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Trusts & Estates, Tax & Business Law

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GENERAL NEWS

Client Update (Aug 2012) - Act Now to Take Advantage of \$5 Million Gift/GST Exemptions

Dear Clients:

Here we go again asking you to focus on death and taxes. But please don't blame us; it is the result of expiring tax laws that make 2012 the perfect year to consider making gifts. As you may be aware, in 2012 you can gift as much as \$5.12 million (less lifetime gifts made in prior years that used gift tax exemption) without having to pay any gift tax. However, when the ball falls marking the start of 2013, so too the maximum gifting amount falls – all the way down to \$1 million. And to add insult to injury, the tax on gifts (or estates) in excess of the gifting exemption will increase from 35% to 55%!!

For those who like the bottom line right on top – now is the right time for us to get together to review your estate plan to determine if there are planning strategies that can be implemented by year end to take advantage of what could be a "once in a lifetime" opportunity.

Will a divided Congress and the Executive Branch get together to soften the blow of this estate and gift tax increase? We certainly don't know, although there is plenty of talk (seemingly, what Washington does best) about an exemption that is more than \$1,000,000 but less than \$5,000,000, and a tax rate that is somewhere between 35% and 55%. We can really only plan with what we know to be the case, not what we hope will be the case. So we must assume that the opportunity for making significant gifts to move assets out of your estate tax-free ends on December 31.

In addition to the estate and gift tax exemption being \$5.12 million this year per donor, the generation skipping tax exemption is also \$5.12 million per donor. That means that couples can use up to \$10.24 million to create meaningful long-term financial security for multiple generations. In addition, please don't forget that the regular annual exclusion gifts can be made (\$13,000 per recipient, plus funds for education and healthcare).

This year is a good time to consider gifting for another reason as well – many asset classes continue to be depressed. A gift of an interest in an office building, a closely-held company or even a stock portfolio that is worth less than what you think it will be worth in the future can have additional benefits – the future growth is outside of your estate and not subject to future estate tax.

We know that many clients, some by nature and some out of the economic turbulence of the last several years, are hesitant to engage in any discussion that involves parting with access to funds. Please don't immediately rule out planning; there are a variety of strategies that involve allowing some access to funds even while removing those assets from your estate.

It is natural for most people to sit back and play the "wait and see" game – let's see what the government does by year end, and if a gift makes sense, then by December 31 we'll get it done. Please note that it is a horrible idea for two reasons. First, we are not promising to be here on December 31, and we cannot assure last-minute planners that we will be able to accommodate them. Secondly, and most importantly, some planning really does require several months to implement.

We welcome the opportunity to sit with you in person or speak with you by phone to review your current estate plan, and to see if there are meaningful ways to assist your family in the months to come. Please don't hesitate to contact us to arrange a meeting.

Finally, we want to invite you to visit our website and to sign up for our email alerts. We promise not to inundate you with emails; however, if there are major changes to the laws affecting your estate planning we will typically either send an email alert or post an article under "News of Interest" (and there's an archive of "News of Interest" items you can click to). For example, we recently posted a news item regarding a Florida case which led us to suggest that all clients with revocable trusts and life insurance should review their beneficiary designations and contact us to discuss proper changes that may be needed.

We hope this letter is helpful and valuable to you and look forward to seeing or talking with you soon.