

Client Alert

PRIVATE CLIENT SERVICES DEPARTMENT | DECEMBER 2011

WIGGIN AND DANA
Counsellors at Law

Significant Estate Planning Opportunities Available Until the End of 2012

The next 12 months are a great time to consider updating your estate plan. The Tax Relief, Unemployment Insurance Authorization, and Job Creation Act of 2010 extended many of the Bush-era tax cuts until December 31, 2012, including setting the maximum income tax rate at 35% and the maximum capital gains rate at 15%. The most important features of the new law for our clients' estate planning include the following:

- The federal estate, gift and GST tax exemptions remain at \$5 million from now until December 31, 2012.
- The maximum tax rate imposed on estate, gift and GST transfers that exceed the exemptions is 35%, again only until the end of 2012.
- The estate tax exemption will be "portable" between married couples. This means that at death, a married couple can transfer up to \$10 million, free of Federal estate tax. Note, the gift and GST tax exemptions are not portable.

WHAT DOES THIS MEAN FOR YOU?

The current exemption amounts mean that the clients may wish to reconsider their estate plans now, including the following possible changes to client planning:

- Consider making a gift of your \$5 million exemption amount to "lock in" the exemption against reductions in the exemption in 2013 and future years. Please review a discussion of this issue in our client advisory entitled "2010 Federal Estate, Gift, and GST Tax Changes May Affect Your Estate Plan" referred to below.
- Consider making a gift to a long-term trust designed to remove the gifted property not only from your estate, but also from the estates of your children, and possibly even the estates of your grandchildren. A long-term trust can also be designed to protect the gifted property from your children's creditors or a divorcing spouse of your children.
- For clients in certain states, such as New York, the gift can avoid state estate and gift tax, too. Unfortunately, for our clients who are Connecticut residents, this is not the case. For Connecticut residents, the gift may result in a separate Connecticut gift tax. Generally this tax will apply to gifts in excess of \$2 million or \$4 million for married couples. Consult with your Wiggin and Dana attorney about this issue before making a gift.
- For all clients, the new laws may also necessitate changes to your will to avoid an unnecessary state estate tax, particularly if it has not been reviewed in the last few years.

In addition to opportunities for planning presented by the new tax law, we suggest that all our clients consider the following general questions in connection with their estates:

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- Have there been changes in your family or financial circumstances which merit a possible change in your estate plan?
- If you have an insurance trust or other irrevocable trust, are you up to date on your Crummey letters and gift tax returns?
- Are your Living Will and Power of Attorney up to date? These documents can become “stale” if not updated every few years.

In conclusion, the new tax law provides historically generous exemptions from the federal estate, gift and GST taxes. Planning to properly consider these exemptions is crucial, including for individuals whose estates do not exceed the \$5 million mark. We recommend that you consult with your Wiggin and Dana attorney to discuss what planning opportunities are available to you.

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