

Information Regarding 2010 TAX RELIEF ACT

New Law:

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (“2010 Tax Relief Act”) was signed into law on December 17, 2010. The federal estate tax, which had disappeared for 2010, has reappeared for 2011 and 2012. **Please Note: This new law is set to expire on December 31, 2012; so, if Congress doesn’t act before then, the estate tax exemption will revert to \$1 million and the rate will increase to 55% from the current 35%.** The following is a brief overview of the new law.

What does this mean to you?

Although it is difficult to address all circumstances, we believe the following information will address the implications of this law for the vast majority of our clients:

1. **Estate Tax.** The new law brings back the estate tax for 2011 and 2012. During 2011 and 2012, the top rate will be 35%. For 2011, the exemption amount will be \$5 million dollars per individual (indexed for inflation after 2011). If your estate (or the combined estate for a husband and wife) does not exceed \$5 million, there will be no estate tax on your estate so long as the exemption remains at \$5 million.
2. **Gift Tax.** Under the new law, the estate and gift tax exemptions will be reunified starting in 2011, which means that the \$5 million exemption will also be available for gifts made after December 31, 2010. The prior law only provided a \$1 million lifetime exemption for gifts. The gift tax rate, starting in 2011, will be 35%. (Please note that these exemptions are not separate, and if you utilize the gift tax exemption by making lifetime gifts, that you will REDUCE the estate tax exemption available at your death.)
3. **GST Tax.** The exemption from the generation-skipping tax (GST) - the additional tax on gifts and bequests to grandchildren when their parents are still alive - will also rise to \$5 million from the \$1 million it would have been without the new law. The GST tax rate for transfers made in 2011 and 2012 will be 35%.
4. **Cost Basis.** The assets of decedents dying in 2011 or 2012 will receive a “step-up” in basis for capital gains purposes. That is, the cost basis of their assets will be the current market value upon date of death (this was the law prior to 2010).
5. **Portability.** The new law makes it easier to transfer the \$5 million exemption to a surviving spouse, so married couples can shield \$10 million of their assets from estate taxes. In the language of tax professionals, the estate tax exemption will be “portable.”

Practically speaking, it is difficult to evaluate the urgency of any changes to your existing estate plan. However, the new law may provide some opportunities for clients. We feel it is best for us to give you the information, and you can decide if you wish to visit with us regarding taking any action. We welcome your questions and will be happy to discuss alternatives with you.