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January 2011

Five Hot Topics in 2011

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a good idea?

Five Hot Topics in 2011



Roth conversions, mortgages, and health-care reform were a few of the most talked about topics in 2010. Here's a look at five topics you're bound to hear about in 2011.

Social Security: saving the system

How to strengthen Social Security has been a political hot potato for many years, but calls for reform are growing louder as the time when program costs will permanently exceed tax revenues draws closer. The most recent annual report from the Social Security Board of Trustees projects that this will occur in 2015 (one year earlier than last year's report predicted) and notes that trust funds will be exhausted in 2037. Social Security is the most common source of income for retirees, and debate over how to save it will rage in 2011.

Microlending: small loans count

Microlending--the practice of extending small loans to individuals and businesses who otherwise could not borrow money--has traditionally targeted entrepreneurs in developing countries. But as the credit crunch prevents many Americans from borrowing money through traditional channels, more are turning to microlending sites and companies to obtain funds. And more investors are offering to make microloans in return for the potential to earn somewhat higher returns than a savings account can offer. Until the economy improves, look for this trend to continue.

Microlending recently got a boost from the Small Business Jobs Act, passed in September, that expanded the Small Business Administration's microlending program. Funding for the program was increased, and business owners may now be able to borrow up to \$50,000 (previously, the limit was \$35,000) to use for working capital or other needs.

Education: expanding opportunities

Education-related debates will certainly heat up in 2011. The current administration is committed to reforming primary and secondary education and has drawn up a blueprint for overhauling the Elementary and Secondary

Education Act. This Act (currently known as No Child Left Behind) is long overdue for reauthorization, and Congress will likely be debating it in 2011.

In addition, much attention is being focused on ways to make college more accessible and affordable. One initiative funded by the Bill and Melinda Gates Foundation awards grants to nonprofit and governmental institutions to develop effective online education opportunities. Currently the focus is on developing online courses and tools that can help more Americans attend college and prepare for careers, while saving students and schools money.

Energy: greener days ahead

"Going green" is a catchphrase that's likely to get even more press in 2011. One important green initiative currently pending in the Senate is the Homestar Act. This Act provides substantial rebates to homeowners who purchase and install energy-saving equipment or goods or who complete whole home retrofits.

Even the lowly lightbulb finally gets a makeover in 2011. The Federal Trade Commission is requiring that lightbulb packages carry labels that estimate yearly energy costs, the bulb's life span and light appearance, and brightness measured in lumens so that consumers can better compare new energy-efficient bulbs.

Wellness: saving lives and money

Look for employers to roll out, or expand, employee wellness programs this year in an effort to promote healthier living and curtail health insurance costs. The Health-Care Reform Act passed last year included funding for new wellness programs established by small employers, and makes it easier for all employers to offer substantial incentives to employees for participating. Also, new health insurance plans and many existing plans (including Medicare) must now fully cover preventive care services such as immunizations and screenings for certain health conditions.



For 2010 through 2012, there is an estate tax exemption equivalent amount of \$5 million (indexed for inflation in 2012), and the top estate tax rate is 35%.

You can also make federal tax-free gifts by paying for someone else's medical expenses or college tuition. Payments must be made directly to the medical care provider or educational institution, and other requirements may apply.

Estate Tax Update

Once again, Congress waited until the eleventh hour to extend, patch, and reinstate old tax laws, and once again, they made most changes temporary (generally, for two years). The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the 2010 Tax Act), signed into law on December 17, 2010, dramatically changes the federal transfer tax landscape. The biggest news: the estate and generation-skipping transfer (GST) taxes have been reinstated for 2010. And, to the delight of some and great disappointment of others, for 2010 through 2012, the estate tax exemption equivalent amount is increased to \$5 million (indexed for inflation in 2012), and the top estate tax rate is set at 35%. Here is a brief summary of all the changes.

For 2010

For 2010, the federal gift tax is unchanged by the 2010 Tax Act. The gift tax remains in force with an exemption equivalent amount (called the "applicable exclusion amount") of \$1 million and a top tax rate of 35% (also, remember that if you file as single, you can exclude gifts of up to \$13,000 per recipient, or if you're married and file jointly, you can exclude gifts of up to \$26,000 per recipient).

The estate tax has been reinstated for 2010, with a "basic" exclusion amount (the name has been changed from the "applicable" exclusion amount) of \$5 million. That translates into a tax credit of \$1,730,800. The top estate tax rate is 35%.

The 2010 Tax Act gives estates of decedents dying after December 31, 2009, and before January 1, 2011, the option to elect to apply (1) the reinstated estate tax with a step-up (or step-down) in basis, or (2) no estate tax with a modified carryover basis. The modified carryover basis allows an increase in basis of \$1.3 million, plus an additional \$3 million for property that passes to a surviving spouse.

