

GOLDSMITH & GUYMON

A Professional Law Corporation

Dara J. Goldsmith, Esq.★

Also admitted in Arizona, California & Hawaii ★

Marjorie A. Guymon, Esq.★★

Also admitted in Utah ★★

Laura A. Deeter, Esq.

Nedda Ghandi, Esq.

Peter Co, Esq.

Kendal L. Davis, Esq. _____

Changes in Estate and Gift Tax Laws

Happy New Year. We wish you all a happy and healthy 2011.

Very favorable changes to the estate and gift tax laws were made on December 17, 2010, when President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The generous tax advantages of the new law is set to expire at the end of 2012, which happens to be an election year. Thus if Congress fails to act, as it did in 2009, estate and gift tax law will revert to much less favorable estate and gift tax law that was in effect in 2001. Therefore it is important to review your estate plan in light of these changes.

\$5 million exemption and 35% maximum rate. Each of us now have a \$5 million Federal estate, gift and generation-skipping transfer tax exemption. Estates over \$5 million will now be taxed at a maximum rate of 35% [reduced from 45%].

Unification of the estate and gift tax. Now that the estate and gift tax are unified, the lifetime gift tax exemption is no longer limited to \$1 million. Individuals may now exhaust their entire \$5 million exemption on lifetime gifts, thus giving individuals more flexibility in their estate plan. Note: An individual who has exhausted the \$5 million exemption on lifetime gifts would have no exemption available for estate taxes.

Portability of Exemptions. For 2011-2012 married couples have the added benefit of passing any unused portion of their \$5 million estate and gift tax exemption upon their death to their surviving spouse.

Estates of Individuals dying in 2010 can choose between two options. (1) Elect to have no estate tax and modified carryover basis rules or (2) Elect to apply the new law based on the reduced 35% maximum rate with \$5 million exemption and stepped-up basis. Most estates will elect option (2) since most estates do not exceed the \$5 million exemption. An estate over \$5 million would require a careful analysis of the assets to determine which option would be best suited for the estate.

Greater flexibility in making gifts to grandchildren. With the generation-skipping transfer [GST] tax exemption increased to \$5 million and a maximum rate of 35%, grandparents now have increased flexibility in making transfers to their grandchildren without incurring GST tax liability.

If you would like to have your estate plan reviewed in light of the new changes in estate and gift tax law, please feel free to contact us to set up an appointment and we will be happy to assist you.