I I do love the, the proactive group that we seem to have here, you know, especially with the election taking place last year, there's a lot of uncertainty and, and still uncertainty now, but yeah, I, I'm I'm glad to see that there at least been conversations had and these conversations should continue because again, we're, we're still in uncertain times and the the more you revisit.

At these things, the optimal your planning will be.

Dave DiLuigi
Yeah, I, I agree Josh and I'll emphasize something I said earlier, which is our wealth advisors are always available to discuss tax questions or concerns. So to the extent you have any questions, please reach out. And, and so Josh, we have many business owners with us today and and what do you think specifically they ought to be thinking about..

Josh Landsman
Yeah, a lot here, as well and you know we'll cover the highlights so I think top of mind for our business owner clients especially those that are the taxes pass through pass throughs as corporations with the 199 cap A deduction, R and D expense deduction bonus depreciation, also get into some potential changes that we had maybe heard about on the campaign trail that didn't make their way into the house bill, but something to keep an eye out on. So similar format to our income tax talk but 199 cap A that was created as part of the tax cuts and Jobs Act and really to provide some parity after the corporate tax rate was reduced to 21 %.

And so a new deduction for qualified business income of 20 % that was introduced as the tax part of the tax cuts in Jobs act. If for for whatever reason the tax cuts in Jobs act, because Congress couldn't enact the law, it expires, so does 199 cap A So that would take it be a huge hit for pass through entities and a lot of entities would have to consider whether they, you know, should convert to a C Corp.

Or however, the house bill, has, has made, proposed to make this permanent as part of the code, so a permanent extension of 199 cap a, and it actually an increase in the deduction from 20 % to 23 %. Based on our understanding, this is a huge priority item for members of the house and for the senate. So, I would I would be surprised if this wasn't included in the senate bill. Of course as as from a planning standpoint, if you are a pass through or a C Corp, you ought to evaluate whether that classification makes sense for your particular business and, and, and especially if, if there is any threat of 199 cap A expiring bonus approve.

Depreciation, the tax cuts and Jobs Act created a phase out schedule for bonus depreciation. We're at a hundred percent before before, in 2027, the phase out will will will end, so it'll continue until 2027, and then there will be NO bonus depreciation. The house bill, would, would propose beginning in 2025 the increased bonus depreciation to a hundred percent again, but again for a limited time. So qualified property would have to be put into service either in between 19 January to 2025 and before January one to 2030. So for those that are looking to purchase an aircraft, e.g., take note of the window, and we'll need to track this as far as the senate bill goes, but it would need to be put in service, at least if it's the house bill passes in its current form, it would need to be in.

Before 2030, so as you're timing out these purchases and acquisitions, keep note of of whether you know the dates in, in these in these in these provisions. R and D expense deduction capitalization requirement was introduced as part of the tax cuts and job deck depending on the on the on the expense of five or 15 year, the House Bill is proposed to suspend temporarily these capitalization requirements. So for tax years 2025 and 2029, we wouldn't have a capitalization rule, meaning you wouldn't have to break up the amount that you're deducting over a period of time. So for those that, that utilize this deduction, timing and planning around the tax.

Years where you're not subject to a capitalization requirement. This may require you to consider postponing some of these expenses as you track this legislation. We'll see where the Senate comes out, but, but something but it's it's welcome news to business owners here. Campaign proposals and potential new proposals in the house, the President Trumped had had had mentioned a potential lowering of the corporate tax rate. This didn't end up in the house bill. We'll see if it ends up in the senate bills in particular for companies that manufacture goods in the United States, maybe a further reduction to 15 %. Again, no proposal on this yet, but we have the Senate bill to wait for. And then the tax cuts and jobs deck. There was no salt cap applied to the corporate salt. There's NO mention of this in the draft bill extending the cap to his corporate salt deduction, so we'll have to see if this ends up in in the Senate. I will note that.

In the house bill, a late change to the bill was actually an elimination of what's so called the salt work around for pass through entities and states that pay a pass through entity tax that, that pay state and local tax at the state level and then get a deduction and a reduction in their partnership income by paying the bay by paying the tax at the, at the state level, there is NO cap for that, at least at the partnership level, so this is the so called workaround and the the Senate has removed this potential work around for certain businesses, so service oriented business is how it's defined in the house bill. This would apply to accountants, doctors, attorneys, so something to, to really keep an eye on as it works its way through the Senate. A huge lobbying efforts taking place in particular with the AICPA to have this removed as part of the Senate bill, but we'll have to see where, where this goes. So, I'm something to look out for.

Dave DiLuigi

Great, very insightful Josh. Really appreciate it. Now let's bring Matt Lee on and Matt, an area of interest for many of our clients are a state gift and generation skipping transfer taxes. What, what changes do you think could be coming and are there any actions clients should be preparing for and or taking now.

