2013 Estate and Gift Tax Update

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The **new year** brings with it a more "permanent" federal estate tax law regime. On January 1, 2013, President Obama signed into law the American Taxpayer Relief Act of 2012 (the "Act"), which included changes to the federal estate, gift and generation-skipping transfer tax provisions of the Internal Revenue Code. Since 2001, the estate and gift tax laws have been in flux and were set to dramatically change on January 1, 2013. We find the changes brought by the Act to be favorable for a majority of our clients and look forward to discussing these changes with you. For now, the following is a brief summary of the primary changes that may affect you and your estate plan.

- The federal estate and gift tax exemption is $5,250,000 in 2013 ($10,500,000 for married couples). This amount is subject to an annual inflation increase. As you will recall, this number was scheduled to decrease to $1,000,000 per taxpayer ($2,000,000 per married couple) if Congress had not acted.
- The generation-skipping transfer (GST) tax exemption is also $5,250,000 in 2013 ($10,500,000 for married couples), subject to an annual inflation increase.
- The tax rate on estate, gifts and GST transfers above the exemption increases this year to 40%, from 2012's rate of 35%. Although higher than last year, this is less than the anticipated 2013 rate of 55%.
- The gift tax credit is now "permanently" unified, which means that you can use your entire estate and gift tax credit during life.

For example, in 2013, you could make up to $5,250,000 in gifts without incurring a gift tax:

- Congress made the "portability" rules permanent. This concept of portability allows the estate of a deceased spouse to transfer to the surviving spouse the remaining estate tax exemption of the deceased spouse, ultimately allowing full use of both spouse's estate tax exemption.
- The annual gift exclusion amount increases to $14,000 in 2013, an inflation-adjusted increase of $1,000 from 2012. This is the maximum amount that a taxpayer may gift to a beneficiary without using gift tax exemption or paying gift tax. Of course, you may still make tax-free direct payments of tuition and medical expenses.

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What does this mean for you?

1. If the disposition of the assets in your estate plan is based on federal estate tax laws, it is possible that the plan may now be simplified or significantly modified if you are a single individual with less than or equal to approximately $5,000,000, or a married couple with less than or equal to approximately $10,000,000 net worth.
2. If you have postponed a review of your estate plan pending some permanency in the estate tax laws, then this is a good a time as any to make that review.
3. Those of you who made large gifts in 2012 or before may wish to consider increasing those gifts to use the increase in the gift tax and GST exemptions.
4. If you did not make gifts in 2012, you may wish to reevaluate the advantages of making taxable gifts or annual exclusion gifts in 2013.
5. While the changes that Congress made are purportedly "permanent" and do not carry with it an expiration date, these taxes could be revised again in the future. We would be pleased if these laws were truly permanent, however, we must wait and see what Congress will do.

We are always glad to assist you with your estate planning needs. We would be pleased to sit down with you this year and review the new tax provision changes and how they affect your documents and estate planning goals. We look forward to hearing from you. Michael L.M. Jordan John M. Jolley Shareholder Shareholder Shelter Cove Executive Park Shelter Cove Executive Park 23-B Shelter Cove Lane 23-B Shelter Cove Lane Suite 400 Suite 400 Hilton Head Island, SC 29928 Hilton Head Island, SC 29928