December 2007

Dear Friends:

Here we are at the end of 2007, and who would ever have guessed (certainly not I) that we would be no closer to having an answer to our question about what will happen to the estate tax at the end of 2009, - a mere 2 years away. Although Congress has seemed poised to come up with a long range plan for the transfer tax system, it cannot seem to get over the three or four vote hurdle for passage. Reprinted below is a summary of current transfer tax exemptions and rates:

Transfer Tax Exemptions and Rates

Year	Estate and GST tax Exemptions[1]	Gift Tax Exemptions	Highest Estate, GST and Gift Tax Rate
2007	$ 2 million	$ 1 million	45%
2008	$ 2 million	$ 1 million	45%
2009	$3.5 million	$ 1 million	45%
2010	(repealed)	$ 1 million	35%[2]
2011	$ 1 million[3]	$ 1 million	55%[4]

As indicated in the chart, husbands and wives with tax planned Wills and estates worth less than $4 million escape the estate tax altogether under the current law. By 2009, when the exemption rises to $3.5 million per person, less than 1% of estates of people dying that year will be subject to the estate tax. You would have to attend one hundred average funerals to be at one at which the decedent's estate owed a tax. Nevertheless, for those whose estates exceed the tax-free amount, the 45% marginal rate is quite a significant consideration. I still cannot imagine that we will reach January of 2010 facing a calendar year in which there is no estate tax or that we will get to December 31, 2010 facing a reversion of the estate tax exemption to a mere $1 million. I am, however, enough of a realist to know that an election year is not going to be conducive to a major change in the tax system. Therefore, I think we will have to look to the new Congress taking over in 2009 to give us back some certainty on which we can rely in our planning. In other words, "Stay tuned"!

In the meantime, for those of you whose estates would be taxable even at the level of the 2009 exemption ($3.5 million per person), remember that it may make sense to make some lifetime gifts in order to allow assets to grow in the hands of your children and grandchildren. Also remember to be making the

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[1]Less any gift tax and GST tax exemptions, respectively, used during life.

[2]Gift tax only. Equal to highest marginal income tax rate, which is currently 35%.

[3]The GST tax exemption is adjusted for inflation.

[4]Reverts to 2001 rules. The benefits of the graduated estate and gift tax rates and exemptions are phased out for estate and gifts over 10 million.

most of your so-called "annual exclusions", the $12,000 per recipient each year ($24,000 per recipient if your spouse also makes the gift), without using up any of your lifetime exemption. There are special rules if you wish to make the gifts in trust rather than outright, so let us know if we can assist you. Remember, too, that you may also pay eligible education and medical expenses for a loved one (such as a grandchild) without the payment being treated as a taxable gift, so long as the payment is made directly to the school, doctor, or hospital. In other words, for those of you who can afford it, making a payment directly to your grandchild's private school or for your grandchild's medical care (to the extent of uninsured expenses) makes good tax sense.

Legislative Changes to the New Tax Margin Tax:

If you hold an interest in a partnership or are serving as the trustee of a trust that receives more than 10% of its gross income from rents, mineral properties, or an active trade or business, you may want to undertake some planning to minimize the application of the new Texas Margin Tax. As originally enacted, there was an exemption aimed at family limited partnerships, but changes enacted by the Texas Legislature this Spring removed that exemption, applying instead an exemption for "passive entities". Although subject to very intricate and difficult- to- understand rules, the bottom line is that rent or income received by a non-operator from mineral property, if the operator is an affiliated company acting under a joint operating agreement do not qualify as "passive income" for purposes of exemption. While these new rules may not affect many family limited partnerships, they can be fairly significant so those few which are affected.

Charitable Contributions:

As I indicated to you last year, if you are over age 70½, you may gift up to $100,000 per year from your IRA to a qualified public charity without including the gifted amount in your gross income. These qualified charitable distributions are counted towards your annual minimum distribution requirement for the year of the gift, but remember that the donation must be to a qualifying public charity (not a donor-advised fund, supporting organization, nor private foundation) and the distributions must be a direct trustee (i.e., broker)-to-charity transfer. There are efforts under way to extend this provision through 2008, but the extension has not yet been enacted.

Warning if Vanguard is Custodian for Your IRA

According to a September article in Forbes magazine, Vanguard has decided that, as of mid-September of this year, it will require customers to use identical beneficiaries for all IRAs of the same type. All of your IRAs holding money rolled over from an employer pension plan count as the same "type" and must have the same beneficiaries. Traditional IRAs, both pretax and after tax, are a second type. Roth IRAs are a third type. If you have named different beneficiaries for separate IRAs of the same type or different beneficiaries for different mutual funds within a single IRA, Vanguard will apply the newest beneficiary form to all of your IRAs of the same type. If two forms were submitted at the same time, Vanguard will treat the one it processed later as newer. This is crucial, since it is the form - not your Will - that determines who gets your IRA. Say, for example, you name your older child as the primary beneficiary of one rollover IRA and your younger child as the primary of another, unless you contact Vanguard and straighten it out, one of your kids could lose his or her IRA inheritance. Even if you call Vanguard and ask to keep different beneficiaries for separate IRAs of the same type, you may be told that it is impossible. A word to the wise, if it is important for you to have different beneficiaries on different IRA accounts of the same type held by Vanguard, you may wish to consider moving your IRAs to a different provider.

Best wishes for the New Year. We will continue to pray for the peace and justice our world so desperately needs!

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