

ADMINISTRATION BUDGET PROPOSALS INCLUDE TWO NEW ESTATE PLANNING CHANGES, AND MANY OLD ONES

In Dept. of the Treasury, “General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals,” (Feb. 2016),

<https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf>, the Administration included in its 2017 budget proposals two new proposals to impose more restrictions on contributions of conservation easements, and to extend the mandatory consistency rule of Code Sec. 1014(f) to bind persons receiving property from a decedent to use the estate tax value in determining basis, even if the property qualified for the estate tax marital deduction, and to require donees to report their basis consistently with that of the donor with respect to lifetime gifts reported on gift tax returns. It also repeats several former estate planning-related proposals, including:

(a) simplifying the income tax limitations on charitable deductions for gifts to private foundations;

(b) disallowing the charitable deduction for gifts that are required to be made as a condition for obtaining college sporting event tickets;

(c) requiring that GRATs have a minimum length of 10 years and a minimum remainder of 25 percent of the value of the transferred assets (or \$500,000, if greater);

(d) requiring a person who buys an interest in an existing life insurance contract with a death benefit of \$500,000 or more to report the purchase and report any payment of the policy benefits;

(e) restoring the estate, gift, and GST rates and exemptions to their 2009 levels (top estate and gift tax rate and sole GST tax rate of 45 percent; \$3.5 million estate tax applicable exclusion amount and GST exemption, and \$1 million gift tax exemption), beginning in 2016;

(f) limiting to 90 years the protection from the GST tax afforded by allocation of GST exemption;

(g) treating as an incomplete transfer for gift and estate tax purposes a sale or exchange of property to a grantor trust deemed owned by the seller;

(h) clarifying that the GST exclusion under Code Sec. 2611(b)(1) for payments of medical and tuition costs applies only to direct payments by a donor to the provider of medical care or to the school in payment of tuition, and not to trust distributions;

(i) extending the lien on estate tax deferrals with respect to taxes attributable to interests in a closely-held business interest to continue throughout the deferral period;

(j) limiting to \$50,000 per year the annual exclusion for gifts to most trusts, gifts of interests in passthrough entities, gifts of interests subject to a sales prohibition, and other transfers of property that cannot be liquidated immediately by the donee;

(k) empowering an authorized party to act on behalf of a decedent in all matters relating to the decedent's tax liability, so that the estate tax definition of “executor” applies to all tax matters;

(l) eliminating stretch IRAs by requiring non-spouse beneficiaries of a decedent's IRA or retirement plan to take inherited distributions over no more than five years;

(m) prohibiting a taxpayer who has accumulated amounts within an IRA or qualified plan or other tax-favored retirement plan in excess of the amount necessary to provide the maximum

annuity permitted for a tax-qualified defined benefit plan to make additional contributions or receive additional accruals; and

(n) eliminating the deduction for gifts of conservation easements over golf courses.