



# SUCCESSION PLANNING DURING THE CORONAVIRUS PANDEMIC

AUGUST 3, 2020

# SPEAKERS

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# AGENDA

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- About UHY
- About Merrill Lynch
- Tax positions
- How will the current market affect the value placed on my company?
- How does reduction in value of my company impact my estate planning?
- Using the increased exemption
- Implementation
- Practical considerations

# ABOUT UHY

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- National firm with 21 offices nationwide
- Services
  - Audit & Assurance
  - Tax
  - Consulting
  - Advisory – including valuation services

# ABOUT MERRILL LYNCH

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- Global wealth and investment advisory firm
- Maryland-based advisory team, concentrating on private business owners
- Services
  - Financial planning across your entire net worth
  - Estate Strategies and trust implementation
  - Investment management
  - Lending and banking solutions
  - Family “CFO” level relationship

# MERRILL LYNCH 2020 TAX POSITIONS

	 <p><b>Donald J. Trump</b> and current 2020 tax status</p>	 <p><b>Joseph Biden</b></p>
<b>Income</b>	<p><b>Current law:</b> Seven brackets with a top rate of 37%. Long term capital gains rate of 20% for singles with taxable income over \$441,450 (couples \$496,600); 37% if asset held one year or less. 3.8% surtax on net investment income if "modified" AGI above \$200,000 (couples \$250,000). Most miscellaneous itemized deductions are suspended through 2025. Personal exemptions are eliminated through 2025 and an enhanced standard deduction is put in place.</p> <p><b>Trump:</b> Informally supports a "Tax Cut 2.0" plan that would reduce middle class tax rates and make the 2017 tax changes (the Tax Cuts and Jobs Act) permanent for individual taxpayers. Currently individual tax rates and changes expire at the end of 2025.</p>	<p>Raise top individual tax rate from 37% to 39.6%, generally for those making over \$400,000.</p> <p>Increase top long term capital gain and qualified dividend tax rate to 43.4% (ordinary income tax rate plus Obamacare surtax) for income above \$1 million.</p> <p>Cap the tax benefit of itemized deductions at 28% for taxpayers with rates higher than 28%. Restore PEASE limitation on itemized deductions (which phases out itemized deductions) for taxpayers with income over \$400,000.</p> <p>Other: phase out qualified business income deduction for taxpayers with income over \$400,000; expand earned income tax credits; \$8,000 tax credit for childcare; equalize tax benefits for defined contribution retirement plans; close real estate tax loopholes, without specifics.<sup>1</sup></p>
<b>Estate</b>	<p><b>Current law:</b> \$11,580,000 gift/estate and generation-skipping exemption and tax rate of 40%. Estate-included assets generally receive a step-up in basis to date of death values. In 2026 and after, exemptions return to \$5 million, adjusted for inflation (estimated to be approximately \$6.5 million in 2026).</p>	<p>Eliminate step-up in basis on estate-included assets (currently most assets included in a decedent's estate are stepped-up to date of death values). Currently unclear if such a change would result in (i) a capital gains tax imposed at death or (ii) require the beneficiaries to take the decedent's tax basis for inherited assets.<sup>1</sup></p>
<b>Social Security</b>	<p><b>Current law:</b> 6.2% (employee's share) up to maximum wage base (\$137,700); employer pays a similar share. 1.45% Medicare tax full wage base (no cap) and a surtax of 0.9% on wages above \$200,000 (couples \$250,000).</p>	<p>12.4% social security payroll tax on wage income over \$400,000 (currently capped at \$137,700). Tax would be split between employer and employee. Would result in no social security payroll taxes on income between \$137,700 and \$400,000. No proposed changes to Medicare taxes.</p>
<b>Corporate</b>	<p><b>Current law:</b> Top rate of 21% on domestic income. 10.5% minimum tax on global intangible low-tax income (GILTI). No corporate alternative minimum tax.</p>	<p>Repeal 2017 corporate tax rate (21%) and raise corporate tax rate to 28%.<sup>1</sup> Impose 15% minimum corporate tax (a so-called minimum book tax) for companies reporting a net income over \$100 million.</p> <p>Impose a 21% GILTI (global intangible low-tax income) rate on foreign profits (up from current 10.5% rate).</p>
<b>Source/ Notes</b>	<p>Tax Cuts and Jobs Act of 2017; Internal Revenue Code.</p>	<p>Tax Notes, May 6, 2019; The Hill, July 15, 2019; Scranton, PA speech (Oct. 23, 2019); Bloomberg Tax (Dec. 4, 2019); The Center for Retirement Research at Boston College (Feb. 17, 2020); Tax Foundation, April 29, 2020). Biden's tax plan is estimated to raise an additional \$3.8 trillion over next decade (source: Tax Foundation, April 29, 2020)</p>

# HOW WILL THE CURRENT MARKET AFFECT THE VALUE PLACED ON MY COMPANY?

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Key considerations impacting value:

- Uncertainty of economic recovery
- Willingness of buyers and sellers to transact
- Market volatility not a good gauge for private company value
- Highly dependent on industry
- Now more dependent on company specific risk factors

