

Legal Update

Don't Miss These Short-Lived Estate Planning Opportunities

September 2011

In late 2010, Congress passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "Act"), which included a very significant change affecting estate planning: an increase from \$1 million to \$5 million in the lifetime gift tax exemption (\$2 million to \$10 million for married couples). Although the Act left open some important questions, most of them have since been satisfactorily answered, and clients can now plan with assurance of the results.

The \$5 million lifetime gift tax exemption is scheduled to be in effect only through December 31, 2012, and unless Congress enacts legislation providing otherwise, the exemption thereafter will fall back to \$1 million. Thus, clients now have what may be a once in a lifetime opportunity to move substantial value out of their taxable estates at no Federal gift tax cost, and may protect those transfers as well from the generation-skipping transfer tax, the exemption from which also was increased (until the end of 2012) from \$3.5 million to \$5 million.

Also of particular interest now is the decline in IRS issued interest rates, which are used for various estate planning devices, including the well-known grantor retained annuity trust ("GRAT"). With the so-called section 7520 rate at only 2% for September, and the mid-term intra-family minimum mid-term

Contact Us:

For more information about this topic or any other trusts and estates matter, please contact:

James R. Ledley
212.880.9896
jledley@kkwc.com

James R. Cohen
212.880.9820
jcohen@kkwc.com

Jodi F. Krieger
212.880.9873
jkrieger@kkwc.com

Maurice S. Spanbock
212.880.9852
mspanbock@kkwc.com

Bruce D. Steiner
212.880.9818
bsteiner@kkwc.com

loan rate at only 1.63%, now is an ideal time to implement some of the transactions that make use of these rates.

If you would like to discuss any of these matters, please contact a member of our Trusts and Estates group.

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