

## What's up in Washington?

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On April 16 the United States House of Representatives passed, by a vote of 242 to 179 House Resolution 1105 entitled “Death Tax Repeal Act of 2015”. The vote was largely along party lines, and the resolution proposes the repeal of the estate tax and generation-skipping transfer tax, while retaining the gift tax. Under this resolution, gift tax would be imposed at a maximum rate of 35% on lifetime gifts exceeding \$5,000,000, adjusted for inflation after the year 2011. The Senate is currently considering similar legislation. The White House has indicated that it would veto this bill as it is projected to add \$269 Billion to the deficit over ten years without any reduction in spending.

It is interesting to note that House Resolution 1105 contains no provision for “carry over basis” and retains the stepped up basis rules that exempt capital gains on assets held until death from income taxes. It seems as if there just isn't a Congressional Session without an attempt to repeal or modify the estate tax and this year appears to be no different. As both the Senate and House Resolutions are considered and perhaps presented to the President, it bears watching.

Even the third branch of government, the Supreme Court, will be dealing with issues that could greatly affect estate planners everywhere. Oral arguments are scheduled in *Obergefell vs. Hodges* and three related cases on April 28, 2015. The issue is whether due process and equal protection, under the Constitution are available for persons of the same sex wishing to marry. The Constitutional protection would override the rights of states to govern marriages within their borders. This case, arising out of the Sixth Circuit, is the

from the only appellate circuit thus far to deny marriage rights to persons of the same sex following the Supreme Court's decision in *Windsor v. U.S.*, an estate tax refund case. The implications for the marital deduction for gift and estate taxes, as well as joint income tax filings and other tax benefits (including spousal protection under *ERISA*) will have repercussions for estate planners throughout the country. It appears that all three branches of the federal government are simultaneously involved in issues that will have great import to planning decisions in the future.

As they say on television – “Stay tuned”.

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