

PRIVATE WEALTH SERVICES ALERT

January 13, 2010

Important Estate Tax Changes Effective January 1, 2010

Due to unexpected Congressional inaction, the federal estate and generation skipping transfer taxes are repealed for individuals dying during 2010 and for generation skipping transfers made during 2010. In addition, the federal gift tax rate has been decreased to 35%. These changes are effective only for the 2010 tax year.

The repeal of the federal estate and generation-skipping transfer tax laws could have an undesired effect on certain estate plans, particularly estate plans for married persons which provide for distribution of the non-marital portion of their estate to someone other than their spouse, persons with large bequests to charity and persons with bequests to others which are calculated by reference to the estate tax. Accordingly, estate-planning documents should be reviewed to determine whether corrective action is required.

Many expect that Congress will amend these tax laws this year, possibly retroactively to January 1, 2010, in which case changes made to a person's estate-planning documents due to the current estate tax repeal could be unnecessary. Unfortunately, at the present time it is not possible to predict what Congress will do. We hope to know more after Congress returns from its vacation later this month.

Unless Congress acts, the estate, gift and generation-skipping transfer tax will be reinstated effective January 1, 2011 with rates up to 55% and exemptions of \$1,000,000. Until then, the step-up in income tax basis at a person's death has been substantially curtailed. Therefore, it is important that all financial records that have a bearing on the cost basis of property be retained.

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