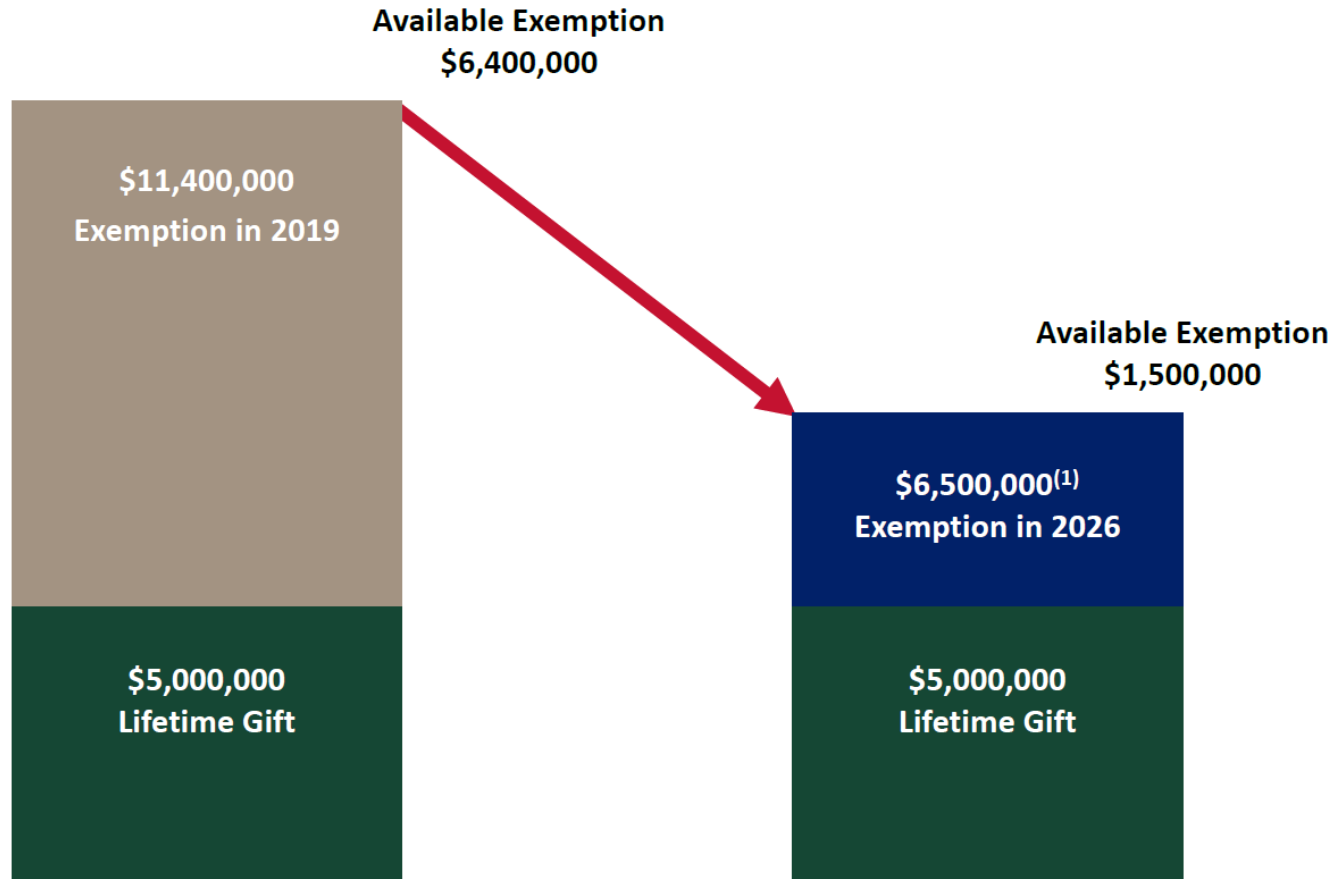
# HOW DOES REDUCTION IN VALUE OF MY COMPANY IMPACT MY ESTATE PLANNING?

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- The current election and the current estate tax exemption
- Future transfers may be subject to a much lower exemption
- Properly structured current gifts to family members, which take advantage of lower valuations
- Families can pass a greater share of their business tax free



# USING THE INCREASED EXEMPTION



(1) Under PL 115-97, the basic exemption amount will revert back to \$5 million in 2026 but that exemption will be indexed for inflation. For purposes of this update, the basic exemption amount is estimated to be \$6.5 million in 2026.

# IMPLEMENTATION

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- Merrill Lynch and US Trust Company
- Delaware Trust Company
- Concentrated positions and trust platform limitations
- Dynasty trusts
- GRATs

# PRACTICAL CONSIDERATIONS

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- How much of the business do I gift?
- Will I still have enough to live off if I give away a portion of my business?
- How do I explore if this is right for my business and family?
- What do I do next?

# QUESTIONS

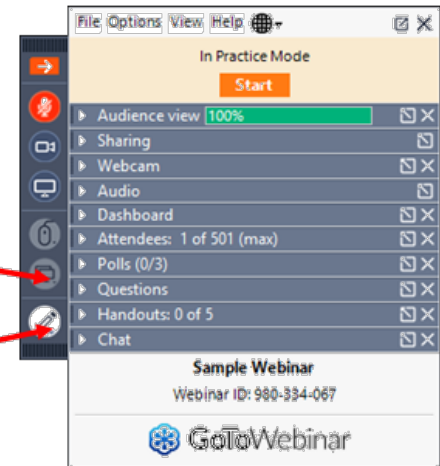
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QUESTIONS

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# CONTACTS, SURVEY, AND THANK YOU

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