

June 15, 2001

THE NEW TAX LAW OF 2001

Dear Friends

On June 7th the President signed into effect the new tax law, known as the Economic Growth and Tax Reconciliation Act of 2001 (the "Act"). Although the Act also reduces income tax rates and enhances educational savings and retirement savings opportunities, this letter focuses on the changes made by the Act in the estate and gift tax laws and makes specific recommendations for action to be taken by you in response to the new Act. The other changes in the tax laws should be reviewed with your accountant or other financial advisor.

The "Repeal" of the Estate Tax

Beginning in 2002, the Estate Exemption a/k/a the "Exemption Equivalent" is increased and there is a gradual reduction in the maximum estate tax rates as shown in the following chart. As of January 1, 2010, the estate tax and the generation-skipping transfer tax will be "repealed" for one year. However, the estate tax returns in 2011, when the Exemption Equivalent amount will be \$1,000,000.

Year	Estate Exemption	Gift Tax Exemption Amount	Top Estate and Gift Tax Rate
2001	\$675,000	\$675,000	55%
2002	\$1,000,000	\$1,000,000	50%
2003	\$1,000,000	\$1,000,000	49%
2004	\$1,500,000	\$1,000,000	48%
2005	\$1,500,000	\$1,000,000	47%
2006	\$2,000,000	\$1,000,000	46%
2007	\$2,000,000	\$1,000,000	45%
2008	\$2,000,000	\$1,000,000	45%
2009	\$3,500,000	\$1,000,000	45%
2010	Estate Tax Repealed	\$1,000,000	N/A
2011 and beyond	\$1,000,000	\$1,000,000	55%

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Carryover basis returns

Under current law, at death the tax basis in property passing from a decedent is increased to the value of the property passing as of the date of death (or the alternate valuation date) and all of the unrealized capital gains existing at that time are left untaxed both at the time of death and when the property is later sold.

Under the Act, the benefits of this "stepped-up basis" will be eliminated beginning in 2010 and the recipients of property from a decedent's estate will take over the decedent's tax basis. However, the first \$1,300,000 of assets transferred will receive stepped-up basis and transfers of up to an additional \$3,000,000 to a spouse will also receive a new basis. In effect, a capital gains tax replaces the estate tax and heirs will pay this capital gains tax when they sell inherited property.

State death tax credit will be replaced with a deduction

For several years, Michigan and many other states have imposed a "pick-up" or "soak-up" tax on the death of individuals whose estates also had a federal estate tax liability. The amount of the "pick-up" tax is equal to the state death tax credit allowed for federal estate tax purposes. The state death tax credit will be reduced during the period from 2002 through 2004, as follows: reduction of 25% in 2002 (from present amounts), 50% in 2003, and 75% in 2004. In 2005 the state death tax credit will be repealed and replaced by a deduction against federal estate taxes for any estate, inheritance, legacy or succession taxes actually paid to a state on the death of a taxpayer. Given the repeal of the state death tax credit, we feel that it will not be surprising to see the reimposition of a tax in the nature of an inheritance tax by the State of Michigan and other states which would otherwise lose revenue due to the repeal of the federal state death tax credit.

The Gift Tax is Retained

The gift tax is not repealed. The gift tax rates are the same as the estate tax rates in the chart on page 1. However, the gift tax exemption rises to \$1,000,000 in 2002. Unlike the estate tax exemption, it does not increase further. Beginning in 2010, lifetime gifts in excess of the \$1,000,000.00 exemption will be

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subject to a gift tax equal to the top individual income tax rate at that time.

Sunset Provision (or "When is repeal not repeal?")

The foregoing all having been said, it should be noted that the Act provides that all provisions of, and amendments made by, the Act will not apply to estates of decedents dying, gifts made or generation-skipping transfers, after December 31, 2010. As things stand now, beginning on January 1, 2011, the tax laws will be applied and administered as if the Act had not been enacted.

GOURWITZ AND BARR, PROFESSIONAL CORPORATION, recommendations

- ◆ Continue to do estate planning on the assumption that the estate tax will **not** ultimately be repealed.
- ◆ Review your existing estate plans and the current funding of Revocable Living Trusts in light of:
 - ◆ the Act
 - ◆ The passage in Michigan of the Estates and Protected Individual Code (EPIC) that went into effect last year
 - ◆ The new minimum distribution rules (promulgated by the IRS in January of this year) regarding the minimum required distributions from certain retirement plans
- ◆ Evaluate whether changes in the tax law will require changes to the funding of your Revocable Living Trust(s) and the amount of assets available to fund a Family Trust a/k/a "credit shelter trust" (i.e., that portion of your Trust that on death is funded with the Exemption Amount).
- ◆ Evaluate whether your estate plan reflects your current intentions regarding the disposition of your assets and has taken into account any significant changes in your family since your estate plan was originally prepared.

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- ◆ Review your record-keeping procedures so that if carryover basis actually goes into effect in 2010, your estate will be prepared with the necessary information.

Conclusion

Remember that estate planning is not just about minimizing estate taxes. Many people are concerned about avoiding the expense, delay and public nature of probate proceedings. Others are concerned about protecting their families from certain financial risks that might arise following death. Proper estate planning should always address these areas of concern, as well as the tax considerations.

We suggest that you contact us to discuss your personal situation so that we can decide together whether an appointment should be scheduled to review your estate plan. Prior to meeting, we will send to you a questionnaire and an asset schedule to be completed by you so that our meeting will be as productive as possible.

Very truly yours

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PROFESSIONAL CORPORATION

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