

## Transfer Tax

### FEATURED ATTORNEY



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The Tax Relief Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the “2010 Act”) created an unprecedented opportunity to substantially reduce or eliminate the potential estate tax liability for certain taxpayers. This notice and the attached chart summarizes the changes made by the 2010 Act and the effect that the absence of any further legislation would have on the estate, gift and generation skipping transfer taxes in 2013. This notice is intended to advise you of what has happened and to encourage you to reevaluate your estate plan as soon as possible so that you may have the opportunity to take advantage of the current exemptions, if desired, and to ensure that your existing estate planning documents still reflect your current intention in light of the changes made to these laws.

The Federal government imposes three different types of transfer taxes, below is a summary of the effect the 2010 Act had on them:

**Estate Tax:** The estate tax is the tax imposed on assets owned by the decedent on his/her date of death and inherited by someone other than the decedent’s spouse in excess of the exemption amount. Under the 2010 Act the estate tax exemption was increased to \$5,120,000 for those persons dying in 2012 and the top tax rate reduced to 35%. In 2013 the estate tax exemption will be reduced to \$1,000,000 and the top tax rate increased to 55%.

**Gift Tax:** The gift tax is the tax imposed on transfers made by an individual during life to anyone other than that individual’s spouse in excess of the lifetime exemption amount. Under the 2010 Act the gift tax exemption was increased from \$1,000,000 to \$5,120,000 and the top tax rate reduced to 35%. In 2013 the gift tax exemption will be reduced back to \$1,000,000 and the top tax rate increased to 55%.

**Generation Skipping Transfer Tax:** The generation skipping transfer tax is the tax imposed on transfers made to grandchildren or more remote descendants in excess of the exemption amount. Under the 2010 Act the generation skipping transfer tax exemption was increased to \$5,120,000 and the top tax rate reduced to 35%. In 2013 the generation skipping transfer tax exemption will be reduced to a little over

\$1,000,000 (as this exemption has been indexed for inflation) and the top tax rate increased to 55%.

Though temporary, the 2010 Act provides a tremendous opportunity to implement gifting techniques that may reduce or eliminate your potential estate tax liability, but time is critical. Pursuant to the current law, strategies employed to take advantage of this opportunity must be structured and implemented before 2013. If you are considering taking action, please schedule a free estate planning consultation to discuss how you and your family can make the best use of the current exemptions before they expire and how you may protect your beneficiaries from the much harsher rules set to be imposed in the very near future.

#### **FEDERAL TRANSFER TAX EXEMPTIONS AND RATES**

Exemption and Rate	2011	2012	2013
Estate Tax Exemption	\$5,000,000	\$5,120,000	\$1,000,000
Maximum Estate Tax Rate	35%	35%	55%
Lifetime Gift Tax Exemption	\$5,000,000	\$5,120,000	\$1,000,000
Maximum Gift Tax Rate	35%	35%	55%
Lifetime GST Tax Exemption	\$5,000,000	\$5,120,000	\$1,000,000*
Maximum GST Tax Exemption	35%	35%	55%

\*Indexed for inflation since 1998

#### **NEW YORK TRANSFER TAX EXEMPTION & RATES**

New York State does not impose a gift tax or a generation skipping transfer tax. It does, however, impose an estate tax at a rate of approximately 10% on all assets exceeding the state estate tax exemption of \$1,000,000, that were owned by the decedent on his/her date of death and that were inherited by someone other than the decedent's spouse.

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For more information about trusts, estates planning, and estate administration, please contact Jennifer N. Santaniello, Esq. or your attorney contact at our firm.