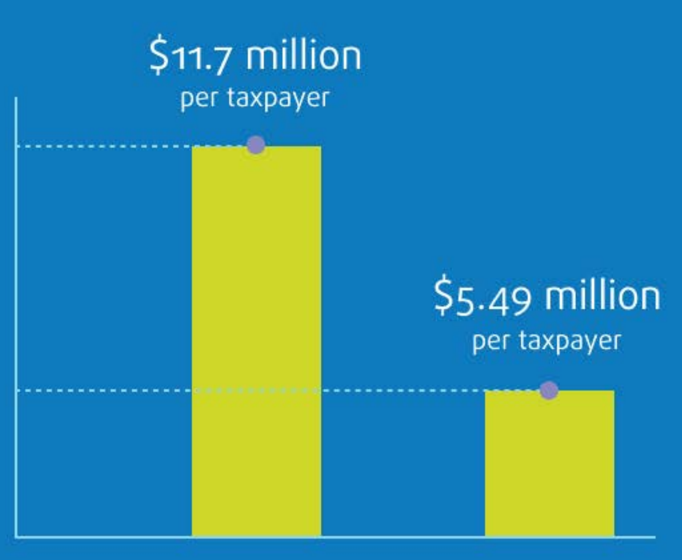
The time for estate planning **is now**

Good planning can minimize transfer taxes while exerting control over your legacy assets. The environment in which you execute your plan determines both the manner in which you pass assets and the amount you're able to shield from taxation. But given the current economic and political climate, the outsized benefits available today may not be available tomorrow. **That is why it is critical to evaluate your plan now.**

Estate **tax**



Estate tax is calculated against the value portion of a person's assets at the time of death. The estate tax exemption rate is scheduled to change January 1, 2026.

Legislation is currently in the works that could result in higher tax liabilities for high net worth families, potentially including an immediate capital gains tax on appreciated assets at death.

The IRS has been reluctant to "claw back" money from estates that took planning steps under prior tax laws. Estate planning you do now should hold up over time.

Gifting vs. selling strategies

We can achieve estate planning objectives through very well-established trust strategies. In order to move an asset into a trust, we have two options:

Gifting

- Maximize tax free gifting by using your remaining lifetime gift tax exemption, employing an annual gifting strategy, or making direct payments, such as college tuition, for a person's benefit.
- Gifts of appreciated assets under current law may be more advantageous than under the Biden tax proposals.
- GRATs are an attractive gifting strategy in the current low interest rate environment.

Selling

- Better for larger estates or those looking for flexibility in their plan
- Today's low interest rates allow selling strategies that result in lower estate taxes
- The income and transfer tax benefits of selling an appreciating asset, such as real estate or a business, may be greater now under current law than under the Biden tax proposals.

Meet **the GRAT**

(Grantor Retained Annuity Trust)

A grantor retained annuity trust or "GRAT" is a type of trust in which the grantor retains the right to receive a series of annual payments back for a term of years. Typically, the value of the payments back to the grantor roughly equals the value of the property transferred to the GRAT plus the appreciation assumed by the IRS at the time the trust is created.

The IRS sets the rate used to determine the appreciation of the GRAT assets (the 7520 rate or the "hurdle rate") on a monthly basis. As of June, 2021, the 7520 rate is just 1.2%.

At the end of the GRAT term, assuming the grantor survives, any assets that remain in the trust will pass to the beneficiaries. The current relatively low hurdle rate of 1.2% means that appreciation of the trust assets over 1.2% will pass free of gift tax to the beneficiaries and be excluded from the grantor's estate for estate tax purposes.

Valuation **discounts**

Assume that a husband and wife owns real estate that is worth $100 million. Gifting it outright would subject the vast majority of the asset to estate and gift tax.

Instead the couple may choose to use a family limited partnership (FLP) to recapitalize their asset into 10 general partner voting shares and 90 limited partner non-voting. The underlying asset is worth the same but the non-voting shares may be discounted due to the marketability restrictions and lack of control.

If we assume a 30% discount for non-voting shares, then 90% of the real estate can be transferred for a value of $63 million, not $90 million. At the current 40% federal estate tax rate, that $27 million reduction in valuation saved the couple $10.8 million in federal transfer taxes.

No time like **the present**

While the forces that impact estate taxes are unpredictable, we can control when we choose to act. Our current high federal debt, low tax, high exemption, low interest rate environment is highly unusual and historically unsustainable; but it does offer planners a wealth of options.

Security **in the future**

Having a plan can create a feeling of security for next of kin and harmony for everyone in the family. And family communication is perhaps the most important element of good financial planning. The time is now to start learning how you, your heirs, and your legacy can benefit from a well-crafted estate plan.

BMO Wealth Management