Matt Lee

Yeah, absolutely Dave. And and certainly this has been a primary focus of many of the clients that we work with and wealthy individuals and we've spent a lot of time over the last couple of years educating our clients about potential changes in the tax laws and opportunities that they may want to take advantage of advantage of. So I'm going to spend the next couple of minutes here talking about the current rules around the estate gift and GST taxes, what the potential changes maybe in the draft proposal of the legislation, and some opportunities and planning strategies that clients may want to think about now. So, before I get into that, let me 1st explain what the gift in the estate tax is. Essentially, it is a tax on the transfer of wealth, wealth being anything from an investment account to real estate to closely held business interests.

And that tax would be applied on the transfer if it occurs either during an individual's lifetime or upon their passing. And under current law, everybody, every individual has an exemption from the gift in the state tax, which essentially means that they can transfer up to the exemption amount without incurring the tax.

So under the TCJA, the exemption stands at $13.99 million per person. And when we were talking about the exemption and planning, we actually can combine a couple's exemptions, so we talk about a married couple having an exemption of $27.98 million. So again what that means is that a couple can transfer up to $28 million of wealth either during their lifetime or upon their passing without incurring a federal gift or a state tax, and that tax is is currently 40 %, so it can be quite impactful. And if you think about this in the historical context, this is actually the highest the exemption has ever been. So what you see here is a chart showing where the exemption was as recently as 2000. At that point the exemption was around a million dollars and it's over time it's increased quite substantially to where it stands today. So in 2017, the TCJA doubled the exemption amount, and but what happens very importantly is that at the end of this year, at the end of 2025, the exemption is set to reverse to where it was in 2017 before that law was passed. So effectively what that means is that you go from this high watermark exemption of a $14 million per person to potentially as low as $7 million per person or $14 million for a married couple. So again, that could be a very meaningful, change over time. But we now have a draft proposal that we've reviewed, and what's important to note there is that this includes provision around the exemption amount and it would actually increase the exemption from where it stands in 2025 to actually to $15 million in 2026. So the exemption rather than sunset and revert to where it was in 2017, it would actually go up a little bit. So starting in 2026, the exemption would be $15 million per person worth $30 million for a married couple, and that exemption amount would be made permanent. What that means is that the $15 million would stay in effect, but it would be increased every year to account for an inflation adjustment. It's also worth noting what's not included in the current version of the bill. So in the last couple of years, we've seen a number of proposals ranging from a complete elimination of the estate tax, to wealth or the billionaires taxes. Neither of those, not surprisingly are included within the tax also or within the legislation, also NO changes to the so called basis step up rules or some other areas that have been proposed in the past targeting some of the planning that we work with our clients on.

You know, we've spent a lot of time thinking about the federal gift and a state tax, but I'd be remiss if I also didn't mention that there are about a dozen or so states in the country that apply a separate state level tax.

So you look at the, the, the map here and you see that in the northeast, where many of our clients live, there are states that have their own taxes, and in many cases, the exemption amount for those taxes is quite a bit lower than the federal amount. So New York is an example where I sit as an exemp exemption of around $7 million. Massachusetts.

That's another one has an exemption of, of $2 million. So for anyone who lives in those states, certainly important to understand what the federal rules are, but also as importantly to know what the state rules and what state taxes could, could apply.

So where does that leave us in in 2025? You know, as I said, the, we now have this draft legislation. We've seen that the exemption may increase to $15 million and it may remain high for at least the, at least in the short term.

But this shouldn't be interpreted as a sign to take your foot off the gas. Now a lot of times when we're having these conversations with clients, we do recommend that it still makes sense to move forward with a lot of the planning that we that I'm going to talk about today because we find that the earlier somebody starts the process, the better the result is going to be. You know, we don't have total certainty around what the legislation is going to be and so nobody wants to find themselves towards the end of the year, acting in a, in a rushed manner to try to implement a plan. And as we get closer to, to the end of the year, certainly professionals that we would need to work with and rely on for certain types of or certain aspects of this planning, accountants, lawyers evaluation firms maybe more difficult to access.

So we certainly don't want to be rushed, so the time is still now to continue to plan and to work through a lot of a lot of this, these planning opportunities. And there's some really great ways to, to think about this that can be done flexibly. So, you know, we, we'll talk about the opportunity to do some standby planning where you can create a plan and a structure now and then wait until the right time to actually execute and implement it. A lot of times these, these strategies can be flexible, so depending on what the outcome of the legislation is, you know, they can be adjusted as needed to whatever the circumstances maybe. So to help you think through some of what may make sense, what we did is we put together a four part planning framework that looks at different opportunities or considerations for clients or or people within different wealth tiers. So let me walk you through that.

