

RUMORS OF THE EARLY DEMISE OF THE CURRENT GIFT TAX EXEMPTION ARE LIKELY EXAGGERATED

November 9, 2011

To Our Clients and Friends:

As we mentioned in our client update of February 15, 2011, the current \$5 million (or \$10 million for a married couple) exemption from the federal gift tax, as well as for the estate tax and generation-skipping transfer tax, is now scheduled to expire at the end of 2012. Most commentators have assumed that this exemption will be extended by Congress rather than reverting to \$1 million (\$2 million for a married couple) as under prior law, but nevertheless many clients have been planning for the reduction of this historically large exemption amount in due course.

We are hearing rumors that the window to use the large exemptions could close as soon as November 23, 2011. As you may know, the Joint Select Committee on Deficit Reduction must issue a report by that date. Some observers have suggested that if this Committee report recommends a reduction in the exemption from \$5 million to \$1 million, the legislation could become effective as early as November 23rd. Other rumored provisions of this Committee report include a return to higher gift tax rates, changes to the estate and GST taxes and modifications to existing rules for GRATs and intra-family discounts.

Most commentators—including lobbyists with contacts on the relevant Congressional committees—believe that this outcome is highly unlikely, and although the rumors continue to circulate they remain unsubstantiated. Nevertheless, if you have been considering making gifts or engaging in other transactions using the higher exemption amount, you may want to consider completing these transactions sooner rather than later to avoid the risk of a premature change in the law.

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Please feel free to contact us or any other member of our Trusts and Estates Group with any questions you may have on this issue or about any other trust or estate planning or administration matter.

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