

Estate and Gift Taxes – Plan Now Before the 2012 Window Closes

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2013 could mark the beginning of major changes in the estate and gift tax structures. Now is the time to evaluate your own estate and determine if you can capture unique tax saving opportunities while they're still available through December 31, 2012.

The estate, gift, and generations skipping (GST) tax exemption amount is \$5,120,000 per person this year, with a 35% tax rate if the exemption is exceeded. Unless Congress changes the law, those exemptions are scheduled to drop to roughly \$1,000,000 with a 55% tax rate beginning January 1, 2013.

There are other considerations that make gifting, business succession planning, and other wealth transfers critical this year. Congress and the Administration have proposed abolishing or limiting transfer techniques such as intentionally defective grantor trusts, grantor retained annuity trusts, and discounts used in family limited partnerships. Low interest rates favor both simple transfer techniques such as loaning money to a family member for investments and sophisticated techniques such as Grantor Retained Annuity Trusts or sales to Defective Grantor Trusts.

No one can predict which direction Congress or the Administration will take, or when. By doing nothing, estate and gift exemptions will automatically fall, and income tax rates will rise, beginning next year. Alternatively, Congress could allow current laws to stand untouched for another year, or they could truly undertake a future revamping of the whole tax code. Proposals for change are rampant, politically charged and all over the board. The following table illustrates one example of current vs. proposed law:

| | 2012 Law | 2013 Existing Law | Administration's Proposal for 2013 |
|------------------|-------------|-------------------|------------------------------------|
| Estate Exemption | \$5,120,000 | \$1,000,000 | \$3,500,000 |
| Gift Exemption | \$5,120,000 | \$1,000,000 | \$1,000,000 |
| GST Exemption | \$5,120,000 | \$1,000,000 | \$3,500,000 |
| Tax Rate | 35% | 55% | 45% |

If your family net worth exceeds \$10 million, and particularly if you have a family-owned business, you should consider taking advantage of the highest gift exemptions ever available and talk to your legal and tax advisors *now* about your situation. If your family net worth exceeds \$2 million, you may also want to consider gifting before the year ends in case the future exemption changes to \$1 million per person.

Estate and gift planning can be quite complex and require significant time, so delaying plans even for a few months is not advisable. 2012 is a unique year – the window of opportunity is still open, but scheduled to close very soon.

For more information on the changing estate and gift tax laws, contact your BPM tax advisor or email us at bpm@bpminc.com.