

# Tax Reform Proposals Target Exemption, Grantor Trusts and Discounts

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The House Ways and Means Committee recently released its proposed tax reform provisions, suggesting the [possibility of extensive changes to current rules](#).

From an estate and gift tax standpoint, it's important to be aware of the following proposals, none of which are final:

- The estate, gift, and generation skipping transfer tax exemption would return to \$5 million per person indexed for inflation (estimated to be \$6.02 million for 2022), down from the current level of \$11.7 million per person. This would be effective for estates of decedents dying and gifts made **after December 31, 2021**.
- Certain trusts are deemed to be owned by the creator (or, in certain circumstances, a beneficiary) for income tax purposes. These trusts are called grantor trusts. Under the proposals, grantor trusts would be **includable** in the deemed owner's gross estate. Additionally, a transfer to a grantor trust by the deemed owner of that trust in exchange for consideration would be treated as a sale (which might give rise to gain recognition). These provisions would be effective for trusts created on or after the **date of enactment** of the legislation and for transfers to a grantor trust made on or after the **date of enactment**.
- Modifications to valuation rules would take away minority interest and marketability discounts on passive assets. This would be effective on the **date of enactment**.

These provisions are scheduled for markup by the Ways and Means Committee and would proceed through the legislative process from there. It is worth noting that an Estimated Budgetary Effects study produced by the Joint Committee on Taxation assumes a date of enactment of **October 1, 2021**.

How the above provisions fair in the markup process and what the Senate Finance Committee will do is anyone's guess. That said, the grantor trust proposals outlined above, if enacted without change, would take many types of traditional spousal limited access trusts (SLATs), as well as sales to grantor trusts off the table starting with the date of enactment. Thus, it is worthwhile to consider finalizing and funding any SLATs and sales to grantor trusts in the near future, perhaps even before the assumed enactment date of October 1.

The fact that we finally have concrete, legislative proposals is important, and it is worth noting that the proposals do not introduce retroactivity in the exemption decrease, nor in the grantor trust rule changes. Anything can change as the proposals work their way through the legislative process, but the proposals are, if nothing else, a starting point for planning and analysis.

If you have any questions about these proposals or how they could affect your planning, please contact me or any

member of the Barley Snyder Trusts & Estates Practice Group.

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