

## ESTATE AND GIFT TAX LAW IS FINALLY PERMANENT (FOR NOW)

At the very end of 2012, Congress passed the American Taxpayer Relief Act (“the Act”), which finally made permanent the estate and gift tax provisions that have been fluctuating for the past decade.

### Federal Estate Tax

Beginning on January 1, 2013, the federal estate tax exemption is permanently set at \$5,000,000 per person, as indexed for inflation. The exemption for deaths in 2013 is \$5,250,000 per person (or \$10,500,000 per married couple). The estate tax rate is now 40% for amounts over the exemption.

### Gift Tax

The lifetime gift tax exemption and the generation skipping transfer tax exemption are also permanently set at \$5,000,000 per person, as indexed for inflation. The exemptions for 2013 are \$5,250,000 per person (or \$10,500,000 per married couple). The top gift tax rate is also 40%.

In 2013, the annual gift tax exclusion amount is \$14,000 per person. This means that each person can give up to \$14,000 gift tax free, or \$28,000 per married couple, to any number of individuals. Gifts of this amount do not require a gift tax return and do not reduce your \$5,250,000 lifetime gift tax exemption amount.

### Deceased Spouse Unused Exemption Amount

A surviving spouse’s ability to preserve the deceased spouse’s unused exemption amount is now a permanent feature under the Act. The Act clarified that the unused exemption amount also applies to the lifetime gift tax exemption, but not to the generation skipping transfer tax exemption. In order to take advantage of this “portability” feature, the surviving spouse must file a federal estate tax return within nine months of the deceased spouse’s death.

Goddard & Goddard, P.C. partners with clients on estate planning and estate administration matters, including related issues in real estate, oil and gas, business and tax law, and charitable planning.

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## **HOW DOES THE NEW ACT AFFECT YOUR ESTATE PLAN?**

You may be wondering how the Act affects your own estate planning. The answer is that it depends. Many of our clients have tax planned wills with family and/or marital trusts. Even though your assets may not reach the \$5,250,000 exemption amount, there are non-tax benefits to keeping the family and marital trusts in your wills, such as creditor protection for the surviving spouse, preserving trust assets for children, and protection from claims of a new spouse.

Some clients may want to simplify their estate planning by removing these trusts. If you have not reviewed your wills in the last three years, we strongly urge you to review them. Please contact us if you would like to schedule a meeting or phone call.

## **DID YOU KNOW...**

Colorado does not have a separate estate or inheritance tax. However, if you own real property in another state, you should be aware that some other states do have an estate or inheritance tax.