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MEMORANDUM CONCERNING FEDERAL ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX CHANGES

A one year suspension of the federal estate and generation-skipping transfer (GST) taxes went into effect on January 1, 2010. The federal gift tax remains in effect in 2010, with a \$1,000,000 per person lifetime exemption, a \$13,000 per donee annual exclusion and a top gift tax rate reduced from 45% to 35%.

Another significant change for 2010 is the creation of a carryover basis regime for the purpose of determining the tax basis of property acquired from a decedent. Under this rule, the basis for determining gain or loss on the sale of assets acquired from a decedent will be equal to the lower of (a) the decedent's basis in such assets prior to death, and (b) the date of death fair market value of such assets. However, the Personal Representative of an estate may allocate \$1.3 million of basis to appreciated assets in all estates and an additional \$3 million to increase the basis of assets passing to a surviving spouse.

The federal estate and GST taxes are scheduled to return on January 1, 2011 with a \$1,000,000 estate tax exemption, a GST tax exemption of \$1,100,000, and tax rates up to 55%, with a 5% surtax in some cases. The carryover basis regime of 2010 would no longer apply to estate assets in 2011.

Congress may still amend these tax laws in 2010, possibly making the amendment retroactive to January 1, 2010.

It is now appropriate to determine whether your estate plan may be affected by the repeal and whether any corrective action is necessary. Wills, trusts and estate plans which refer to the marital deduction, the federal estate tax, the unified credit, the estate tax exclusion amount, and/or the generation-skipping transfer tax should be reviewed to determine how they may be affected by the repeal.

Regardless of the changes in the law, you should review your estate planning documents periodically to determine if revisions are necessary due to changes in your family or financial circumstances.

Please take a few moments to review your estate planning documents and contact us to determine whether amendments to your plan are necessary.