REID AND RIEGE P.C.
COUNSELLORS AT LAW

Individual Clients Group Newsletter

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Estate and Tax Planning Update

On January 2, 2013, legislation was enacted to prevent a steep increase to the federal estate, gift and generation skipping transfer taxes set to go into effect this year. There has been a great deal of uncertainty in the area of estate and gift tax laws for the last decade. While these new laws provide some much needed relief from that uncertainty, we must remember that laws are "permanent" only until they are changed!

Federal estate tax:

The federal estate tax exemption continues to be $5,000,000 indexed for inflation since 2011. For the 2013 tax year, the federal estate tax exemption is $5,250,000. If a decedent's taxable estate exceeds the indexed amount, the excess will be taxed at 40%, which is a 5% rate increase over the rate in effect since 2011.

In addition, the concept of "portability" is now a permanent part of federal estate tax legislation. Portability permits a surviving spouse to use the unused portion of the federal estate tax exemption of a deceased spouse (typically because the first estate was not large enough or assets passed tax-free to the spouse). Thus the surviving spouse's exemption is increased by the unused portion of the predeceased spouse's exemption.

Connecticut estate tax:

The Connecticut estate tax exemption continues to be $2,000,000. If a decedent's taxable estate exceeds $2,000,000, the excess is taxed at marginal rates between 7.2% and 12%. The Connecticut taxable estate is composed of lifetime taxable gifts made after 2004 plus assets transferred at death. Qualified transfers to a spouse or to charity are not taxable. Note: the Connecticut estate tax is deductible for federal estate tax purposes.

Gift tax:

For 2013, the federal and Connecticut gift tax annual exclusions are increased to $14,000 per recipient. One spouse may give up to $28,000 to each recipient if the other spouse elects to "split gifts" on a gift tax return.

For 2013, gifts that exceed the annual exclusion incur no federal gift tax until cumulative excess gifts reach the federal lifetime exemption ($5,250,000 in 2013). The lifetime exemption for Connecticut gift tax purposes is $2,000,000, but only gifts made after 2004 count toward that exemption.

Certain gifts avoid tax without using the annual exclusion or the lifetime exemption. Non-taxable gifts include tuition payments made directly to qualifying educational institutions and medical payments made directly to healthcare providers.

Planning Points:

When all assets pass outright to a surviving spouse at the first death, a couple's combined wealth can receive a new cost basis at the second death. The portability election preserves this income tax benefit without "wasting" the first spouse's federal estate tax exemption. The portability election must be made on a timely filed federal estate tax return.

While the use of the portability election to simplify estate tax planning can be attractive, there are three important points to remember about the continuing utility of trusts for estate tax planning: (1) because Connecticut has not adopted portability, estate planning with a trust may still be advisable for married clients with combined assets in excess of $2,000,000 in order to preserve the Connecticut estate tax exemption at the first spouse's death; (2) the use of a trust at the first spouse's death will protect post-death appreciation on the trust assets from estate tax at the surviving spouse's death; and (3) there is no portability for the federal generation skipping transfer (GST) tax exemption ($5,250,000 in 2013).

There are also several non-tax reasons why trusts remain an important estate planning tool, including planning for lifetime incapacity; management and control of assets for a spouse, children or special needs individual; planning for the complexities of blended families; and avoiding probate.

We carefully customize estate plans to our clients' particular circumstances. If you would like to discuss how the new tax rules affect you or the use of trusts in your estate plan, or if it is time to have your documents reviewed because of changes in family circumstances, please contact us.

IRA charitable rollovers: for a limited time only!

The IRA charitable rollover for individuals age 70 ½ or older has been revived for 2012 and 2013. A distribution in 2013 of up to $100,000 made directly by an IRA custodian to a charity may be treated as a qualified charitable distribution for the 2013 calendar year. The new law also created a special window of time until January 31, 2013, in which to treat certain distributions of up to $100,000 from IRA accounts as qualified rollovers to charity for the 2012 calendar year. To qualify a distribution for the 2012 calendar year, there are two options:

1. For a distribution taken from an IRA account after November 30, 2012, and before January 1, 2013, all or a portion of the distribution may be treated as a qualified charitable distribution for the 2012 calendar year if it is transferred in cash to a charitable organization before February 1, 2013.

2. A distribution made directly by an IRA custodian to a charity after December 31, 2012, and before February 1, 2013, may be treated as a qualified charitable distribution for the 2012 calendar year.

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