



REPEAL OF OHIO ESTATE TAX

On June 30, 2011 Governor Kasich signed the Budget Bill for the operation of the State of Ohio for the next two years commencing July 1, 2011. This bill contained a provision to repeal the Ohio estate tax in its entirety effective January 1, 2013.

The stated rationale for delaying the repeal of this tax is to allow the townships, villages, and cities in Ohio to adjust their budgets in anticipation of losing their share (80%) of the estate taxes paid for a decedent that is domiciled in their community. Although the communities of the state of Ohio will effectively have less revenue commencing January 1, 2013, each citizen of the state of Ohio who dies with assets in excess of \$338,333.00 will greatly benefit. As you may know from discussions with us over the past few years, Ohio currently has the “lowest” estate tax exemption amount of the fifty states. With this repeal, Ohio will join approximately twenty-four other states in the nation that do not levy an estate tax on its citizens.

The primary rationale for the repeal of the Ohio estate tax has been the fact many believe it is a motivator for wealthier citizens in the state of Ohio to move to states that do not levy an estate tax. Although the current maximum Ohio estate tax is only seven percent (7%), therefore is one of the lowest maximum state estate taxes in the nation, more citizens in the state of Ohio have been subject to this tax than any other state in the nation.

Since this repeal will not be effective until January 1, 2013, it will not affect those of you who have had your estate planning documents updated in the last five (5) or six (6) years with language of your estate planning documents should maximize the estate tax benefits under current Ohio law. However, if your estate planning documents are more than six (6) years old as of January 1, 2013, for clients who have updated their documents in the last six (6) years, your plans should be reviewed to determine how the changes in the estate tax here in Ohio, will affect the ultimate distribution of your assets, if you are an Ohio resident at the time of your death.

Federal Estate Tax Update

We wish to also remind you of the fact that the _____ Act signed by President Obama on December 17, 2010, set a new federal estate tax exemption amount of five million dollars (\$5,000,000) per citizen. This amount had previously risen over a ten (10) year period from 2001 through 2009 from \$675,000 to \$3,500,000. For last year there was no federal estate tax levied in the United States (unless the decedents state elected to be subject to such tax).

Under the 2010 Act the maximum federal estate tax was also fixed at a thirty-five percent (35%) rate (earlier in the decade it had been as much as fifty-five percent (55%)). It also included a new concept referred to as “portability” which now allows the survivor of a married couple to take advantage of any unused federal

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estate tax exemption in the state of the first spouse to die. (i.e., if the first spouse dies with an estate of \$2,000,000, the surviving spouse has the right to protect \$8,000,000 of assets on his or her death). Although these are significant improvements in the amount exempted from federal estate tax from prior years (excluding 2010), we need to remind you that such provisions are only effective through December 31, 2012. Therefore, the federal estate tax exemption amount ironically is currently scheduled to be reduced to \$1,000,000 per U.S. citizen effective January 1, 2013, the same date the Ohio estate taxes will be repealed in their entirety!

Gift Tax/Generation Skipping Tax

Finally, we wish to remind you that the _____ Act of 2010 also increased the amount of the federal gift tax exemption and federal generation skipping tax exemption. Effective January 1, 2011 through December 31, 2012. Each citizen of the United States has the right to now gift up to five million dollars (\$5,000,000) tax-free during his or her life, and may make such gifts to grandchildren or more remote generations without being subject to a generation skipping tax. Of course, each U.S. citizen continues to have the right to gift an amount up to \$13,000 per year, per person under the gift tax “annual exclusion amount” and such “annual exclusion gifts” continued to be excluded from reducing the federal gift tax exemption amount.

As always we encourage all of our clients to feel free to contact us with any legal questions that they may have from time to time, but would like to take this opportunity to specifically suggest that all clients consider reviewing their estate planning documents with one of our attorneys before January 1, 2013.