



Almost all estate plans created since 1981 refer to the Federal estate tax in some way. Many plans, especially those involving spouses, contain formula clauses that may be tied to the amount that is exempt from Federal estate tax.

In 2001 Congress passed legislation that provided for the Federal estate tax to disappear in 2010 but to return in 2011 (at a higher rate and with a lower exemption). Since 2002, and as recently as this November, Congress has assured tax professionals and the public that it would “fix” the uncertainty created by one year of repeal followed by reinstatement of the estate tax.

However, Congress has not acted and on January 1, 2010 the Federal estate tax disappears for one year. The Federal gift tax remains in place and there are a number of other changes that affect planning as well - some favorable, some unfavorable.

The Congressional leadership has stated that in 2010 it intends to reinstate the Federal estate tax and to make the reinstatement retroactive to January 1, 2010. The U. S. Supreme Court has previously upheld similar retroactive tax changes such that a reinstatement of the estate tax may withstand a Constitutional challenge. However, the leadership has also suggested that changes to the estate tax will be considered as part of a broader tax reform effort which may make retroactive reinstatement less likely.

Many estate plans will not need any revision in response to the current Congressional inaction, but some will. **We urge you to contact your estate planning advisor for a quick review as soon as you have the opportunity.**

*Thank you,
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