ESTATE TAX IMPLICATIONS FROM THE 2010 TAX RELIEF ACT

$5 million gift, estate & GST tax exemption amount // 35% maximum gift, estate & GST tax rate // Step-up in Basis Reinvented // Portability

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The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 was signed into law on December 17, 2010. The Act generally only extends its tax breaks for two years – 2011 and 2012. Thus, there are two perspectives by which to view this act's provisions. The first is as a window into the immediate future of both estate tax and income tax rates. This view reflects the inertia that will settle in, requiring significant force and momentum to unwind what taxpayers have built into their financial and tax plans. The second view is that this truly is a brief respite ending late-2012 when the country will find itself in the same planning predicament we endured during 2009 and 2010

Regardless, knowledge is the key to surviving the ride and effectively updating estate and tax plans. This paper offers a review of the estate tax changes enacted by the 2010 Tax Relief Act as well as insightful guidance and planning tips for investors to consider. What we may all find over the next two years is that planning may become more focused on what is really important: people, family security, nontax issues, asset preservation, management of investments, giving back and so on. And despite the fact that taxpayers and experts may all be put in the same frustrating position again of having to guess at where the law is going, effective planning can help better position investors going forward.

$5 MILLION GIFT, ESTATE & GST TAX EXEMPTION AMOUNT

Expiring Law	2010 Tax Relief Act
Before 2004, the gift and estate tax exemption amounts were the same. That is to say they were fully unified. The Generation Skipping Transfer (GST) Tax exemption amount fell in line with the estate tax exemption amount.	For 2011; no gift, estate or GST tax is imposed on the first $5,000,000 in wealth transferred away. Each individual is entitled to this exemption amount and may use it during life or at death. 2011 wealth transfers in excess of this exemption amount may be subject to a gift, estate or GST tax.

Key Takeaways: Individuals who have previously exhausted their $1 million (2010) lifetime gifting limit are now able to transfer an additional $4 million gift, estate and GST tax free. Married couples may now transfer up to a total of $10 million federal estate tax-free.

Investors able to afford large gifts, yet uncomfortable relinquishing complete control over such sums to an intended beneficiary, should consider placing the gift in a trust for the benefit of the intended individual(s).

The corresponding increase in the GST tax exemption amount significantly increases the ability to preserve more family wealth through multiple generations.

35% MAXIMUM GIFT, ESTATE & GST TAX RATE

Expiring Law	2010 Tax Relief Act
With the expiration of the Bush tax cuts, the gift and estate tax rates were scheduled to revert to a 2001 maximum rate of 55% for 2011. Because the GST tax has a flat tax rate equal to the highest estate tax rate at the time of the transfer, all 2011 generation skipping transfers would be taxed at 55%.	A single rate schedule applies to all types of transfers with the maximum rate of 35% (2011). These rates are progressive and are applied to the cumulative amount of wealth transferred in excess of the $5 million exemption amount discussed previously.

Key Takeaways: Large lifetime transfers of wealth may have just become the most important planning tool investors have during the 2011 and 2012 two-year period. For 2011 and 2012, the true value of lifetime gifts may lie in the ability to use them to preserve or create family wealth.

One simple method is to make tax exempt or taxable lifetime gifts to a dynasty-type, or multi-generational, trust and use the gifted funds to pay life insurance policy premiums. The insurance proceeds held by the trust may be removed from the wealth transfer tax system for future generations.

STEP-UP IN BASIS REINSTATED

Expiring Law	2010 Tax Relief Act
The aptly named "step-up in basis" rules were reinstated effective 2010.	Under the step-up rules, the recipient of inherited property receives a basis which is stepped up or down to the fair market value of the asset.

Key Takeaways: Inherited property is automatically recharacterized as LTCG property regardless of how long the deceased or the heir held the property before eventual sale.

PORTABILITY

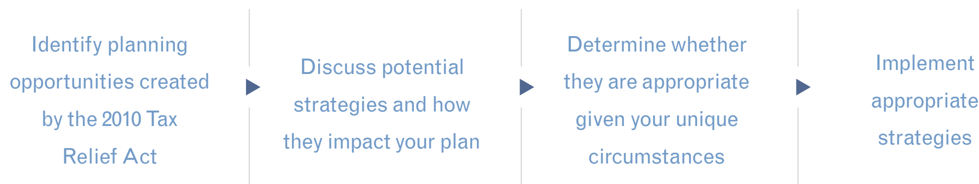
Expiring Law	2010 Tax Relief Act
Previously, unused exemption amounts passed with the individual. Therefore a basic tenet of estate tax exemption planning was to ensure that each spouse had sufficient wealth to fully utilize his or her own estate tax exemption amount.	Under the new act, if the first spouse to die passes in 2011 or later, the surviving spouse now has access to the deceased's unused exemption.

Key Takeaways: Most married couples no longer need the familiar credit shelter, or family, trust (CST) to fully utilize the exemption of the first spouse to die. The executor of the first spouse to die may simply elect to transfer the deceased's unused exemption amount to the surviving spouse.

There may still be valid asset preservation and tax planning reasons to retain or incorporate CST provisions in estate planning documents.

WORK WITH YOUR FINANCIAL ADVISOR

Tax planning is an important and complicated part of a comprehensive financial plan. Lower tax bills may be important, but they are not the only important consideration. To maximize overall portfolio performance and tax results, review short- and long-term objectives, portfolio asset allocation, and investment diversification before taking action. You should work closely with your financial advisor as well as other relevant tax professionals to:



Any information is not a complete summary or statement of all available data necessary for making an investment decision and does not constitute a recommendation. Investors are urged to consult with their own tax advisors with regard to their specific situation prior to making any investment decisions with tax consequences.

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