

Changes in 2009 Tax Law May Affect Your Estate Plan

Now that the new year has arrived, this is the perfect time to consider implementing an estate plan if you do not have one, or to review and update your current plan. We would be happy to assist you with all of your estate planning needs and offer the following summary of recent changes in tax laws that may affect you.

Changes to federal estate and gift tax. As of January 1, 2009, the amount that you can give away annually free of gift tax rises from the current \$12,000 per year per donee to \$13,000 per year per donee. Husbands and wives may now give up to \$26,000 per year per donee by any of three means: (1) from assets the couple own jointly, (2) if each spouse contributes \$13,000 from the spouse's separate assets, or (3) if they file a gift tax return and elect to "split" their gifts, in which case how much each spouse contributes toward the total gift is irrelevant. The lifetime exemption from gift tax, over and above these annual gifts, remains \$1 million.

The federal estate tax exemption, which is the amount you can leave free of federal estate tax to your beneficiaries at death, increased from \$2 million to \$3.5 million as of January 1, 2009.

You may know that under the *current* tax law, the federal estate tax is repealed for 2010 but returns in 2011 with a \$1 million estate tax exemption and 55 percent top estate tax rate. Like many tax professionals, we expect that Congress will intervene next year to maintain the estate tax.

Now is the time for creative planning to address changes in and uncertainty regarding the federal tax laws.

IRA charitable rollover. You may recall that in 2006 and 2007, taxpayers who were 70 ½ years old and receiving distributions from their individual retirement accounts could make tax-free gifts up to \$100,000 to charity directly from their IRAs. This popular type of charitable gift was restored in October 2008 and is effective through 2009, with the same limitation of \$100,000 for all such charitable gifts made this way in a single calendar year. An IRA charitable rollover does not allow the taxpayer to take a charitable deduction, but it does count toward the annual required minimum distribution.

Consider gifts of stock and other assets. Many clients have seen the value of their securities, real property and businesses decline during the last year. Now may be the time to give such depressed assets to the next generation at what amounts to a natural "discount," if you anticipate that an asset's fair market value will appreciate as the economy recovers. You can take advantage of further opportunities to discount the value of the gift by using estate planning techniques such as a "grantor retained annuity trust" (GRAT) and a "charitable lead annuity trust" (CLAT).

Changes in the tax law as well as in personal financial and family circumstances can create opportunities to update your estate plan. If you would like to know more about how such changes may affect you, please contact [Jay R. Wagner, Esq.](mailto:Jay.R.Wagner@stevenslee.com), at 610.478.2109 or the Stevens & Lee attorney with whom you regularly speak.

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