Sweet & Maier, S.C.

Attorneys at Law

Lowell E. Sweet
Retired

John L. Maier, Jr.*
Marcus L. Weden
Christina M. Green*
Of Counsel

***Also licensed in Illinois**

November 9, 2012

To: Clients of Sweet & Maier, S.C.
RE: 2012 Estate Tax Update

Dear Client:

As you are well aware, the national election is now "history" and, as they say, "elections have consequences." One, of many, significant consequences of President Obama's reelection, and a divided Congress, will be the future impact on Federal estate and gift tax laws. This Executive Summary discusses: (i) the current Federal estate and gift tax rates; and (ii) what we expect the future of such taxes to be and what this means to you and your family.

Executive Summary

The Federal estate and gift tax has undergone significant changes over the past decade. As matters currently stand, the unified estate and gift tax exclusion amount is $5.12M ($10.24M per couple) and any amounts in excess of the exclusion are taxed at 35%. In "lay" terminology, what this means is that **today** everyone can own property having a total value up to $5.12M, without having to pay anything to the IRS when they die. **BUT,** please note that this historically generous exclusion amount and rate **is temporary and is set to expire on December 31, 2012**. You will hear a lot of discussion in the news about this in the coming weeks.

In the absence of an agreement between the President and Congress, at the end of 2012, the current estate and gift tax exclusion amount and tax rate will "phase out" and revert back to pre-2001 amounts (i.e., a $1M exclusion amount and a 55% tax rate, respectively). Reverting back to the pre-2001 estate tax represents a substantial decrease to the exclusion amount and a substantial increase to the highest tax rate.

What this means to people is shown in the following **example** of a person who owns property at their death (home, bank and investment accounts, etc.) totaling $2M:

	2012	**2013**
Taxable Estate	$2,000,000	$2,000,000
Less: exclusion amount	($5,120,000)	($1,000,000)
Taxable amount	$0	$1,000,000
Estate Tax Rate	35%	55%
Estate Tax Due	**$0**	**$550,000**

It is unclear what Congress and the President will decide to do regarding the estate and gift tax in the future. If the parties fail to act, the rates will revert back to the previous transfer tax laws described above. If Congress intervenes, we will have a new set of transfer tax laws. In either case, most experts predict that we are likely to experience a decrease in the exemption amount, and this change alone has the potential to impact the estates of many taxpayers.

114 N. Church Street, P.O. Box 318, Elkhorn, WI 53121
www.wisclaw.com
Telephone: (262) 723-5480 - Facsimile: (262) 723-2180

Estate Planning for an Uncertain Future

Current law allows you to plan with certainty through the end of 2012 with respect to the Federal estate and gift taxes. Furthermore, given today's historically generous estate and gift tax exclusion amount, we recommend that you do not look this "gift horse" in the mouth. Instead, a careful review of your estate plan, and careful planning, will allow you to "lock in" lifetime gifts under the current amount.

Examples of planning techniques include:

- Making lifetime gifts before the end of 2012 to utilize a portion, or all, of the current $5.12M exclusion amount while the amount is "locked in" at a historically high amount. Such gifts could include transferring stock in a family business, or transferring family property, to your children.

- Developing a plan to make sufficient tax free (i.e., excluded) gifts over time such that your estate does not exceed the exemption amount in effect on the date of death. Such gifts include: utilizing the annual exclusion, tuition payment and/or Section 529 plans, and charitable contributions.

- Filing estate tax returns for decedents who pass during 2012 to ensure "portability" of the unused exclusion amount.

Conclusion—what does all of this "Mean to You?"

Put simply, we are concerned about all of our clients! While reverting back to the 2001 federal estate tax will not impact all taxpayers, we believe that **any** individuals with assets in excess of $1M should consider various planning techniques that are currently available but may not be available in the future. Furthermore, we strongly advise that all of our clients review their financial position and current estate plan, if any, to ensure that you have a plan for the future to dispose of your assets upon death.

For your review, enclosed is a more detailed Memorandum discussing the history of the Federal estate and gift tax, how we got to this point, what the future may look like, and potential strategies to minimize taxes. Please review the attached and let us know if you have any questions.

At Sweet & Maier, S.C., we routinely work with clients to develop estate plans that effectuate the dual goals of (1) efficiently and effectively disposing of assets upon death and (2) minimizing all estate and gift taxes. Please feel free to contact us to schedule a time to review your estate plan.

Very truly yours,

SWEET & MAIER, S.C.

John L. Maier, Jr.
State Bar #1016034
jmaier@wisclaw.com

SWEET & MAIER, S.C.

Marcus L. Weden
State Bar # 1056788
mweden@wisclaw.com

JLM

Enclosure

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