Cooley

May 7, 2012

Until the end of 2012, the federal gift, estate and generation-skipping transfer (GST) tax rates are 35%, and each person has a $5,120,000 exemption from all three types of taxes.

Why use your gift tax exemption this year?

2012 transfer tax laws set to expire

Unless Congress enacts further legislation, effective January 1, 2013, each of the gift, GST and estate tax exemptions automatically decreases from $5,120,000 to $1,000,000, and the tax rates increase to a maximum of 55%.

The important point is that for the remainder of 2012, each person has the potential to gift an additional $4,120,000 tax-free to his or her beneficiaries, and this opportunity expires at the end of 2012 when the gift tax exemption returns to $1,000,000. Moreover, any post-transfer appreciation on the gifted property passes to such beneficiaries free of transfer taxes.

Gifting to a GST Trust

To further leverage tax-savings opportunities, a donor may make his or her gift to a "GST Trust" for family members and allocate GST tax exemption to the transfer. A GST Trust is structured to avoid taxation for multiple generations by having future distributions to grandchildren and more remote issue be made free of estate and GST taxes.

Even if you do not wish to make gifts at this time, consider allocating your additional GST exemption in 2012 to prior gifts in trust that are not GST exempt.

Contact us

Please contact us as soon as possible to discuss these estate planning opportunities. Whether you should utilize your additional gift and GST tax exemptions this year depends on many factors, and we would be happy to discuss them with you. We encourage you to consult with us well before the end of 2012.

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