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ESTATE TAX LAW DEVELOPMENTS JANUARY, 2010

To our clients and friends:

Few imagined 2009 would end without Congress amending the Federal estate tax provisions to eliminate temporary repeal in 2010. But temporary repeal is exactly what has occurred and it is important that you are aware of the significant changes – and continued uncertainty. Below is a chart summarizing the federal estate, generation skipping and gift tax exemptions and tax rates under current law.

Calendar Year	Estate Tax Exemption	Generation Skipping Tax Exemption	Gift Tax Exemption	Maximum Estate and Gift Tax Rate
2009	\$3,500,000	\$3,500,000	\$1,000,000	45%
2010	Repealed	Repealed	\$1,000,000	35% (gift tax only)
2011	\$1,000,000	\$1,000,000, indexed for inflation since 1999	\$1,000,000	55%

Although heirs of a decedent will receive inherited property in 2010 free of federal estate taxes, the tax basis in such property will no longer be stepped up to its date of death value. Instead, the heirs of a decedent take the decedent's basis in the property, often referred to as a "carryover basis." There are, however, two major exceptions. The assets of every decedent will be eligible for a \$1.3 million increase in basis. In addition, assets passing to the surviving spouse of a decedent will get an additional \$3 million increase in basis. Thus, property inherited in 2010 may be subject to larger than expected capital gains when the heir eventually sells the property.

State Estate Taxes

Connecticut residents may have prematurely celebrated the Connecticut legislature's recent decision to increase the estate tax exemption level from \$2 million to \$3.5 million and to eliminate the draconian "cliff" tax which subjected estates over \$2 million to the Connecticut estate tax on the entire estate. As we write this update, the Connecticut legislature is debating whether to delay by two years the increase in the exemption. The good news is that the "cliff"

tax appears to be gone for good.

For New York residents, the New York legislature seems content with the status quo with no legislation pending to either increase its exemption level from \$1 million or to re-introduce a New York gift tax. Thus, lifetime gifting to minimize New York estate taxes should continue to be considered.

What is one to do in this uncertain climate?

While we encourage clients to periodically review their estate plans as circumstances change, it is particularly important to do so in 2010. If your plan creates a credit shelter trust for someone other than a spouse or gives an amount to someone other than your spouse that is defined by reference to the exemption amount, you should definitely have your plan reviewed.

Some of you may have received our letter last year advising you to review your plan in light of the difference between the Federal and Connecticut exemption amounts and the potential Connecticut estate tax that may be incurred as a result of the anomaly. If you haven't already responded to that letter, we advise you to contact us since your estates may very well be subject to even greater unnecessary Connecticut estate taxes under the current law as summarized in this letter.

Proposals before Congress suggest that Congress will ultimately settle on an exemption between \$3.5 million and \$5 million, at a rate between 35% to 50%. Clients with significant assets should therefore continue any current program of lifetime giving in anticipation of a return of the Federal estate taxes. Typical gifting strategies include:

1. Gifts up to the amount of the annual gift tax exclusion which will remain at \$13,000 for 2010;
2. Educational and medical payments for children and grandchildren, provided that such payments are made directly to the school or provider;
3. GRATS and QPRTs, which can be particularly valuable with current low interest rates.

Other Developments – Roth IRA Conversions

Beginning in 2010, regardless of income, you can convert an existing traditional IRA to a ROTH IRA. If you have not done so already, we encourage you to talk to your financial advisor to see if such a conversion makes sense for you.

If you have any questions, please contact us.

Wishing you all the best for 2010,

Edward D. Cosden, Jr., Wilmot L. Harris, Jr., Donat C. Marchand, Michael P. Murray, Jennifer D. Port, Cynthia L. Singer, Andrea M. Fraleigh & Rob Roy Buckingham, Jr.

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