

KATZ BASKIES LLC

TRUSTS & ESTATES, TAX & BUSINESS LAW

January 2010

Dear Friends:

We hope this New Year finds you well. For good reason, many people are glad that 2009 is behind us, and are looking forward to a prosperous 2010. But despite the economic turmoil of 2009, we have much to be grateful for. We appreciate the on-going opportunity to work with wonderful clients and fellow professionals handling interesting matters. In this Update, we will address several recent tax law developments that impact you, and we will also discuss a few developments in our firm which we wish to share with you.

Estate Tax Uncertainty: Many were surprised when the New Year came without Congress passing a law “fixing” the estate and gift taxes. Unless and until congress acts to change the law, for the entire year of 2010 the federal estate and generation-skipping transfer (“GST”) taxes are repealed, the federal gift tax rate is reduced from 45% to 35% and the “step up” in basis rule at death is repealed in favor of a “carry-over” or “step-down” in basis regime. To assist in understanding these changes, we have attached a summary of the rules in effect for years 2009, 2010 and 2011.

Commentators suggest Congress will enact estate tax legislation this year, although nobody is sure when, whether such laws will be retroactive, or what the estate and GST tax exemptions and rates will be. Hoping that either the law will not change or that any change will not be retroactive, some clients may wish to attempt to capitalize on the opportunity to make GST tax free transfers as quickly as possible. Also, with the gift tax rate reduced to “only” 35%, now may be an opportune moment for certain clients to make taxable gifts.

Also, it is important for married clients who may have left part of their estates to beneficiaries other than their spouse (or a trust for their spouse) to consider the impact of these changes on their estate plans. For example, it is possible that a formula gift designed to carry out the maximum tax free portion of a client’s estate, could now carry out the entire estate and disinherit a spouse. This sometimes happens when clients have bequests of the tax free portion of their estates to children or grandchildren. Such formula gifts should be reviewed.

If you are interested in discussing ways to possibly capitalize on the tax law’s state of flux, or if you wish to review the impact of these changes on your estate plan, we encourage you to call us to arrange an in-person or telephonic meeting.

Roth IRA Conversions: As of January 1, 2010, anyone (including individuals with gross income in excess of \$100,000) can convert an IRA to a Roth IRA. Such a conversion creates taxable income today, but allows the future appreciation/income in the Roth to be withdrawn tax-free and avoids the application of the minimum distribution rules during the client’s lifetime. For certain clients, this may be a powerful estate planning opportunity.

If you believe you will be in a similar or higher tax bracket when you have to make IRA withdrawals, if you believe the government won't change the rules and tax Roth IRA distributions some day, if you would rather not make IRA withdrawals during your life, and if you wish to pass a larger IRA benefit to your children and descendants, then converting part or all of your IRA to a Roth IRA may make sense. To ensure a conversion is viable, you should have enough funds in non-IRA accounts to pay the tax from those other funds (not from the IRA funds converted).

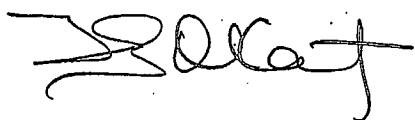
The decision of whether or not to convert and how much to convert is a complicated one and it should best be addressed collaboratively by your financial advisors, your accountants and your legal advisors. If you are interested in exploring the Roth IRA conversion opportunity, we are happy to be involved in this discussion.

If you have decided to convert to a Roth IRA, and if you are converting a large enough amount, you should consider the idea of segmented conversions. If your account will have multiple asset classes in it, there may be certain advantages to opening a few different Roth IRA accounts and segregating the assets by investment class. Then, if one or more classes fail to appreciate in the next year, you can "re-convert" them back to regular IRAs before filing your 2010 income tax return, and you will not have to pay the tax for converting. On the other hand, if some asset classes appreciate, then you will likely keep them in your Roth IRA and you can subsequently merge the accounts if you wish.

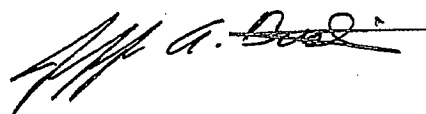
Firm News: We recently added real estate closings as an area of practice handled by Katz Baskies. We have staff with extensive real estate closing experience. Thus, in addition to the estate planning, probate, nuptial agreement drafting, tax planning, partnership and corporate work we already offer to clients, we now offer assistance with real estate closings as well. If you or anyone you know needs help with Florida real estate closings, please allow us to help.

We are proud to announce that the firm and its lawyers continue to be recognized in peer-review publications like Martindale-Hubbell, Best Lawyers in America, Legal Elite, SuperLawyers and more. For more information on such recognition, please visit our website – www.katzbaskies.com. Speaking of which, please be on the lookout for our new, revised website that will be launching shortly. The new website will include firm news, news of interest in our practice areas, and we will offer you a chance to sign up for email updates from us.

Thank you for the continued opportunity to work with you, and we wish you a happy, healthy and prosperous year.



Thomas O. Katz



Jeffrey A. Baskies

Significant Federal Estate and Trust Law Developments

In 2009:

1. The estate tax exemption was \$3.5 million, and the estate tax rate was 45%.
2. The gift tax exemption was \$1 million, and the gift tax rate was 45%.
3. The generation-skipping transfer tax ("GST") exemption was \$3.5 million, and the GST rate was 45%.
4. Beneficiaries received a new basis in inherited property equal to the fair market value on the date of the decedent's death. This is often referred to as "stepped up" basis.

In 2010:

1. There is no estate tax.
2. The gift tax exemption remains at \$1 million, but the gift tax rate drops to 35%.
3. There is no GST tax.
4. Beneficiaries no longer enjoy a step-up in basis at death. Instead, the beneficiaries' basis in inherited property equals the lesser of the decedent's basis or the fair market value of the property on the decedent's date of death. There is a new basis increase that may be allocated by the executor to property passing to a non-spouse (\$1.3 million) and to property passing to the decedent's spouse (\$3 million). This is often referred to as "carry-over" basis, although it could be "stepped-down" basis.

In 2011 and Thereafter (if no changes):

1. The estate tax exemption will be \$1 million, and the estate tax rate will be 39% to 55% (with a 5% surcharge for estates that exceed \$10 million – up to about \$17 million).
2. The gift tax exemption will be \$1 million, and the gift tax rate will be 39% to 55%.
3. To GST exemption will be \$1 million (increased for inflation), and the GST rate will be 55%.
4. Stepped-up basis returns, so the beneficiaries receive a new basis in inherited property equal to the fair market value on the date of the decedent's death.