

ESTATE PLANNING ALERT: Bush Tax Cuts Extended

December 2010
12.01.2010

Congress has passed legislation extending the Bush tax cuts through 2012. The new law reinstates the Federal estate tax for persons dying in 2010; however, an election can be made to either come under the law being enacted today (i.e., make the estate subject to the Federal estate tax and thus receive a step up in basis in the estate assets) OR be subject to the law as it was before the new law was enacted today (i.e., the estate is not subject to the Federal estate tax and receives the decedents carryover basis).

The new law increases the Federal estate tax and generation skipping tax exemptions to \$5 million with a maximum tax rate of 35 percent. (Absent extension of the Bush tax cuts, these exemptions were scheduled to drop to \$1 million with a tax rate of 55 percent.) The new law also reunifies the gift and estate tax exemptions. For example, in 2009 the lifetime gifting exemption was \$1 million, while the estate tax exemption at death was \$3.5 million. Beginning in 2011, the gifting and estate tax exemptions will be \$5 million. Also, any unused estate tax exemption can now be used upon the death of the surviving spouse.

These changes in the tax laws open the door to significant planning opportunities. We will be providing you with more details on this new law in the near future. If you have questions in the meantime, please contact your attorney at Moss & Barnett.

(December, 2010)

