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The Tax Relief, Unemployment Insurance Reauthorization and Jobs Creation Act

Enacted December 17, 2010

2010 was a year of uncertainty for estate planning while everyone waited for Congress to act. In mid-December, Congress passed new tax legislation, and there is now clarity and certainty in the *estate tax*, *gift tax* and *generation-skipping transfer tax* worlds, at least for 2011 and 2012. (Congress will have to act again for years beyond 2012.) The new laws generously increase the exemptions from these three taxes and decrease the tax rate on transfers on amounts exceeding the exemptions.

Here are the highlights:

- The **federal estate tax exemption** is now \$5,000,000 per person. (This means that a married couple can transfer up to \$10,000,000 of assets without generating federal estate tax.)
- The gift tax and the estate tax are reunified, and the **gift tax exemption**, as of January 1, 2011, is \$5,000,000. *For those with substantial assets who have already used the prior \$1,000,000 gift tax exemption, the new law provides an unprecedented opportunity in 2011 and 2012 to make additional lifetime gifts of up to \$4,000,000 free of gift tax.*
- The **generation-skipping transfer (GST) tax exemption** is now \$5,000,000.
- The **federal tax rate** on the excess above \$5,000,000 is now 35% for all transfers (gift, estate and generation-skipping).

Please note that the changes apply only to **federal** laws. The Maine estate tax exemption of \$1,000,000 remains in effect with Maine estate tax on the excess above \$1,000,000 in the range of 6% to 16%.

Given the significant increases in the federal estate tax exemption and the GST tax exemption, it is important your estate planning documents are reviewed to ensure that any formulas which transfer defined amounts based on these two exemptions, whether to individuals or trusts, are still consistent with your wishes. Also, if your current situation is such that you wish to take advantage of the increased gift tax exemption, GST tax exemption, or both, please call to schedule an appointment.