

Update: Hippocratic Year-End Planning



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As we await the 2020 Presidential and Senate race outcomes, we continue to urge select planning amid uncertainty. Considering the Biden campaign's income and estate tax proposals, **we are advising clients to take advantage of existing favorable tax laws only where doing so carries little or no cost** (i.e. does no harm).

Transfer Tax

The Biden-Sanders Unity Task Force recommendation included one sentence on estate taxes: "Estate taxes should also be raised back to the historical norm." This could mean a decrease in the estate tax exemption (from \$11.58m to \$5m or lower) and/or an increase in the 40% rate.

Regardless of the election outcome, we continue to recommend clients make lifetime gifts now if they have both legacy planning goals and gifting capacity. The current exemption will sunset at the end of 2025, and given mounting deficits due to the Coronavirus, this could be accelerated. There is little downside in taking advantage of the higher exemption by making lifetime gifts today, even if the transfer tax exemptions remain status quo post-election for some period. It is always beneficial to transfer appreciating assets out of large, potentially taxable estates.

For those with gifting capacity that may be considering gifts but remain hesitant for family, financial or other reasons, Spousal Lifetime Access Trusts (SLATs) provide an interim solution to lock in the benefit of elevated exemptions. This strategy can provide maximum flexibility to accommodate most client reservations.

Income Tax

Under the Biden tax proposals, high income individuals (>\$1mil earning) could see a significant increase in long-term capital gain rates (from 23.8% to 43.4%). This caused many to examine gain acceleration strategies pre-election in anticipation of a Democrat 'blue wave'. Now, with the growing probability of Republican Senate, accelerating gains into 2020 in anticipation of higher rates that may never materialize could prove costly. We therefore urge caution and advise that year-end gain harvesting only be considered in coordination with more traditional loss-harvesting or charitable deduction planning, or potentially, with Opportunity Zone reinvestment strategies.

Given the considerable uncertainty about the election outcome and direction of tax policy, adopting the "first, do no harm" principle from healthcare seems most prudent. As always, your Pathstone client service team is here to help you navigate these issues and provide assistance with all your planning needs.

About the Author



As an Executive Managing Director in Pathstone's Atlanta office, Tim focuses on the development, delivery, and continuous refinement of the firm's holistic wealth advisory and family office solutions. Leading a team of central professionals and collaborating throughout Pathstone's national footprint, he is responsible for strengthening the advisor community through professional collaboration, leveraging best practices, and developing and supporting bespoke planning solutions to meet the diverse and unique needs of Pathstone client families.

Tim brings over 24 years' experience to this role, having worked exclusively with family offices, family businesses, and ultra-high net worth families on tax, financial, fiduciary, philanthropic, and estate planning matters.

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