

Super Committee Developments November, 2011

Last year we advised clients about the changes in the transfer tax regime, including the unique estate planning opportunities created by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010. The 2010 Act increased the estate tax, generation-skipping transfer tax and gift tax exemptions to \$5 million for only 2011 and 2012. We recommended that clients consider taking advantage of the 2010 Act by making gifts to children and grandchildren.

The Special Committee of Congress formed by the Budget Control Act of 2011 (the "Super Committee") has until November 23, 2011 to issue a proposal to accomplish at least \$1.2 trillion in deficit reduction. Congress will have until December 23, 2011 to pass the proposal without amendments by pure majority in each house.

The Administration and the Democratic Party remained opposed to extension of the high income tax cuts passed under the Bush Administration and extended by the 2010 Job Creation Act. The Administration also supports the return of the estate tax exemption and rates to 2009 levels when the estate tax exemption and generation-skipping transfer tax exemption were \$3.5 million and the lifetime gift tax exemption was \$1 million.

Although the Super Committee's work has been conducted behind closed doors, there has recently been speculation that the Super Committee may propose legislation that will reduce the \$5 million lifetime gift tax exemption to \$1 million as early as November 23, 2011. There has been some additional speculation that the Super Committee may also propose legislation to curtail the use of grantor retained annuity trusts (GRAT) and discounts for transfers of interests in family entities.

What does this mean to you?

1. If you were contemplating making use of all or any portion of your \$5 million gift tax exemption in 2011 or 2012, you should contact our office immediately to put that planning in place before November 23, 2011.
2. If you were contemplating planning that involved a GRAT, the creation of a family limited partnership, or additional funding or gifting of a current family limited partnership, you should contact our office immediately to put that planning in place before November 23, 2011.

Please contact us at your earliest convenience if you wish to discuss how these potential changes to the transfer tax regime will affect your estate plan.



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