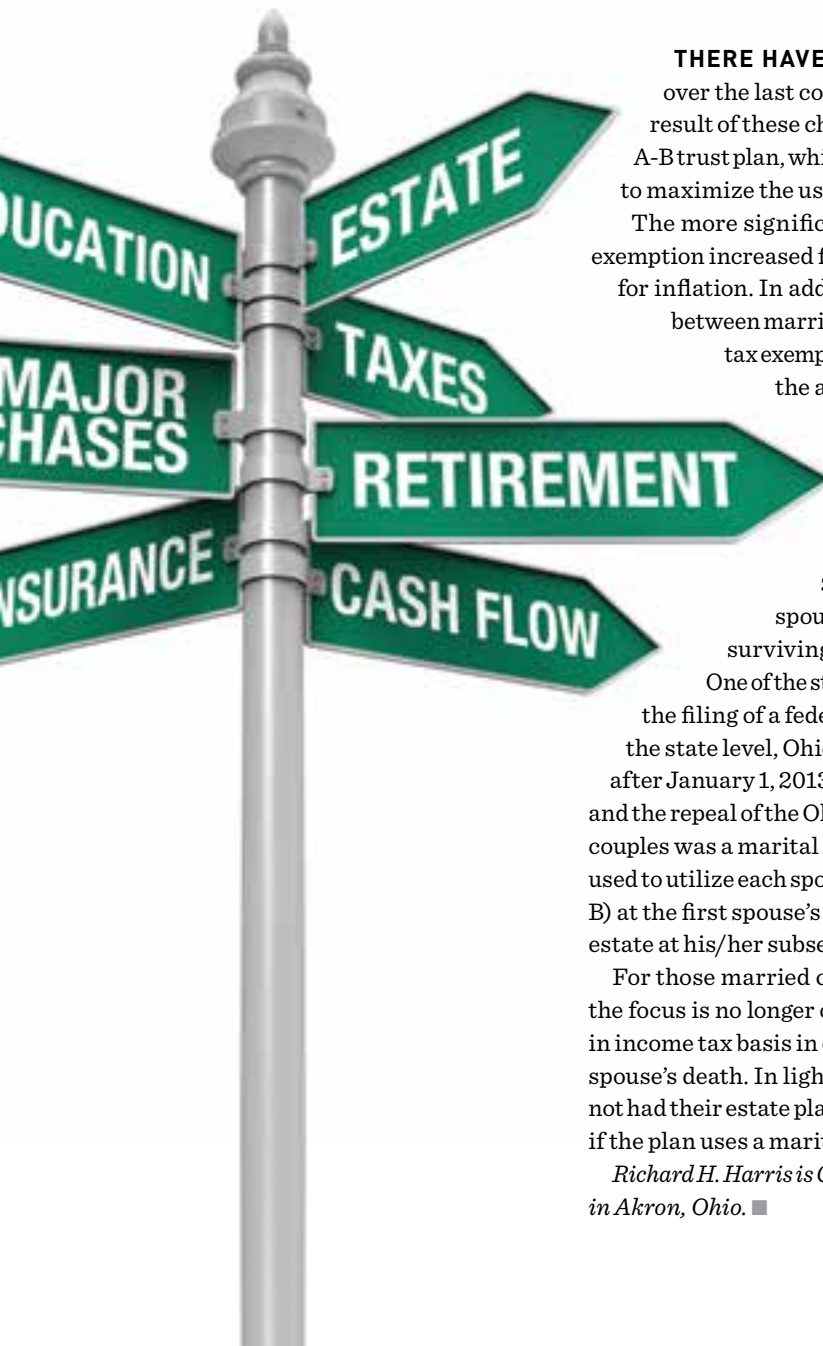




BY RICHARD H. HARRIS

Have You Had Your Estate Plan Recently Revisited?



THERE HAVE BEEN a number of changes made in federal estate tax laws over the last couple of years which have been favorable to the taxpayer. As a result of these changes, many taxpayers may not need the traditional marital A-B trust plan, which was a plan commonly used by estate planning practitioners to maximize the use of each spouse's estate tax exemption.

The more significant changes occurred in 2011, when the federal estate tax exemption increased from \$3.5 million to \$5.0 million with the exemption indexed for inflation. In addition, the concept of portability of the estate tax exemption between married couples was introduced. For the year 2017, the federal estate tax exemption is now \$5.49 million. In simplified terms, portability allows the amount of federal estate tax exemption that is not used in the first spouse's estate to be transferred to the surviving spouse's exemption, such that the surviving spouse's estate can use the deceased spouse's unused exemption plus his or her own exemption when the second spouse dies.

Thus, the surviving spouse's estate could have as much as \$10,980,000 in federal estate tax exemption (assuming both spouses' deaths occurred in 2017) that could be used to shield the surviving spouse's estate from federal estate tax liability.

One of the stringent requirements for making a portability election requires the filing of a federal estate tax return in the first deceased spouse's estate. At the state level, Ohio repealed the Ohio estate tax for all residents who died on or after January 1, 2013. Before the increase in the federal estate tax exemption rates and the repeal of the Ohio estate tax, the commonly executed estate plan for married couples was a marital A/B trust format. These marital A/B trust estate plans were used to utilize each spouse's estate tax exemption by carving out a family trust (Trust B) at the first spouse's death which would not be included in the surviving spouse's estate at his/her subsequent death.

For those married couples whose combined estates are well under \$11 million, the focus is no longer on reducing estate tax but is, instead, on obtaining a step-up in income tax basis in one's assets at the first spouse's death as well as at the second spouse's death. In light of these recent tax law changes, married couples who have not had their estate plan recently reviewed should now have it looked at, particularly if the plan uses a marital A-B trust arrangement.

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