

Wills, Trusts & Estates

What future holds for wealth, inheritance tax measures

By Margaret O'Sullivan



(October 26, 2021, 9:51 AM EDT) -- It is likely an understatement that worldwide there is a sense of trepidation among taxpayers on what measures governments will take to raise tax revenues to pay for the pandemic, and as well to respond to increasing wealth inequality, which the pandemic has exacerbated.

A brief survey of what governments are doing provides context, including in the Canadian setting with regard to what our newly re-elected Liberal minority government may do.

South of the border, there are a raft of proposals aimed in particular at the wealthy tabled by the Biden administration and those currently under review by Congress, and it remains to be seen what will pass into law. The House Ways and Means Committee recently approved tax provisions which include among others:

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- increasing from 37 per cent to 39.6 per cent the top income tax rate paid for U.S. persons whose worldwide annual income is more than \$400,000 (all figures in U.S. dollars) and a surtax of three per cent on taxable income over \$5 million;
 - increasing from 20 per cent to 25 per cent the top capital gains rate for those with an annual income of more than \$500,000;
 - taxing capital gains when assets are transferred from certain trusts and curtailing many common tax planning strategies using trusts for tax minimization in estate planning; and
 - decreasing the U.S. estate tax exemption from \$11.7 million to the base established in 2010 of \$5 million, which indexed for inflation would bring it to approximately \$6.020 million for 2022.

The idea of a wealth tax given the present state of uncertainty south of the border should still be considered a possibility although it has not taken hold in the current proposals. A number of other countries have now imposed one or are considering doing so. For example, Singapore is considering how to expand its wealth tax system in order to meet the challenges of inequality and climate change in the face of a rapidly aging population which it is concerned will increase income inequality.

In 2018, the Organisation for Economic Co-operation and Development (OECD) published an extensive report titled *The Role and Design of Net Wealth Taxes in the OECD* in which it acknowledged that there is evidence of increasing wealth inequality and a strong case for addressing it through the tax system. However, it concluded that there are limited arguments for having a wealth tax where a country already has broad-based personal income taxes and well-designed inheritance and gift taxes, but there are strong arguments for having a wealth tax in the absence of such taxes.

More recently, on May 11, 2021, the OECD released a report titled *Inheritance Taxation in OECD Countries* which found strong fairness arguments for an inheritance tax levied on the value of assets a beneficiary receives in order to address increasing wealth inequality over the next decade.

Closer to home, what is the forecast for what the government will do in the area of personal tax and will it set out future directions in the Speech from the Throne scheduled for Nov. 22, 2021, when Parliament finally returns?

Part of the Liberal election platform was a minimum 15 per cent tax on high-earners which it stated is in order to remove the ability to artificially pay little or no tax through the excessive use of credits and deductions, as well as a proposed luxury tax on vehicles and boats.

Will there be proposals to increase taxes or even possibly introduce a wealth tax or an inheritance tax?

The jury is out, but the support of the NDP may be critical to passing legislation which could impact tax proposals, and the NDP in its election platform advocated higher tax rates, a wealth tax and increasing the inclusion rate for capital gains from 50 per cent to 75 per cent. The need for the support of the NDP in the House could tilt tax measures in this direction.

U.S. and worldwide initiatives, however, could significantly also impact Canadian tax policy and its future direction, which cannot be seen in isolation, as much of the world contends with similar issues and joins in the growing global conversation coming out of the pandemic.

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