



TAX ALERT

GIFT TAX \$5 MILLION EXEMPTION

On December 17, 2010, the President signed a sweeping tax bill that extends many of the so-called Bush tax cuts through December 31, 2012. Included in this legislation were several significant and extremely beneficial estate and gift tax provisions.

This new estate tax law has four significant provisions which:

- Increase the estate and gift tax exemption to \$5 million;
- Unify gift tax, estate tax, and generation-skipping transfer (GST) tax;
- Establish a 35% tax rate for value above the \$5 million exemption; and
- Introduce portability of exemptions between spouses.

The big news in this legislation is not the \$5 million estate-tax exemption – though that number is significantly higher than most planners expected – it is the \$5 million lifetime gift-tax exclusion. This is an historic high and it provides many extraordinary opportunities for planning. Further, the tax on gifts in excess of \$5 million is reduced to 35%.

To put this increase in perspective, consider – historically, the gift tax exemption had remained level at \$1 million through 2010, with a maximum tax rate as high as 55%.

A person can now gift \$5 million and a husband and wife can gift \$10 million.

The exclusion for the generation-skipping tax – levied on assets passed down to grandchildren, great-grandchildren and the like – has also been set at \$5 million for 2011 and 2012. That gives a family even more opportunities for extremely long-term planning.

This new gifting opportunity can be utilized in the following ways:

1. Gift of \$5/\$10 million to a dynasty trust for the benefit of family members.
2. Forgive previous intra-family loans
3. Eliminate loans from existing split-dollar life insurance arrangements.
4. Transfer ownership in a business, possibly on a discounted basis.
5. Buy a large insurance policy, in a trust, with a \$5/\$10 million single premium.

CAVEAT: This \$5 million gift exemption is currently set to revert to \$1 million after December 31, 2012, so prompt consideration of this concept is appropriate.

Please contact any member of the Personal Services Group to discuss these strategies in more detail.

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