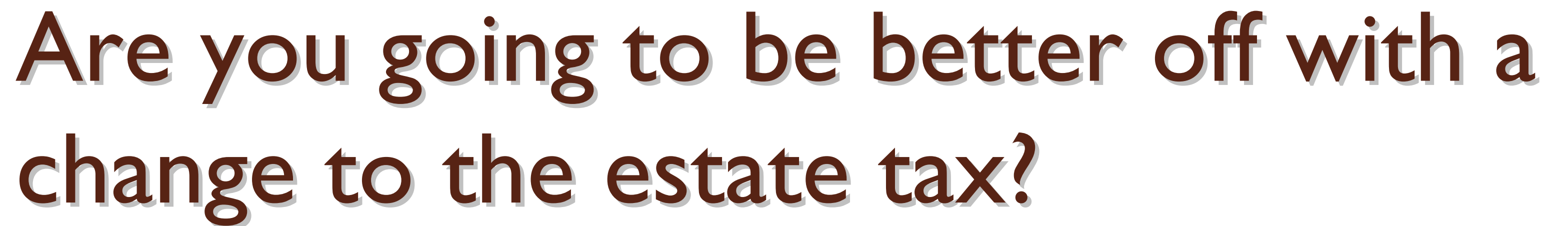
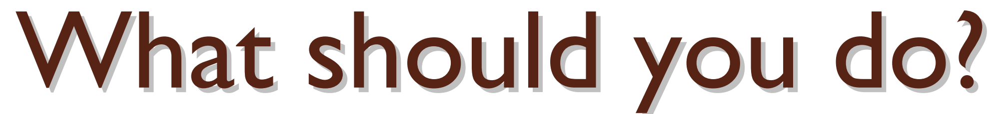
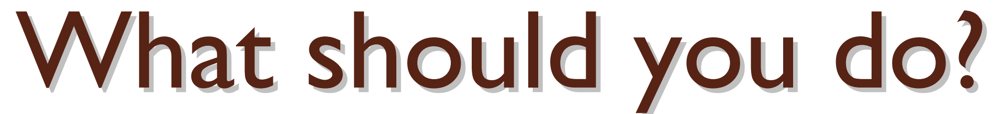


- Yes, unless you planned to die in 2010 and were worth more than $7 million
- Without the change
  - $1,000,000 applicable exclusion amount
  - 55% tax rate
    - 60% for amounts between $10,000,000 and $17,184,000
- With the change
  - $3,500,000 applicable exclusion amount
  - 45% tax rate

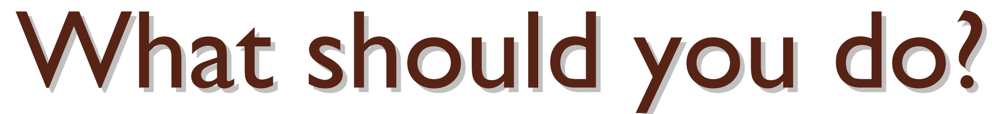
- Make estate, gift and GST taxes permanent
- Reunify the gift and estate tax
- $3,500,000 applicable exclusion amount
- 45% tax rate
- Increase the 2032A valuation reduction to $3,500,000
- Make unused AEA of the first spouse to die available to the second spouse



- Everyone
  - Distribution plan in a will or trust
  - Advance Directive
  - Power of Attorney if you use a will
  - You should not make any taxable transfers
    - Gifts to children who are not minors or in college are taxable transfers
      - You can make unlimited gifts for tuition and medical expenses
      - The annual exclusion amount is currently $13,000
      - You can also transfer up to $1,000,000 during life, but that uses your applicable exclusion amount and requires the filing of a gift tax return

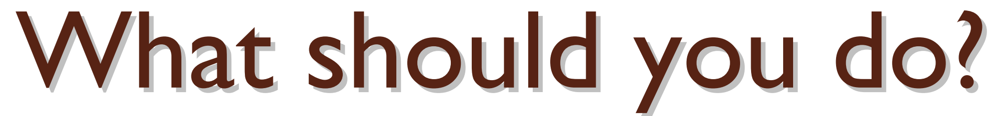


- Net worth greater than $1,000,000
  - Need to review your distribution plan which may put the AEA in a credit shelter trust
    - Typical plan for a taxable estate is to put the maximum amount that can be transferred with a tax liability (AEA) in a credit shelter trust and the remainder in a marital deduction trust (unlimited marital deduction)



What should you do?

- If you have charitable intentions
  - Transfers during life generate an income tax deduction, but bequests in a will do not
  - A charitable remainder trust allows you to set up your own retirement plan
    - A 65-year old couple could establish a CRAT with $1,000,000 which would pay an annuity of $60,000 for the remainder of their lives. They would get a current income tax deduction of $109,175 and if the principal grew at 5% the charity would receive $614,948 at the end of their joint lives, 22.4 years later
    - Tax-free sale of appreciated assets
    - You are the trustee and manage the assets during your life
    - You can change the charity during the term of the trust
    - The assets are not available for future generations



- If you are worth more than $7,000,000
  - Gift your annual exclusion amount each year
    - $13,000 may not sound like much, but if you and your spouse have 3 married children and 5 grandchildren, you can transfer $286,000 per year
  - Don't make taxable transfers, but the applicable exclusion amount for gifts is $1,000,000
    - You should make split-interest or discounted transfers, not an outright transfer of $1,000,000
    - Discounted transfers would be interests in a business entity
      - You should use an LLC or FLP
    - Split interest transfers refer to QPRT's, GRAT's and CRAT's

Current interest rates favor GRAT's

- Grantor retained annuity trust
  - There are zero-gift GRAT's
    - A 15-year GRAT funded with $1,000,000 and paying an annuity of $81,362 with the current 7520 rate of 2.6% creates no gift
    - If the assets average 6% growth for the 15 years, the remainder interest for your children will be $502,786 tax-free dollars
    - If the assets average 5%, then $323,260; and if only 4%, then $171,791

- Congress will probably enact some type of legislation this year and the estate tax will not disappear in 2010
- If you make a taxable transfer this year you will probably be wasting your money
- After the legislation passes follow the news to determine whether you need to visit your tax professional