The GST tax (a separate tax on assets transferred to grandchildren and lower generations) has also been reinstated, but at a rate of zero percent.

Note: *The 2010 Tax Act provides an extension of sorts to pay estate taxes for decedents dying after December 31, 2009, and before the date of enactment of the 2010 Tax Act. The due date for filing an estate tax return, paying estate taxes, or disclaiming an interest in property passing to a beneficiary from a decedent's estate is nine months after the date of enactment of the 2010 Tax Act.*

Note: *IRS Form 8939 is necessary to allocate*

the \$1.3 million basis adjustment allowed for any heirs and the additional \$3 million basis adjustment allowed for surviving spouses of decedents who die in 2010. Originally, the form was due on the same date as the decedent's final income tax return (April 18, 2011). The 2010 Tax Act also extends this deadline to nine months after the Act becomes effective.

For 2011 and 2012

For 2011 and 2012, the gift tax is reunited with the estate tax. There is a lifetime basic exclusion amount of \$5 million (which will be indexed for inflation in 2012). The top tax rate is 35% (for taxable gifts/estates in excess of \$500,000).

The basic exclusion amount is portable (new in 2011). That means a surviving spouse can use that portion of the exclusion that was left unused by a deceased spouse. This "deceased spousal unused exclusion amount" (DSUEA) is available only from the estate of a spouse who dies in 2011 or 2012. For gift tax purposes, the DSUEA is available for an unlimited number of deceased spouses. But there can be only one DSUEA at a time. For gift tax purposes, the DSUEA is determined on the last day of the year using the DSUEA of the last deceased spouse as of such date. For estate tax purposes, however, the DSUEA is available only from the last deceased spouse as of the date of death of the surviving spouse. Thus, the DSUEA can change if the surviving spouse remarries, and is then widowed for a second time.

Note: *An election is required on the estate of the first spouse to die in order to preserve the ability of the surviving spouse's estate to use the DSUEA.*

The GST tax rate for transfers made after 2010 is equal to the highest estate tax rate in effect for the year. The GST exemption for 2011 is \$5 million, which will be indexed for inflation for 2012.

Note: *The GST tax exemption is not portable.*

For 2013 and beyond

If there is no further legislation, the changes described above will sunset after 2012. The transfer tax rules that were in effect in 2000 will apply for 2013 and beyond. That means a gift and estate tax exemption equivalent amount of \$1 million and a top tax rate of 55%.



There may be substantial tax benefits for your adoption expenses, but you will need to substantiate the adoption and file paperwork.



State adoption assistance programs may be available, but reimbursed expenses do not qualify for the federal adoption expenses credit.

New Adoption Assistance Opportunities and Requirements

Congratulations! You've adopted a child. Your family is growing, and so are your expenses. Fortunately, the federal government offers some financial assistance.

If you adopt a child, you may be able to claim a tax credit for qualifying expenses you paid. Further, certain amounts reimbursed by your employer for qualifying adoption expenses may be excludable from your gross income.

Increased dollar amounts for 2010

If your employer has an adoption assistance plan, for each adoption you can exclude from income up to \$13,170 (in 2010) of adoption assistance paid by your employer or paid by you through salary reduction. For adoption expenses paid by you and for which this exclusion is not available, a tax credit is available for up to \$13,170 of adoption expenses per adoption. The \$13,170 amount is subject to phaseout and is reduced if you have modified adjusted gross income (MAGI) above \$182,520 and is fully phased out if you have MAGI of \$222,520 (in 2010). If you adopt a child with special needs, the \$13,170 amount (subject to phaseout) is available regardless of the amount of actual adoption expenses. The dollar limit is for aggregate expenses for all years with respect to an adoption. (Same rules and limits--adjusted for inflation--apply to adoptions in 2011.)

When to claim adoption expenses

Domestic adoptions: You generally claim the exclusion for qualified adoption expenses in the year your employer pays the qualifying expenses. For qualified adoption expenses you paid in a year before the adoption is final, you claim the credit in the year after you paid the expenses. You claim the credit for qualified adoption expenses you paid in the adoption year or a later year in the year you paid the expenses.

Foreign adoptions: You claim the exclusion or the credit for qualified adoption expenses you (or your employer) paid in a year before the adoption is final in the year the adoption is final. You claim the exclusion or the credit for qualified adoption expenses you (or your employer) paid in the adoption year or a later year in the year the expenses are paid.

Example: Veronica adopts a child in a domestic adoption that is final in 2010. Veronica paid qualified adoption expenses of \$1,000 in 2008, \$5,000 in 2010, and \$2,000 in 2011. Veronica can claim a credit for \$1,000 of qualified adoption expenses in 2009, \$5,000 in 2010, and \$2,000 in 2011.

Refundable credit in 2010

Starting in 2010, the adoption expenses credit is refundable. That is, if the credit exceeds the amount of income tax otherwise due, the excess is refundable to you.

