

Opportunity Knocks

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization and Jobs Creation Act of 2010 (the Act). In essence, the Act extends for two more years the tax cuts implemented under President Bush. In addition, the Act addresses the estate, gift, and generation skipping transfer (GST) tax laws for 2010 - 2012. The passing of this Act creates a window of opportunity for some excellent tax and estate planning. Here is a brief summary of the key provisions and the planning ideas to consider.

Summarized:

- Bush tax cuts extended two more years
- Income tax top rate remains at 35%
- Capital gains top rate remains at 15%
- Tax-free charitable distribution from IRA reinstated
- Gift and GST exemptions increased to \$5 million
- Estate tax exemption increased to \$5 million

INDIVIDUAL INCOME TAX AND CAPITAL GAINS

Summary: For the next two years, the six individual income tax brackets, ranging from 10 to 35 percent, will stay in place. The top rate on income from qualified dividends and long term capital gains remains at 15%.

Planning concepts to consider: With the lower rates, portfolio-related decision making may be easier.

- The rule-of-thumb of delaying the recognition of income and gains should be challenged as this may be a good time to actually recognize income and gains. Consider increasing dividend income, triggering gains in a fund and trimming low basis stock.
- You may want to consider taking larger IRA distributions or converting an IRA to a Roth IRA. Remember that leaving a traditional IRA to your heirs as part of their inheritance is typically not an efficient transfer of wealth. In

a low tax environment consider increasing the distributions or designating it to charity.

- Other income recognition techniques to consider include exercising stock options and accelerating installment sale payments.

CHARITABLE IRA DISTRIBUTIONS

Summary: The Act reinstated tax-free distributions from IRA plans for charitable purposes.

Planning concepts to consider:

- Through 2011, taxpayers age 70½ or older can make tax-free distributions to charities from IRAs up to \$100,000. This withdrawal may satisfy a required minimum distribution up to \$100,000. When making gifts to charities this year consider using funds in your IRA rather than funds held outside your IRA.

GIFT AND GST TAX

Summary: The gift and GST exemptions increase to \$5,000,000. The top gift tax rate remains at 35% for 2 more years.

Planning concepts to consider:

- If you have already used your lifetime gift exemption of \$1,000,000 you can now gift an additional \$4,000,000. For GST purposes, you can gift an additional \$1,500,000 without incurring GST tax.



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- Making larger gifts now, whether outright or in trust, not only removes assets from your estate, but it also moves future appreciation to the beneficiaries.
- Consider transferring wealth via intra-family loans, grantor retained annuity trusts, and charitable trusts.
- Other planning opportunities include sales to intentionally defective grantor trusts, spousal trusts, life insurance trusts, dynasty trusts, and income shifting.

ESTATE TAX

Summary: The estate tax exemption increased to \$5,000,000 with the estate tax rate set at 35%. The exemption is now portable among spouses so that any unused exemption may be used by a surviving spouse, but only if the survivor's death occurs in 2011 or 2012.

Planning concepts to consider:

- Review your existing wills and trusts

to make sure they still achieve your intended plan. The increase in exemption may have inadvertently changed the way your estate gets settled.

- Many of the planning concepts listed under GIFT AND GST TAX apply here also.

SUMMARY

Under the recently signed legislation, taxpayers have two more years with respect to the Federal income, estate, gift, and GST taxes. As we have experienced recently, speculation regarding the future of these taxes will come quickly. Should Congress not act before 2013, significant increases in tax rates will take place (see the chart below). Remaining vigilant and using this window of opportunity to review your situation could have a meaningful long term impact on your estate. Meristem is actively working with clients and their tax and legal advisors to identify specific opportunities. As always, before implementing any tax strategy you should seek the opinion of your tax advisor team.

		2010	2011-2012	2013+
Income Tax	Ordinary income tax rate	10-35%	10-35%	15-39.6%
	Long-term capital gains rate	0-15%	0-15%	10-20%
	Qualified dividends	15%	15%	15-39.6%
Estate Tax	<u>Choice for estate tax</u>			
	Top Tax rate	0% 35%	35%	55%
	Exemption amount	\$0 \$5M	\$5M	\$1M
	Tax basis for inheritance	c/o basis Step up	Step up	Step up
	Portable exemption	n/a No	Yes	No
Gift Tax	Top Tax rate	35%	35%	55%
	Exemption amount	\$1M	\$5M	\$1M
GST Tax	Top Tax rate	0%	35%	55%
	Exemption amount	\$5M	\$5M	\$1M