

Ask a Trust Officer: “Carryover Basis”

With the suspension of the federal estate tax for 2010 has come a change in the tax rule about stepping up the income tax basis of inherited assets to their fair market value. Instead, the tax basis may be “carried over” from the decedent. As a practical matter, this means that many heirs will owe a capital gains tax when they sell inherited assets, a tax that would not have applied under the former rule.

Some tax experts have estimated that 5,500 estates would have been subject to the federal estate tax in 2010 if the exemption had been set at \$3.5 million, as it was in 2009. They also estimate that ten times more estates, some 70,000, will be exposed to capital gains taxes under the carryover basis rules. Smaller estates will be protected by an option given to the executor to allocate \$1.3 million in basis step-ups among estate assets. An additional \$3 million in step-ups may be assigned to assets received by a surviving spouse.

So if yours is a larger estate that includes appreciated assets, then yes, you do need to know about carryover basis, and you may want to plan for it.

On the other hand, the rule already is scheduled to expire at the end of the year. What’s more, there has been talk of restoring the estate tax for 2010, perhaps doing so retroactively to January 1. The constitutionality of retroactivity is not free from doubt. If the estate tax is restored, most observers expect carryover basis to be repealed. Given this uncertainty, we’ve heard that many taxpayers have chosen a “wait and see” attitude. Check with your tax advisors to learn more about how the rules may affect you.

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