Matt Lee
So the 1st tier that we'll talk about here are for families or couples, married couples that have a total net worth of $14 million or less. And why did we pick 14? Well at $14 million whether the the law stays in, in effect or the proposed legislation is enacted, there likely would not be exposure. Again, though, this doesn't mean that a couple should not do any planning, and what you see on the left hand side are some of the things that they may want to think about. Not going to go through all those, I'll highlight a couple, but again the takeaway here is that there's still a lot of planning that can be and should be done at this wealth tier, you know, cash flow sustainability analysis is really important to make sure that there's not a gap between somebody's resources and what their goals and objectives are. Really also very critical to focus on core foundational planning. So we think about making sure that you have the right will in place, irrevocable trust, incapacity documents like a healthcare proxy and power of attorney. That's always gotta be part of it. And again, also for someone who lives in a state that has a separate state level estate tax, even if they're not subject to a federal tax, that maybe applied so important to remember that as we move up the the pyramid here, you know, building off of everything that I just talked about and everything that was listed on the left hand side of the screen, you know, this is a, a segment between the, the people that have between 14 and $28 million.

Now I say that this is sometimes the most challenging wealth tier to plan for because these are the people that are potentially subject to attacks if the tax laws change, but they may not be now. And so really important to understand what the tax laws are now and what they maybe in the future. And the the people in this wealth here maybe the ones who are subject to attacks and lose the opportunity to plan with the so called bonus exemption amount.

So people here, you know, we do recommend that they understand what their potential future wealth may look like. So doing cash flow planning, financial modeling to understand whether or not they're growing into a an estate tax in the future or perhaps whether they're, they're shrinking away from one.
Moving up the the pyramid, so for those couples between 28 and $50 million, this is where we start to see federal state tax liability really becoming an issue. Again, building off of all the planning that I've talked about, but there this is where we maybe think about getting a little bit

more aggressive in some planning. So utilizing perhaps one spouse's full lifetime exemption to start shifting wealth off of their balance sheet. Maybe also considering certain things that we describe as estate freeze strategies where people are able to to minimize or or freeze the value of their estate so that they're not continuing to add to their estate tax exposure in the future. Also if estate taxes are likely at some point down the road, making sure that there's a plan in place to help pay those taxes. So we talk about estate liquidity planning. This is especially important for business owners or real estate investors who have illiquid assets and would have to pay taxes perhaps as soon as nine months after date of death.

And then at the top of the pyramid for those over $50 million, this is not necessarily a question of of really of if taxes will apply, but how much. And so again, you know, building off of everything that we've talked about, but perhaps, you know, using both spouses exemp exemptions to minimize future estate tax liability given the level of wealth that we're talking about here, perhaps considering a trust in another jurisdiction like Delaware that can afford people of this level of wealth of significant planning opportunities. And because we're talking about dynastic wealth, potential generational wealth, ensuring that there's alignment within the family, so we spend a lot of time working with our clients around family legacy issues, family governance, you know, that's gotta be part of the planning process as well. So with that, I believe we have our next polling question.

Dave DiLuigi
Yeah, thanks Matt. So this is our our final polling question for for the webinar and we're curious with the audience if you think that a change to the state tax exemption will be permanent. And so your answers are yes, no or yes until the next quote unquote permanent change.

Matt Lee
Yeah I I love this question, Dave, and and I see that we have a number of of cynics in our audience, 66 % saying that it's permanent until the next permanent change. And, you know, you think back to that chart that we showed earlier, that in, you know, since in the last 25 years we've probably had about a half dozen or so permanent changes to these laws. So things are are typically in flux, but again why it's so important to work with your advisory team to make sure that you're on top of this. These, this planning has not set it and forget it. You know, things do evolve. Tax laws change, but we shall see.

Dave DiLuigi
So, ok, well Matt, you covered quite a bit and I was hoping maybe you could walk us through how they might help our clients think about all of this.

Matt Lee
Yeah, absolutely. So we thought it would be helpful to share an illustrative example, hypothetical of a married couple and how they may approach this situation and how we work with our clients to make them feel empowered with information to make the right decision for their planning. So here are the assumptions that we're going to use for the, for this example, Married couple both 60 years old, they have a total gross estate of $30 million, and they live in a state that does not,

not have a separate estate tax. Having attended this webinar, they're interested in, in utilizing some of their lifetime exemption by making a gift of $10 million to a trust for their benefit and they want to understand what that may mean for their, their family and their wealth and their potential future taxes. We're going to assume here that they're going to live for the next 30 years.

So what we would do in this scenario is we'd want to 1st dimension out and understand what their current estate tax liability is. And so what you see in the screen on the screen here is in 2025, based on those assumptions, they have a total gross estate of $30 million, and they have an exemption of around to 28 million. What that means is that they have some but not much federal estate tax exposure about $800000, and they're able to to transfer quite a bit of wealth to their family 29 million. But we're also thinking about the potential impact of the change in tax laws. What would happen in 2026 if the TCJA expired?

