

Tax Law Update

Dear Clients and Friends:

We are writing to remind you that there may be a limited time period in which to take advantage of unique planning opportunities that arose on January 1, 2011, as well as to notify you of possible legislative changes.

Increased Federal Gift, Estate and GST Tax Exemptions. As you may know, on January 1, 2011, the Federal gift tax exemption increased to \$5 million. An individual's available gift tax exemption will be reduced by any gift tax exemption previously used. The Federal estate tax and generation-skipping transfer ("GST") tax exemptions were also increased to \$5 million for 2011. As we have mentioned, these provisions are a significant change from prior law that offer opportunities for major lifetime transfers. We have recommended to many clients that they take advantage of these increased exemptions as soon as possible.

Due to required inflationary adjustments, the Federal gift, estate, and GST tax exemptions are scheduled to increase to \$5,120,000 on January 1, 2012. The basic annual exclusion from gift tax will remain at \$13,000 per donee for 2012. The annual exclusion amount for transfers from an individual to a non-citizen spouse will increase to \$139,000 in 2012.

These increased gift, estate and GST tax exemptions are scheduled to sunset at the end of 2012, ushering in a 55% tax rate rather than a 35% tax rate, a reduction in the estate and gift tax exemption to \$1 million, and a reduction in the GST tax exemption to \$1 million, indexed for inflation since 1997.

Possible Action by "Super Committee". Rumors have been circulating in recent weeks that the Joint Select Committee on Deficit Reduction, often referred to as the "Super Committee," may propose legislation reducing the gift tax exemption to \$1 million prior to December 31, 2012, which could have an effective date as early as November 23, 2011. It is also possible that Congress could pass legislation with an effective date of December 31, 2011. We believe that any such reduction is unlikely to occur prior to the scheduled sunset at the end of 2012, but cannot predict the actions of the Super Committee or Congress with any certainty. We are advising you of these possible although unlikely legislative changes so that you may consider whether to take advantage of the current increased gift and GST tax exemptions, and to remind you we are available to assist any clients who may wish to do so before November 23, 2011.

Low Interest Rates. Rates published by the Treasury Department used to value interests applicable to many estate planning techniques, including grantor retained annuity trusts (GRATs), charitable lead trusts, and intrafamily loans (including loans to grantor trusts) are currently at an all-time low. For example, the hurdle rate for GRATs is currently 1.4%, and the applicable interest rate for a 9-year intrafamily loan is currently 1.2%. Low interest rates, coupled with the increased gift and GST exemptions, make many planning opportunities particularly attractive.

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We encourage you to contact us to discuss what steps you may be able to take to benefit you and your family in light of these recent developments. We look forward to continuing to advise you and your families through this period of extraordinary planning opportunity.

Please note: As of December 1, 2011, Patterson Belknap's Personal Planning Group will be known as the Trusts & Estates Department. ♦

If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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