

## Trusts & Estates

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## New Legislation Affects Federal Estate, Gift, and GST Taxes

Last week Congress passed, and the President signed, tax legislation that substantially impacts estate, gift and generation-skipping transfer tax law for the next two years.

The provisions may be summarized as follows:

### ***Federal Estate Tax Exemption and Maximum Federal Estate Tax Rate***

The estate tax exemption amount for decedents dying in 2011 and 2012 will be \$5,000,000, and the maximum federal estate tax rate will be 35%. Beneficiaries who receive assets from decedents dying in 2011 and 2012 will receive the assets with a basis equal to the fair market value at the decedent's date of death. In addition, the unused estate tax exemption of a first spouse to die may be transferred to a surviving spouse with certain restrictions.

### ***Federal Gift Tax Exemption and Maximum Federal Gift Tax Rate***

The gift tax exemption amount for taxable lifetime transfers in 2011 or 2012 will be \$5 million, and the maximum gift tax rate will be 35%. The gift tax exemption was only \$1 million prior to this recent legislation. The benefit of making taxable gifts in 2010 to take advantage of the 35% 2010 rate no longer applies as the gift tax rate will be the same in 2011 and a larger gift tax exemption will be in effect.

### ***Federal Generation-Skipping Transfer Tax ("GST") Exemption and Maximum GST Rate***

The GST exemption amount will be \$5,000,000 in 2011 and 2012, and the maximum rate applicable to GST transfers will be 35% in those years.

### ***Other Items of Note:***

- The newly enacted tax law does not limit the use or terms of grantor retained annuity trusts ("GRATs").
- The law does not limit the use of valuation discounts for family limited partnerships and LLCs.

- Charitable transfers directly from an IRA to a charitable organization (known as “IRA Charitable Rollovers”) are permitted for 2010 and 2011 in certain circumstances. An IRA Charitable Rollover may be effective for 2010 purposes if made prior to January 31, 2011.
- The new law also changes existing estate tax law applicable to the estates of decedents dying in 2010 and to certain provisions of the generation-skipping transfer tax law applicable to transfers in 2010.
- Absent any action in the upcoming Connecticut legislative session, the Connecticut estate and gift tax exemptions remain at \$3,500,000 with a maximum 12% rate.

We will send an update early in 2011 with further analysis as to how the new legislation will impact estate planning. If you have any questions regarding these matters, please contact one of the members of our Trusts & Estates Practice Group listed below.

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