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Autumn Musings and What's to Come?

Autumn brings the time to reflect on what we planted in spring, nurtured in summer and now reap the harvest. There is still time for what we hope to accomplish before year end.



Consider these year-end planning strategies:

- Set up an Education fund for young family members
- Make gifts from your IRA to Charitable organizations without incurring federal income tax (only if you are age 70-1/2 or older and limited to \$100,000)
- Take advantage of the Government's gift to you: a \$5 million gift tax exclusion for 2011-2012 (more on this below)
- Leverage the \$5 million Generation-skipping transfer tax exclusion by funding an Irrevocable Trust
- Hold life insurance in an irrevocable ILIT Trust to avoid estate tax on the proceeds

1. The Government's gift to you: \$5 million gift tax exclusion for 2011-2012. It seems the current Congress is a bit myopic, passing short-term laws which create continued uncertainty. After months of near-panic this past summer, "Debt ceiling relief" passed the crisis along to the "Super Committee" to resolve by Thanksgiving.

With Congress seemingly able to pass only short-term solutions, estate planning professionals do not anticipate any long-range answers to the question: "What amount will be excluded from estate and gift tax on January 1, 2013?"

Under the previous Estate tax act passed in 2000¹, we had 10 years of certainty in advising clients how to minimize estate, gift and generation-skipping taxes. It was "unthinkable" that we would wait until December 2010 to know what came next. But that's what happened.

¹ An historical overview of federal estate, gift and generation-skipping tax figures is included on page 3 below.

The new Estate tax law enacted last December 17th applied retroactively to 2010, and set the estate and gift tax exclusion figures for 2011-2012: a record-high **\$5,000,000**. To be sure, shrinking values in property and equities mean that fewer families are considering transfer of significant wealth to next generations. However, sophisticated clients are using leveraged gift planning to maximize this opportunity which may end on December 31, 2012.

2. **Future tax rates are difficult to predict in the current legislative and economic environment.** No one can predict what the estate tax law will be on January 1, 2013. This uncertainty is expected to prevail until the November election, with little time thereafter to craft meaningful legislation. Hence, another short-term act is likely for 2013 and beyond.

If a stalemate happens and no new legislation passes, the estate tax exclusion amount will revert to \$1 million. Again, unthinkable?

3. **When to Act?** The November 2012 election will determine the next approach to the current economic challenges, including the role of estate tax. It is impossible to predict whether it will be extended in either its current or some modified form, especially given the fact that it is a hot button issue with both major political parties.

In this era of Congressional brinkmanship, foresighted clients may seize the present 'window of opportunity'. Using traditional gift-planning strategies, the difference is a whopping \$5 million available now to create exponentially-higher benefits for your family in the future.

If you choose to wait for the election outcome, we may want to have several estate planning strategies ready to implement if it becomes clear the \$5,000,000 gift tax exclusion will indeed expire at year end 2012.

As always, I recommend that we review your estate plan periodically and whenever a significant life event occurs (e.g., birth of a child, death of a spouse, purchase of new home, etc.). Please contact me with any questions that you may have, or if you would like to discuss your estate plan in light of the new Act.

Blessings to you and your loved ones in reaping this year's harvest, and in planning for what's to come.

Jennifer L. Wilkerson

Historical Overview of U.S. estate tax:

	A	B	C	D	E
	Estate tax exclusion	Lifetime Gift tax exclusion (when not unified with Estate tax)	Gift tax exclusion (indexed for inflation)	Generation-skipping tax exclusion (indexed for inflation)	Maximum Estate tax rate
1980	\$161,563		\$3,000	\$0	70%
1990	\$600,000	-	\$10,000	\$1,000,000	55%
1995	\$600,000	-	\$10,000	\$1,000,000	55%
2000	\$675,000	-	\$10,000	\$1,000,000	55%
2003	\$1,000,000	-	\$11,000	\$1,000,000	49%
2005	\$1,500,000	\$1,000,000	\$11,000	\$1,500,000	47%
2007	\$2,000,000	\$1,000,000	\$12,000	\$2,000,000	45%
2009	\$3,500,000	\$1,000,000	\$13,000	\$3,500,000	45%
2010	\$5,000,000	\$1,000,000	\$13,000	\$5,000,000	35%
2011-2012	\$5,000,000	\$5,000,000	\$13,000	\$5,000,000	35%
2013	\$1,000,000	-	\$13,000 (indexed)	\$1,340,000 (indexed)	55%

NOTE: This memo provides general information only and does not contain legal, accounting, or tax advice. For brevity, this memo is oversimplified and should not be relied on for any particular situation. Although this memo may discuss tax issues, this is not a "covered opinion" as defined in Circular 230 issued by the U. S. Treasury Department, and nothing in this memo can be relied upon to avoid any tax penalties.