

Federal Estate and Gift Tax Update

Like the tax and estate planning community at large, BaskinFleece expected that Congress would extend the 2009 tax rates and exemptions for 2010, but instead, Congress did not act and the estate tax and generation-skipping tax for individuals dying during 2010 and for generation-skipping transfers made in 2010 have been repealed.

If no action is taken by Congress in 2010, there will be no federal estate tax or generation-skipping tax on deaths occurring in 2010 and the estate assets will have a carry-over basis for income tax purposes. However, in 2011 the estate exemption will be \$1 million with a top tax rate of 55%. If action is taken by Congress in 2010, we do not know the amount of the exemption, top tax rate, or if the changes will be retroactive for those dying on or after January 1, 2010. Unlike the federal estate tax and generation-skipping tax, the gift tax rules for 2010 have not been repealed. The top gift tax rate for 2010 is 35%. The annual gift tax exclusion for 2010 is \$13,000.00 per donee and the lifetime gift tax exclusion is \$1 million.

The repeal of the estate tax may adversely impact wills and trusts which are dependent on the estate tax. Therefore, it is now appropriate to determine if your estate planning documents should be reviewed and possibly revised. For example, wills or trusts which refer to the marital deduction, the applicable credit amount, the federal estate tax, the unified credit, the estate tax exclusion amount, and/or the generation skipping transfer tax, with regards to funding a marital trust, the repeal could cause the marital trust to not be created. This unintended result can lead to inadequate support for the surviving spouse, especially when the family trust provides for the children of the decedent and not the surviving spouse.

The most effective way to approach this problem is for you to locate your documents and see if such phraseology is used in your documents. If you find any of these tax law oriented phrases, please consider contacting the office so we can determine whether corrective action is necessary. Please contact one of the attorneys at BaskinFleece to review your documents and answer questions you might have.

Go Green!

Receive this newsletter electronically by sending your name and email address to admin@BaskinFleece.com.

To stop receiving this newsletter, please email the word "Remove" in the subject line and your name and email address in the body of the email to admin@BaskinFleece.com or call Lisa Reid, Firm Administrator, at 727.572.4545.

Keeping Current is a publication of BaskinFleece. All rights are reserved. The information contained in this newsletter is general in nature and is not intended to be, and should not be considered, legal advice. For specific advice on any topic, please contact us.

Hamden H. Baskin, III
Joseph W. Fleece, III
Brandon D. Bellew
Colleen A. Carson
B. Joseph Kurek, II

Of Counsel

Joseph W. Fleece
G. Penfield Jennings

Probate Litigation

Trust Litigation

Fiduciary Litigation

Business Litigation

Business & Real Estate Transactions

Contested Guardianships

Estate & Trust Administration

Estate Planning

Real Estate Litigation

Business Law

13577 Feather Sound Drive
Suite 550
Clearwater, Florida 33762
p: 727.572.4545
f: 727.572.4646
www.BaskinFleece.com