Credits carried over to 2010

The adoption expenses credit was not refundable prior to 2010. As a result, you may have a credit from a prior year carried over to 2010. Such a credit is refundable in 2010. Furthermore, a credit carried over to 2010 is not subject to the phaseout income limitations in 2010.

Example: John and Mary adopted a child in 2009. They paid \$10,000 of qualified adoption expenses and claimed a \$10,000 adoption expense credit for 2009. Their income tax liability was \$6,000 before the adoption expense credit, so they could use only \$6,000 of the credit in 2009. John and Mary can carry forward \$4,000 of adoption expense credit from 2009.

In 2010, John and Mary's income tax liability before the adoption expense credit is \$3,000. John and Mary can offset their income tax liability with \$3,000 of the adoption expenses credit and receive a refund of the remaining \$1,000 of credit in 2010.

Substantiating the adoption

Starting with your 2010 tax return, you must substantiate the adoption or attempted adoption in order to claim the adoption expenses exclusion or credit. For a domestic or foreign adoption that has been finalized in the United States, you must attach a copy of an adoption order or decree to your federal income tax return. For a domestic adoption that is not final, you can use an adoption taxpayer identification number or attach various documents to your federal income tax return. If you claim adoption expenses under the special provision for a child with special needs, you must attach a copy of the state determination of special needs.

You must file paperwork

If you claim the adoption expenses exclusion or credit, you must send in a printed-out income tax form along with any substantiation documents--even if you file electronically.

Form 8839

For 2010, you claim the adoption expenses exclusion and credit on IRS Form 8839, Qualified Adoption Expenses.



Ask the Experts

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Is buying a condo for my college student a good idea?

When parents estimate the amount of money they'll be spending on dorm rooms and off-campus apartments for the next several years, it's easy to see why many parents like the idea of buying a condo for their college student. But, assuming your child is responsible enough to take care of such a property, whether it makes financial sense to do so depends on several factors.

Recouping costs: The costs of owning the condo, minus any rent paid by roommates, should be less than what you would pay for a dorm or apartment over the same time period. Costs may include a mortgage (including points and fees), property taxes, homeowners insurance, condo dues, and maintenance costs. And if your child plans on having roommates, you may want to add an umbrella liability policy to your homeowners insurance to protect you now that you're a landlord.

Will you come out ahead in the end? The rate of housing appreciation varies by geographic area, so research the location you're targeting. And don't forget to factor in a broker's

commission when you sell the property.

The right mortgage: For long-term real estate ownership, it often makes sense to choose the certainty of a fixed-rate mortgage. But for short-term real estate ownership, a three- or five-year adjustable-rate mortgage may make more financial sense because the lower initial interest rate translates into a lower monthly payment. But be aware that if housing prices drop before you can sell the property, you may end up owing more than the house is worth--a situation you want to avoid.

Tax benefits: You may be able to deduct mortgage interest and property taxes on a second property; however, the IRS limits the amount of itemized deductions high-income taxpayers can take. In addition, if rent is collected, rental property rules will apply: rent you receive will be considered income, and you'll be entitled to claim some expenses as business deductions. But second homes and rental property aren't eligible for the \$250,000 per person exclusion that you get when you sell your primary residence. To learn more, consult a tax professional.



I plan to buy my child a condo for off-campus college housing. Is this purchase considered a qualified 529 plan expense?

Money withdrawn from a 529 plan to pay the beneficiary's qualified higher education expenses is tax free at the federal level (and typically at the state level too). Unfortunately, the purchase price of your child's condo is not a qualified higher education expense for 529 plans under IRS rules. But a room-and-board allowance may be.

IRS Publication 970, *Tax Benefits for Education*, spells out the rules for counting your child's room-and-board costs as qualified higher education expenses under your 529 plan. (Publication 970 refers to a 529 plan as a "qualified tuition program" or QTP.)

First, the student needs to be enrolled at college at least half-time.

Next, for students who live on campus, the room-and-board allowance figure is equal to the actual amount charged by the college.

For students who live off campus, the amount of room-and-board expenses that you can

safely withdraw tax free from your 529 plan is equal to the "allowance" figure that the college determines for off-campus housing.

This room-and-board allowance figure is the one included in the official cost of attendance for your child's school and used for purposes of awarding federal financial aid. If you can't find this figure in the college's literature or website, call the bursar's office to determine the current qualified room-and-board costs for off-campus housing. The allowance for off-campus housing will not be greater than the amount for on-campus housing.

Before you buy your child a condo for college housing, make sure you understand the potential risks involved in such a transaction. Be careful not to overestimate your possible savings or the potential appreciation of the property, especially considering today's real estate market. And don't forget to objectively evaluate your child's ability to responsibly care for the property and act as landlord if roommates will be in the picture.

