Funding the Cure While the Tax Laws are Unsure

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Congress left the estate tax law in a state of confusion at the end of 2009. But regardless of tax law status, The Michael J. Fox Foundation's mission to find a cure for PD — and the need for your help to fund the cure — remains pressing. A quick overview of the tax situation will be followed by some suggestions about how you can continue to fund the cure during uncertain times.

Estate Tax Repeal

The estate tax was repealed at the end of 2009. This came as a surprise to tax experts, who expected Congress to continue the $3.5 million exclusion (how much you can bequeath without a tax) and 45-percent rate from 2009 into 2010 while debating the future of the tax. In 2011 the exclusion drops to $1 million and the tax rate increases to 55 percent. Tax advisers expect Congress to reinstate the estate tax in a form similar to the 2009 rules (it is uncertain if this will be retroactive). But, since all the experts were wrong on what already happened, plan flexibly and cautiously.

2010 Rules

The estate tax is gone (perhaps temporarily), but the gift tax remains. If you make large gifts to children or other heirs, a 35-percent tax can be assessed once you've used up your available exclusions. In place of the estate tax is a complex new tax regime called "carryover basis." When you die, your heirs will generally have the same tax basis (cost) that you had for any asset they inherit from you. This means a potentially greater capital gains tax when they sell.

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The bottom line: Giving remains vital. The uncertainty means you will likely need to spend more time consulting with your advisors and planning your gifts. The only thing certain is change. Here are some tools you might want to review with your tax team:

- **Charitable Lead Trusts (CLTs)** — With interest rates still at historic lows, now is perhaps an ideal time to use such a trust to benefit MJFF and your heirs. You make a gift of assets to a trust that pays MJFF an annuity for the number of years you specify. At the end of the trust, your children receive the remaining assets. If you act quickly and before Congress rules on the fate of the estate tax, this could be a valuable opportunity to benefit grandchildren.

- **Charitable Remainder Trusts (CRTs)** — This traditional tax technique remains a great concept. The beginnings of recovery may have left you with appreciated stock. Pick off the gainers each year and donate them to MJFF to garner the greatest tax benefit. If you feel you might need some cash flow from these securities, instead of donating all appreciated positions outright, use some to establish a CRT. You can receive an annuity for life and the remainder inures to the benefit of MJFF on your demise.

- **Charitable Bailout** — For those planning to sell a business, the charitable bailout (a specialized form of charitable remainder trust, or CRT) has been an old standby in the planning toolkit. You donate appreciated stock in your business to a CRT. You receive a charitable contribution deduction for the present value of the business interest donated. When the business is eventually sold, the CRT sells the stock it holds and you avoid capital gains tax.

The income, estate and GST (generation-skipping transfer tax — a tax on transfers to grandchildren and later generations) rules remain uncertain. Planning techniques will continue to evolve as the tax landscape changes. But it's clear that great opportunities abound to fund the cure by supporting MJFF while maximizing the tax benefits to you and your heirs. Consult with your entire advisory team to be sure your donations are optimally structured for your goals.

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