

## More on Taxing Unrealized Appreciation at Death

July 22, 2021

2021-3

After 2021-2 was posted to our website, another article on the subject was published by Lee Sheppard. *Woke Wealth Taxation*, Tax Notes Federal, July 19, 2021, p. 357. It discusses the Administration proposal in detail and, in doing so, uses the case of an owner of a "self-developed plumbing business held in an S corporation" who dies and concludes that the rate of taxation at his death would be about two-thirds of the value of the business. The article is critical of a rule taxing built-in capital gains on assets held by trusts, partnerships and other noncorporate entities which is described as being "bizarre" and "an effort to squeeze every dram of gain out of the system. The idea is to tax unrealized gain taxed once a generation whether anyone has died or not." The article also provided an interesting fact when it said:

The Congressional Research Service says having a \$1 million exclusion reduces the potential revenue available from taxing gains at death by 45 percent.

\* \* \*

---

**Practical Drafting®** is published by Carter Ledyard & Milburn LLP. It is intended to provide information and guidance with respect to specific topics of interest to trust and estate lawyers and other professionals practicing in the field. It is not intended to provide individualized legal or other professional advice, and should not be used as a substitute therefor. Neither the authors, the editorial staff nor the publisher of **Practical Drafting®** assumes any liability for the accuracy of its contents.

The statements in this issue cannot be used by any taxpayer to avoid tax penalties. The previous sentence is inserted pursuant to U.S. Treasury Regulations governing tax practice.

**Practical Drafting®** may not be reproduced without the express permission of the publisher. For questions regarding subscriptions, please contact us at [practicaldrafting@clm.com](mailto:practicaldrafting@clm.com).

### related professionals

Jerome J. Caulfield / Partner

D 212 238-8809

[caulfield@clm.com](mailto:caulfield@clm.com)

---