Matt Lee

And so that's what you see on the right hand side of this chart. Same situation, $30 million, but a sub a substantial drop in the the air exemption. So going from $28 million down to 14. And what happens there is you see is that their federal estate tax goes from 800000 all the way up to 6.4 million. So you get a sense of the, the potential substantial impact that this could have on them as it relates to their estate taxes. But you know, this is a couple that's 60 years old. We're not expecting that they're going to pass away in 2025 or 2026. More realistically, we think that this tax is going to be due 30 years or more from now. So what does this look like in 30 years? And what we always want to do is we want to show the potential impact of this planning.

And and how making a large gift could affect them, but also what is what would it mean if they don't do this, if they don't take this, this, these steps with great planning, and that's what you see here. So if the current law stays in effect, the TCJA is extended or the new legislation is enacted, you see that there's potential potential estate tax savings if they were to do planning in 2025. So on the left hand side, if they do no planning, they're $30 million, and these numbers sometimes are hard to believe, but this is shows the power of compounding that $30 million with 30 years of growth, assuming a reasonable 5 % rate of return, could grow into a hundred and $30 million.
They would have quite a bit of a state tax exemption because we're going to grow that amount over the next 30 years as well.

And they have a state, they have substantial estate taxes, so $30 million of estate taxes if they do NO planning. But we think we can improve that result by having them make a $10 million gift in trust in 2025, and that's what you see on the right side. So what's happened there is that they still have a state sub substantial estate tax, but it's gone down from 30 million down to 18 million. So about $13 million of estate tax savings by doing this type of planning and they're able to transfer quite a bit to their family as a result. And as a team, what we're able to do is not just look at at as I said, not just look at the current law, but what does it look like if the tax laws change? So here's an example of the TCJA is not extended, and to the same type of analysis. What I would draw your attention to here is that regardless of what happens, whether the exemption goes, goes up or stays where it is, this planning still makes sense for this couple.

They're still saving $13 million of estate taxes by doing this type of planning. So it really makes sense for somebody to to think about doing.

And so, you know, for someone like this and for for our clients back to where we started with this, this discussion, you know, we think that yes, we do have a draft legislation and we're anxiously waiting to see how this all plays out, but our recommendation is to create a standby plan. Essentially create a trust that can be funded if and when needed. It aligns with a family's goals and objectives so that NO one is waiting until the last minute to, to execute. And these this type of planning can be done flexibly. One strategy that we are often recommending to our married clients is what's known as a spousal lifetime access trust or slat. That essentially is a trust that one spouse creates for the benefit of another spouse. And the reason why you would do that is because if you, for whatever reason, you need to access what's in that trust, the spouses are able to do so through the spousal access feature, so it's a way to do the tax planning, but to do it flexibly in a, in a way that is going to give somebody comfort that if they needed to, they could access what's, what's in that trust. As with any type of a revocable trust, there's a number of things to keep in mind. You have to be willing to actually part with those assets.

But again, structuring the plan in a way that is flexible should give some some comfort. So a lot of information but wanted to just wrap things up here with some actionable next steps for you to think about. You know, we always think that it's a, it's a good idea to review as a 1st starting point, review current documents, understand what your current estate plan is. Does it reflect current thinking? Does it take advantage of all of the opportunities available under current law. By joining today's webinar hopefully you have a better sense of the current and the potential future laws. That's gotta be part of the process as well. But we would also encourage you to have conversations with your advisors to under to understand exactly what this means for you, right? And understand what it means for your fact pattern.

So to start running numbers like we'd illustrated for you today about what the potential, what future might look like for for you and your family. Can't say enough about having the right team in place, so working with your your team at Wilmington Trust, but also making sure that you've got the right folks on the legal side, on the tax side, they can help us as well. And then when we have clarity, we have certainty around what the tax laws look like, make sure to take action.

There maybe a shortened window of time when we can execute on this and so making sure that you have the plan in place and then and then executing on it. This is not a set it and forget it thing, so in addition to tax laws changing family circumstances may change. So it's important to stay on top of a plan and and properly monitor it over time. And then last but not least, we always think that it makes sense to communicate your wishes to your to your family, make sure that there's family alignment. Ultimately that is going to lead to success over time.

Dave DiLuigi

Well, Alvina Josh Matt, thank you for sharing your insights today and we'll continue to keep everyone updated as the legislation's finalized. And, and please remember that you don't have to navigate these issues alone. Your advisor here at Wilmington can can assist, so please reach out if you have any questions and thanks again for your time today and enjoy the rest of your week.

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