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Don't miss the boat on estate tax break

The IRS is throwing a lifeline to taxpayers who missed an important deadline for estate tax purposes.

Strategy: Elect to have the “portability” provision apply to estates of taxpayers who have passed away in the previous three tax years. Normally, this special tax treatment would be available only if a timely federal estate tax return had been filed.

But the window on this tax-saving opportunity is closing fast. You only have until Dec. 31, 2014, to make the last-chance election *(IRS Revenue Procedure 2014-18).*

Here’s the whole story: After a series of twists and turns, the American Taxpayer Relief Act of 2012 (ATRA) made several federal estate tax provisions permanent. Notably, it established a $5 million estate tax exemption for each taxpayer, subject to indexing. The exemption of $5.34 million for 2014 increases to $5.43 million in 2015.

ATRA also preserved the portability provision. *How it works:* A surviving spouse can elect to use any unused portion of the exemption of the estate of the deceased spouse. Thus, a couple can effectively shield upward of $10 million in assets, regardless of which spouse dies first.

Suppose the older spouse dies and the unused portion of the estate tax exemption is $2 million. If the younger spouse then dies in 2015, his or her estate can benefit from a total exemption of $7.43 million ($2 million of unused exemption + $5.43 million).

Under the new IRS Rev. Proc., the portability election can still be made for an estate of a spouse who died in an open tax year. This includes estates of spouses dying in 2011, 2012 or 2013.

Tip: Consider the potential impact of state death taxes as well.

7600 Leesburg Pike, Suite 300, Falls Church, VA 22043-2004 (800) 543-2002