

WILLS, TRUSTS AND ESTATES NEWSLETTER

Volume 7, Issue 1

February 2015

In This Issue

Obama Proposes
Changes to Federal Tax
Policy.....Page 1



2300 Wilson Blvd., 7th Floor
Arlington, VA 22201
703.525.4000
www.beankinney.com

Business & Finance

- Business Organizations & Transactions
- Commercial Lending
- Credit Enforcement & Collection
- Employment
- Government Contracting
- Intellectual Property
- Mergers & Acquisitions
- Taxation

Litigation & Dispute Resolution

- Alternative Dispute Resolution
- Appellate Practice
- Commercial & Civil Litigation

Personal Services

- Domestic Relations
- Estate Planning & Administration
- Negligence/Personal Injury

Real Estate

- Commercial Leasing
- Construction
- Real Estate
- Zoning & Land Use

Obama Proposes Changes to Federal Tax Policy

By Jonathan Kinney and Lauren Rote



In his State of the Union Address on January 20, the President outlined changes he would like to see made to federal tax policy. Among his proposed changes, President Obama suggested closing the stepped up basis “loophole” and increasing the top tax rate on capital gains and dividends from 23.8 percent to 28 percent. If such proposals become law, this could have major impacts on mid- and high-income Americans and their families.

Currently gifts made at death receive a favorable “step up in basis.” The unrealized capital gains are not currently taxable. This means that when a person inherits appreciated property from a decedent, the value to the recipient is not the value of the decedent’s basis (established when they first purchased or received the property) but rather is the higher, appreciated value of the property at the time it is inherited. This “stepped up basis” reduces the amount of capital gains taxes that are owed when the inherited property is later sold by the recipient.

The Capital Gains rate differs from the Federal Estate Tax, which currently applies to estates in excess of \$5.43 million dollars (or \$10.86M for married couples). Assets in excess of the Federal exemption are taxed at 40%. This tax is levied on the Decedent’s estate and is in addition to any capital gains taxes that may also be due by recipients of gifts.

The President’s proposal would do away with the “stepped up basis” and increase the highest tax rate for capital gains to 28 percent. This increase, if enacted, would continue the recent trend in climbing rates. Two years ago the highest rate for capital gains was 15%.

The President’s plan would only exempt the first \$200,000 in capital gains per couple plus \$500,000 for a home, along with all personal property except for valuable art and collectibles. Anything else outside the exemption would be treated as income for tax purposes.

(Continued to next page)

Obama hopes the changes will generate more revenue which can be used for programs benefiting lower-income and middle-class families, such as his recent proposal to provide seven (7) days of paid sick leave for all workers.

This isn't the first time that elimination of the stepped up basis tax policy has been proposed. This "loophole" was closed twice before in the early 1970s, only to find that management of determining basis for property not receiving a "step up" at death was too onerous and costly, ultimately resulting in the IRS actually requesting that the policy change be reversed. The President's plan is likely to face opposition from the Republican-controlled Congress.

At this point, with a divided government, it's unlikely that this policy change will happen in the immediate future. If the political landscape should change in 2016, this issue could become front and center.

Contact Us

2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201
703-525-4000 fax 703-525-2207
www.beankinney.com

This newsletter was prepared by Bean, Kinney & Korman, P.C. as a service to clients and friends of the firm. It is not intended as a source of specific legal advice. This newsletter may be considered attorney advertising under the rules of some states. Prior results described in this newsletter cannot and do not guarantee or predict a similar outcome with respect to any future matter that we or any lawyer may be retained to handle. Case results depend on a variety of factors unique to each case. © Bean, Kinney & Korman, P.C. 2015.