

## ***Estate Tax Uncertainty Remains in 2011 and 2012***



[www.kbgrp.com](http://www.kbgrp.com)



**By:**  
**Barbara A. Jones, CPA/CFP®**  
**(Shareholder)**

**Kerkering, Barberio & Co.**  
**Certified Public Accountants**  
**1990 Main Street, Suite 801**  
**Sarasota, FL 34236**  
**and**  
**6320 Venture Drive, Suite 203**  
**Lakewood Ranch, FL 34202**

**Phone:**  
**(941) 365-4617**

**Email:**  
**[bjones@kbgrp.com](mailto:bjones@kbgrp.com)**

**[www.kbgrp.com](http://www.kbgrp.com)**

**Dated:**  
**August 3, 2011**

### ***About the Author:***

Ms Jones joined the firm in 1997. Her areas of practice include individual taxation, estate and trust taxation; financial and estate planning and fiduciary accounting. Additionally, she advises on Roth IRAs, retirement plan distributions and 529 College Savings plans.

### ***Take advantage of unprecedented wealth transfer opportunities and build flexibility into your plan***

“... unless Congress takes additional action ...” This phrase likely is familiar to anyone involved with estate planning during the last few years because of the uncertain fate of the estate tax. Unfortunately, the phrase continues to apply.

Gift-giving has always been an important part of estate planning. With regular gifting, you are able to reduce the size of your estate and potentially reduce estate taxes. Changes made by the 2010 Tax Relief Act have increased opportunities for gifting in any estate plan.

The 2010 Tax Relief Act provided many answers regarding the estate tax, but, unfortunately, the Act created additional questions as well. The reason? Unless Congress takes additional action (there’s that phrase again!), beginning in 2013, the gift and estate tax exemptions and top tax rates will return to levels prescribed by pre-2001 tax law. For now, the Act gives individuals a \$5 million exemption from gift taxes through the end of 2012 and gift tax rate of 35 percent for gifts above the exemption amount.

In light of these circumstances, consider taking steps this year and next to maximize the benefits of the high gift and estate tax exemptions (\$5 million) and low gift and estate tax rates (top rate 35 percent).

### ***Annual gifts***

Under the annual gift tax exclusion, you can give away a specified amount each year to anyone without worrying about it being a taxable gift. The annual exclusion amount for 2011 is \$13,000. If you combine your gift with your spouse, you are able to give \$26,000 to any one individual.

Additionally, you can pay qualified expenses directly to a medical provider or educational institution on behalf of others without it being considered a gift.

## Remove large amounts of wealth with lifetime gifting

Under the \$5 million exemption, you have the ability to remove an unprecedented amount of wealth from your estate through lifetime gifts without incurring gift tax. If you max out your \$5 million exemption, you can leverage the low 35 percent top gift tax rate by making taxable gifts in excess of your exemption. The top rate currently is scheduled to increase to 55 percent in 2013.

Making gifts sooner rather than later can be a good strategy because it removes all future appreciation on the gifted assets from your estate. However, assets transferred by gifts aren't entitled to a "stepped-up basis." Thus, your heirs likely will have to pay more capital gains taxes if they sell these assets than they would if they inherited and sold them. This needs to be weighed against the gift and estate tax savings.

It's also important to know that the gift tax exemption is "unified" with the estate tax exemption. What this means is that the exemption covers up to \$5 million in combined lifetime gifts and bequests at death. So, for example, if you make \$4 million in lifetime gifts, you'll have only \$1 million remaining to shield from estate tax — if you die while the \$5 million exemption is in place. Your available exemption could be less (even \$0) or more depending on the exemption in place in the year of your death.

This year and next, you can take further advantage of current law by making gifts to your grandchildren or others more than one generation below you. Through 2012, the generation-skipping transfer (GST) tax exemption is also \$5 million — and the GST tax rate is 35 percent.

Even though gifting now is a favorable strategy to remove large amounts of wealth from your estate tax-free, don't make the decision to do so solely because of the current estate tax laws. You also need to take into account nontax issues such as the gift's impact on the recipient and the sufficiency of your remaining resources to finance your current or future lifestyle.

###

I would be happy to assist you with any of your questions. Please call 941-365-4617 or email me at [bjones@kbgrp.com](mailto:bjones@kbgrp.com).