

IMPORTANT ESTATE, GIFT AND GENERATION SKIPPING TAX CHANGES

Congress has passed the 2010 "Tax Relief Act" which includes enormously important provisions affecting the federal estate tax, gift tax and generation-skipping tax. This legislation impacts the tax laws in effect for 2010, 2011 and 2012, and has a sunset provision of December 31, 2012.

The most significant changes are the following:

- The exemptions for federal estate tax, gift tax and generation-skipping transfer (GST) tax are increased to \$5,000,000 per person (\$10,000,000 for a married couple). The estate tax exemption and GST exemption are effective retroactively to January 1, 2010, although a 2010 estate may still elect to pay no estate tax (regardless of its size); the increase in the gift tax exemption is effective beginning January 1, 2011.
- With respect to the estate tax and gift tax (but not the GST tax), for 2011 and 2012, the exemptions are "portable" between a husband and wife. This means that if the first of a couple to die does not have sufficient assets in his or her individual name to utilize fully his or her exemption for estate tax purposes or has unused gift tax exemption, the unused portion of the exemption for either estate tax or gift tax can be utilized by the surviving spouse.
- For large estates, the most significant change is that for 2011 and 2012 the gift tax rate is maintained at 35% and the estate tax rate and GST tax rate are also reduced to 35%.

In light of the changes taking effect in 2011, particularly the increased opportunity to make lifetime gifts without the payment of gift tax, we strongly encourage you to review your estate plan in the new year.

In addition to the changes described above, this law creates some significant opportunities for 2010 year-end gift planning.

- Gifts made directly to grandchildren (either outright or in trust) in 2010 will not be taxed for GST tax purposes and will not require any use of GST exemption. Therefore, clients who have not used all of their existing gift exemption (still capped at \$1,000,000 per donor for 2010) should consider making such gifts.
- Certain existing trusts that are subject to the GST tax may be able to make distributions to grandchildren in 2010 without paying any GST tax because the rate is temporarily zero. Beginning January 1, 2011, the same distributions may incur a 35% tax.

If you wish to discuss your estate plan or would like to take advantage of the current tax planning opportunities, please contact the Private Client Services Group.

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