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## Tax Changes Likely for Estates

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**By Dan Serra**

Few people want to think about planning for death, but when 2011 gets here, more may wish they had.

If you have assets of more than \$1 million, the cost of not planning will come in the form of potentially higher taxes if you die after 2010. That's when the current estate tax exemption (the amount that's not subject to tax) of \$2 million in assets expires and reverts to the 2001 exemption of \$1 million. The higher exemption was the result of President Bush's tax cut plan, which expires in 2010.

This reversion to the previous exemption creates a greater urgency for estate planning as more people have assets of \$2 million or more.

So before we go further, add up your assets. That includes cash, investment values, property and insurance. Yes, insurance. The face value of insurance policies you own is included in your estate. So if you have a \$1 million policy, you're already at the limit with that policy alone, no matter who's the beneficiary.

You'll find out how easy it is to top \$1 million by combining insurance and home values on top of your retirement savings. Even if you are close now, chances are gains and inflation will bump you over \$1 million by 2011.

If you do have life insurance, an important deadline is coming up if you want to avoid it being included in that \$1 million or more. The IRS has a rule that giving up ownership of life insurance to someone else within three years of death will still include it in your estate assets and therefore subject it to tax.

So when 2011 comes, the IRS will look back three years—or to this Dec. 31. This means you have less than three months to decide whether to sell, cancel or give the policy to someone else. Otherwise, if it tips you over \$1 million in assets, it would be subject to tax if you die in 2011 (and within three years of any change).

"We're in the middle of a chaotic time period of estate planning," said John Scroggin, an Atlanta tax and estate planning attorney.

If Congress doesn't address the exemption, he said, inheritance taxes could go up drastically.

And he's not optimistic for a quick solution, with an election year coming and a new Congress not addressing it until 2009. He said he wouldn't be surprised if a stopgap measure to keep 2010 laws in place is approved until something permanent is decided.

And odds are Congress may not change it and use the increased taxes toward funding Social Security and Medicare, he said.

In the meantime, there's no single correct way to plan for avoiding the inheritance tax. Scroggin said individuals need to plan for two paths—one under no change in the law and one anticipating change.

The first step for individuals who think they may be affected is to talk with a professional, either an estate planning attorney or financial planner, about options even though it's frustrating not knowing what will happen.

"Anybody that says they know what is going to happen is either clairvoyant or deranged," Scroggin said.

Many clients are looking for simple solutions to a complex issue, he said. One of those simple solutions to avoiding estate taxes is increasing charitable donations, which are not taxed, in the will and reducing taxed assets passed to heirs. Scroggin expects charities to come out winners and children expecting a big inheritance the losers.

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