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What's the Latest with Estate and Gift Taxes?

You don't need to be a baseball fan to appreciate the estate planning lessons provided by George Steinbrenner, the late owner of the New York Yankees.

Steinbrenner happened to pass away in 2010, a year when there was no federal estate tax. More important, he had made plans years earlier for the handling of his billion-dollar estate, ensuring his family wouldn't need to sell the Yankees just to pay estate taxes.

Even if your savings account falls several zeroes short of Steinbrenner proportions, it pays to plan your estate – especially in lieu of Congress' on-again, off-again approach to estate and gift tax implementation.

Estate and Gift Tax Status

With the 2010 Tax Relief Act, the rules for estate and gift taxes are revised – but only temporarily. Unless Congress acts further, these rules are slated to expire at the end of 2012.

Under the new rules, the estate tax exemption increases to $5 million, while the top estate tax rate is 35%. This is far more generous than in 2009 (when we last had a federal estate tax), which had a $3.5 million exemption and a 45% tax rate. Additionally, the new exemption is portable, so a surviving spouse's estate can use the unused exemption portion from the deceased spouse's estate.

On the gift tax side, there is now a $5 million individual lifetime gift tax exemption, up from the prior limit of $1 million. For wealthy couples, this means that combined, they can give away an additional $8 million to their heirs, tax-free.

Additionally, assets inherited before 2013 will have a "stepped-up" basis, meaning that the heirs' basis is the property's value at the time of death. Thus, if you purchased stock 20 years ago at $10 a share, and it's worth $50 a share when you die, your heirs won't pay any capital gains tax on any appreciation in the stock that occurred during your lifetime.

To maximize your gift tax exemption, consider using a trust, which can be structured to shift substantial amounts from gift tax consideration.

Planning Accordingly

How is the best way for you to take advantage of these revised estate and gift tax rules?

For starters, if you have substantial assets (e.g., a property, a business, etc.) that you could potentially give away, consider doing so before the end of 2012, when the increased gift tax exemption expires. To maximize your gift tax exemption, consider using a trust, which can be structured to shift substantial amounts from gift tax consideration.

Second, realize today's new estate tax laws are only temporary. While it's prudent to plan for now, know that in two years, your plans may need tweaking. Stay vigilant for tax law changes.

For more information and a personal financial forecast, consult with our estate planning professionals at Bay Trust Company. Your Golden Advantage personal banker can make an appointment for you or you may contact them directly at **(804) 435-4137** or toll-free at **1-888-266-6880**.