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Minnesota Gift and Estate Tax Law Changes

On May 23, 2013, Governor Dayton signed the Omnibus Tax Bill (“Tax Bill”) into law. The Tax Bill made significant changes to the Minnesota estate and gift tax laws. The following is a brief summary of a few of the most relevant changes that will have an impact upon some of our clients.

New Minnesota Gift Tax

The Tax Bill imposes a new 10% Minnesota gift tax on lifetime gifts in excess of \$1 million (this is significantly less than the \$5.25 million Federal gift tax exemption in 2013). Minnesota residents are subject to the gift tax for gifts of any type of property once they exceed \$1 million of gifts. Non-Minnesota residents are subject to the tax for gifts of real property and tangible personal property located in Minnesota. The Tax Bill adopts the Federal rules with respect to “annual exclusion” gifts, where you may give up to \$14,000 (for 2013) per recipient without triggering the gift tax. Gifts to an individual’s spouse and gifts to charity are also exempt from the tax. The Minnesota gift tax applies to gifts made after June 30, 2013.

Changes to the Minnesota Estate Tax

The Tax Bill also makes changes to the Minnesota estate tax. Taxable gifts made within three years of death are now considered when determining if an estate tax return must be filed, and such gifts may have an impact on an individual’s Minnesota estate tax due upon death. The scope of the Minnesota estate tax has also been expanded to reach non-Minnesota residents who own real property located in Minnesota, whether held individually or held in pass-through entities such as S-corporations, limited liability companies, partnerships and some trusts. The Minnesota estate tax changes were made retroactive for deaths occurring on or after January 1, 2013.

Family Farms

There were also technical corrections made to the estate tax law for family farms, to clarify the law that was passed two years ago. This law exempts some family farms from Minnesota estate tax for a value of up to \$5 million per person in specific situations.

How do these tax laws impact me?

Not all individuals will be impacted by the Tax Bill. If you fall into one of these situations, we encourage you to call us as soon as possible. If you are interested in making gifts, these need to be completed **before July 1, 2013**.

- You are a Minnesota resident and intend to make lifetime gifts of \$1 million or more in the near future.

- You are a Minnesota resident and your net worth is between \$1 million and \$5.25 million (\$2 million and \$10.5 million if you are married), **and** you are planning to make substantial lifetime or “end-of-life” gifts in order to avoid Minnesota estate tax at your death.
- You are a non-Minnesota resident and own real property or tangible personal property located in Minnesota.
- You are a non-Minnesota resident and you have created a pass-through entity, such as an LLC, partnership or Sub-S corporation, to own real estate or tangible personal property located in Minnesota.
- You are a Minnesota resident who owns a family farm, and you are not intending to gift any of the farm or business at this time, then you should call as soon as possible to discuss updates to your estate plan, but this does not have a deadline of July 1, 2013. If you are interested in making gifts, then the July 1, 2013 deadline is important.

Call Us

For more information, or if you have any questions, please feel free to contact your Estate Planning attorney at Winthrop & Weinstine.

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