

September 2012

To Our Clients and Other Friends:

In May, we sent the attached Client Alert about 2012 tax planning opportunities. The most important item we discussed was the impending change in the law which as of January 1, 2013 will reduce the estate, gift, and generation-skipping tax exemptions from \$5,120,000 per individual (\$10,240,000 per married couple) to \$1,000,000 per individual (\$2,000,000 per married couple). **This slated change in the law means that the opportunity to make gifts in 2012 using the higher exemption amount may expire at the end of 2012. Any client who is considering making such a gift must act immediately.**

There has been much discussion in Congress and the press about whether to extend the higher exemptions, allow the lower exemptions to take effect, or settle on some amount in between. As we near the end of the year, we have no greater certainty about how the estate tax, gift tax and generation-skipping tax laws will evolve. The political parties have taken different positions; within each party there are different points of view; and this discussion is only a small part of the debate and negotiation about the so-called "fiscal cliff" that is rapidly approaching. While it is possible that there will be legislation before the end of the year that will set new estate, gift and generation-skipping tax exemption amounts for 2013 and beyond (or extend the current law for one or more years), it is also possible, even likely, that Congress will not act until some time in 2013. Given the uncertainty, and the lead time necessary to plan and implement gifts, we believe that it is a mistake to wait until after the election to examine these gifting issues if you are potentially inclined to make large gifts.

What we know now is that the \$5,120,000 gift tax exemption may not be in place after 2012. This suggests that clients with large estates might consider a variety of planning options, including, for instance:

- 2012 gifts to children, grandchildren and others, either outright or in trust.
- 2012 gifts in trust for the potential benefit of the donor's spouse, but not subject to estate tax in the spouse's estate.

If you think you are a candidate for 2012 planning, particularly gift planning using the \$5,120,000 gift tax exemption, you need to let us know immediately. If you do plan to make

major gifts, there are complexities involving the creation and funding of trusts and the valuation of assets. **Time really is of the essence.**

Some of you already have discussed your gifting plans with our attorneys. We apologize for sending you information that may seem duplicative. However, given the possibility that the opportunity to make gifts using the \$5,120,000 gift tax exemption will expire at the end of the year, we wanted to reach as many of our clients and firm friends as possible.

Please feel free to contact your HTTS lawyer or any of us about these issues, or any other estate-related issues.

Sincerely yours,

Heckscher, Teillon, Terrill & Sager

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