

**October 7, 2009**

**ALERT: Likely estate-tax law changes make family wealth transfer timely before end of 2009**

A unique combination of legislative and economic factors makes the **remainder of 2009 a window of opportunity for those seeking to transfer assets to other family members while minimizing tax liability. Those who have set up entities such as family limited partnerships specifically for this purpose should seriously consider the tax advantage available now through Dec. 31, 2009.**

Through year-end, currently \$3.5 million in assets may be transferred from one family member to another without incurring estate taxes. Some of the proposed legislation supported by the Obama administration would make that \$3.5 million applicable federal estate tax exclusion permanent. If no new legislation is passed (which appears unlikely at this point), the estate tax would be repealed completely in 2010, then would revert to a \$1.0 million applicable exclusion amount in 2011.

Aside from likely changes in the estate-tax laws, two other factors affect the amount of tax liability incurred for intra-family transfers:

- **Some of the proposed bills, if adopted, would eliminate “lack of marketability and minority interest” discounts** when valuing assets for gift and estate taxes in certain types of entities where family members hold a majority interest. Those discounts can deliver substantial tax reductions – significant enough that **those considering transferring assets may want to consider setting up an entity which would be eligible for the discount while it is still available or making additional gifts from an existing entity.** The legislative bills supporting an exclusion of these discounts indicate interest in eliminating the discounts, whether in current legislation or future versions.
- **Current** asset values are likely to be lower due to depressed economic conditions, which also reduce tax liability on transfers.

These three factors suggest that family businesses and others with significant estates who are planning to make gifts or transfer assets should consider doing so as soon as possible during the balance of 2009, before additional estate-tax legislation is passed.

If you would like additional information about the potential tax impact of proposed estate-tax legislation, please contact your AGH tax professional at (316) 267-7231.

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