Sage Group
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TEXAS REAL ESTATE UPDATE

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Fiscal Cliff Not the Only Worry After the New Year —For Some

On Dec. 17, 2010, in a surprising last-minute move, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "2010 Act"). The 2010 Act clarified, at least temporarily, rules in the estate, gift and generation-skipping transfer tax (GST) area. Under the 2010 Act, the estate, gift and generations-skipping transfer (GST) tax exemptions were increased to an unprecedented $5 million in 2011, indexed for inflation to $5,120,000 in 2012. In addition, the maximum rate for each of the estate, gift and GST tax is 35% under the 2010 Tax Act, the lowest maximum rate since 1933.

Although the 2010 Act alleviated many concerns estate planners and their clients faced, this respite is short-lived because unless Congress and the President agree to take further action, the provisions of the 2010 Act expire on December 31, 2012. If no such intervening action is taken before then, the following rules will thereafter apply:

- Estate tax exemption of $1 million for decedent's dying after December 31, 2012, with a maximum estate tax rate of 55%.
- Gift tax exemption of $1 million for gifts made after December 31, 2012, with a maximum gift tax rate of 55%.
- GST exemption of approximately $1 million (indexed for inflation) for generation skipping transfers made after December 31, 2012, with a maximum GST tax rate of 55%.

In short, if Congress does not act, the estate, gift and GST exemption limit will be reduced from $5,120,000 to $1,000,000 and the tax rate will escalate from 35% to 55% effective December 31, 2012. Because of the dramatic changes that will take place at the stroke of midnight on New Year's Eve unless something else intervenes to change the laws, many individuals are taking advantage of the 2010 Act's increased exemption amounts that have made available historic estate planning opportunities that we may never see again.

The ability to make larger lifetime gifts is a two-fold benefit. First, by making a large gift now, the donor is able to "lock in" the higher exemption amounts that will not be available if the amounts are permanently reset at lower levels. Second, by making a large lifetime gift now, the donor is able to shift the appreciation on the value of the gifted assets into the hands of the recipient, thus avoiding estate tax on that appreciation if the donor continued to hold the asset until death. This savings could be huge considering a donor could avoid estate tax on the appreciation on a $5 million asset over the remainder of the donor's life.

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Fireworks over Dallas is always a Big event.

Austin is considered one of the top 10 locations in the U.S. to spend New Years Eve!

San Antonio's Riverwalk draws huge crowds!

Next Month

As 2012 comes to an end, looking to 2013 should have Texas poised to be one of the fastest growing states in the country. Can real estate yields be maintained in light of increased investor focus and new construction on the horizon?

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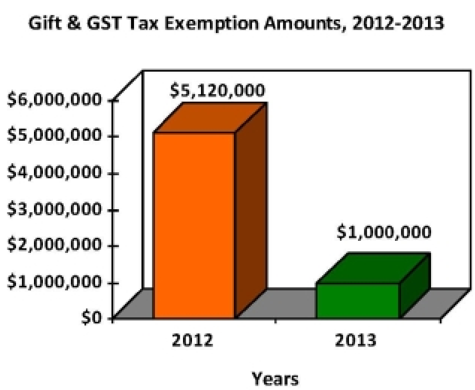
Gifts and Generation Transfers

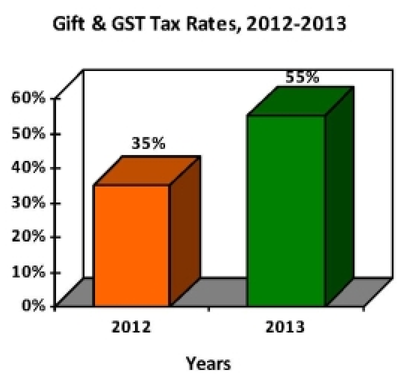
The gift and GST exemptions can be utilized for various purposes, including direct gifts of liquid or illiquid assets, gifts of seed capital for sales to intentionally defective grantor trusts, funds for life insurance trusts and gifts to offset any gift tax liability associated with the remainder value of qualified personal residence trusts, among others. However, the shot clock is rapidly expiring -- if the gifts are not completed by December 31, 2012, these opportunities may be lost forever.

No one can know what Congress will do in light of the challenge facing our nation in the form of the “fiscal cliff.” President Obama’s reelection adds even more uncertainty to this issue.

Very few, if any, accurately anticipated what the 2010 Act would provide. More surprises may well be ahead when we see what the government’s response is to the 2010 Act’s expiration.

Given that it is anyone’s guess as to what the future may hold in the estate planning arena, now is the perfect time for clients to take advantage of the 2010 Act before it is too late.





John Fisher, COO of Sage Group, confirms, “We are experiencing a dramatic surge in our estate valuation workload as individuals take full advantage of the beneficial tax rates that may disappear come January 1, 2013.”

The foregoing information is intended only to provide general information and does not create or continue an attorney/client relationship nor should it be construed as legal advice or an opinion on specific situations.

— About Bracewell & Giuliani, LLP—

Glen Eichelberger and Brian Teaff are attorneys with Bracewell & Giuliani LLP in Houston who represent clients throughout Texas. Their practice focuses on trust, estate and philanthropic planning, and administration. For more information contact Glen T. Eichelberger at 713.221.1446 or glen.eichelberger@bgllp.com

— About Sage Group —

We are a group of appraisal professionals working together to provide a single source of information and analysis for commercial real estate professionals across the country. Our team is managed by Patrick O’Connor, MAI; John Fisher, CCRA, LEED AP; W. F. “Buddy” Trotter, Jr., MAI and Mike Miller, MAI. For more information about us or to sign up to receive our newsletter, contact Mike Miller at 713.358.8450 or mmiller@sageappraisalnetwork.com.