

2011 Federal Estate Tax

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Finally, the uncertainty regarding the Federal Estate and Gift Tax has been resolved with the "Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010" which was signed on December 17, 2010. Beginning in 2011 the Federal Estate and Gift Tax exemption will be \$5,000,000 and the Estate Tax will be 35%. What does that mean for you? If you are a United States Citizen or a Permanent Resident Alien you can transfer upon death up to \$5,000,000 and pay no federal estate tax. If you transfer more than \$5,000,000, to anyone other than your spouse, your estate will pay a tax equal to 35% of the amount over \$5,000,000. Your beneficiaries will also receive a full stepped-up basis of the assets you transferred to their date of death values. This is great news for those transferring appreciated assets in order to eliminate possible income tax due on capital gains. The new law is only effective for those dying by December 31, 2012 and then the exemption is scheduled to drop from \$5,000,000 to \$1,000,000 and the estate tax rate to increase from 35% to 55% effective January 1, 2013.

An exciting part of the law for married people permits unused exemptions to be passed on to their spouse. This may eliminate the need to separate and equalize your property. If Husband dies with only \$2,000,000 in his estate his wife can take his unused \$3,000,000 exemption and add it to her \$5,000,000 exemption so she can transfer up to \$8,000,000 upon her death, estate tax free. This is extremely helpful for those of you who haven't had your estate plans prepared by an attorney since it may avoid the need for a bypass or Family Trust in order to take full advantage of spouses combined \$10,000,000 exemption. However do not let this stop you from proper estate planning. As you know everyone's situation is different and we must not forget that Connecticut's Estate Tax exemption is only \$3,500,000. No matter what the estate tax laws are, Estate Planning is critical to everyone. A proper Plan puts you in control by permitting you to direct who receives your assets and when, designate your guardian, executor, trustee, health care representative and conservator if you need them in the future and to prepare trusts for children, disabled heirs and if necessary to avoid probate. If you wish to discuss this further please contact me at fbg@pellegrinolawfirm.com.