

November 3, 2010
ALERT: Planning becomes more important as
uncertainty continues with estate tax laws

With or without Congressional action, estate taxes will rise in 2011 since there is no estate tax at all in 2010. Current law restores top tax rates and exemption levels to pre-2001 levels of 55% and \$1 million, respectively. As a result, there is no better time than now to examine your estate plan.

Estate planning is especially important for those considering gifting or selling assets to children, grandchildren or others. As well, anyone who may also be considering gifting or selling ownership in entities such as family limited partnerships, S or C corporations, or limited liability companies is encouraged to review their estate plan. Action is especially critical for those who may be considering large gifts, whose estates are sizable or whose estate plans could be triggered in coming months through a death.

Despite uncertainty over how estate laws may change, several factors make a review especially timely:

- With gift tax rates at 35% for 2010, the current environment encourages gifting.
- Some current tax strategies aimed at reducing the effect of estate taxes may disappear in future years. In an attempt to curb perceived abuses when a taxpayer is attempting to use gifting or selling of assets or ownership in entities to reduce estate or gift tax consequences, Congress is considering several legislative changes including:
 - Strategies that would limit the effectiveness of transferring property by exchanging assets (typically company stock) for an annuity or note
 - Limiting the discounts of gifting units in a family limited partnership to heirs if the entity does not operate an active business

Estate Tax Rate Comparison

If Congress chooses not to act on the current estate tax law, the tax rates and exemptions will revert back to pre-2001 levels. The drastic changes in estate tax rates and exemption levels from 2009 to 2011 are outlined in the table below:

	2009	2010	2011 (With no change)
Tax Rate	45%	None	55%
Exemption	\$3.5 million	Unlimited	\$1 million

Gift planning

Although the gift tax was not repealed, a 10% tax rate reduction (which provides a 22% tax reduction) is a significant benefit for those determining if and when to make large gift transfers. If these situations apply to you, consider making your gift now:

- If you plan to make large taxable gifts (above the \$1,000,000 lifetime exclusion)
- If you want to take advantage of unlimited generation-skipping transfers during this repeal window
- If you want to transfer property while valuation discounts are still available

For more information, please contact your AGH tax professional at (316) 267-7231.

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