HISTORIC GIFTING OPPORTUNITY MAY EXPIRE ON DECEMBER 31, 2012

We sent out an August 2011 newsletter regarding legislation passed by Congress on December 17, 2010, which unified the estate tax and gift tax exemptions, increased the federal transfer tax and Generation-Skipping Transfer Tax (GST tax) exemptions to $5 million per person ($5,120,000 in 2012), capped the highest marginal tax rate at 35%, and added a concept called “portability.” Unfortunately, the law is only effective until December 31, 2012, and unless Congress acts sooner, the estate tax law will revert to 2001 levels ($1 million exemption and 55% marginal tax rate) on January 1, 2013.

The Connecticut estate tax also changed in 2011 when the estate and gift tax exemption was increased to $3.5 million on January 1. However, due to state budget issues, the exemption was soon reduced to $2 million.

The New York estate tax exemption is $1 million. Since New York State does not have a gift tax, for New York residents, lifetime gifting may result in significant New York estate tax savings at death. (Note that Connecticut is the only state that imposes a gift tax, except for certain states that impose a gift tax on gifts made shortly before death.)

As was the case in 2010, Congress may (or may not) act at the end of 2012 to prevent return to the old $1 million exemption. While clients may decide to “wait and see” what Congress does before “pulling the trigger” on changes to their estate and tax planning strategies, it is important to consider planning options to take advantage of the current exemptions well in advance. Listed below are a few gifting options.

1. <u>Gift to Spousal Trust or to Issue</u>. Consider making a gift outright or to a trust using some or all of your exemption which benefits your children and/or grandchildren. You may also consider making a gift to a trust which includes your spouse as a potential beneficiary. Such a trust would allow you to move assets (and any future appreciation) out of your taxable estate and yet still give your spouse access to the funds if needed. It is possible for each spouse to do a similar trust. While it is not clear how prior gifts will be treated if the gift exemption is eventually reduced, any such reduction would likely only limit the potential advantages, not eliminate them.

2. <u>Gift of Non-CT Real Estate</u>. Real estate located outside Connecticut is not subject to Connecticut gift tax. Therefore, making a gift of a vacation home outside the state to your children or to a trust for future generations would only be subject to federal transfer tax. In addition, setting up a trust for real property now would allow you to establish a mechanism for future use and upkeep of the property.

3. <u>Insurance Trust</u>. Consider providing for children, grandchildren, and generations beyond with a single premium insurance policy. A large one-time gift to the trust will cover future premiums and simplify the allocation of any GST tax exemption.

We would be happy to assist you if you choose to take advantage of this historic estate planning opportunity.

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