

Upcoming Tax Law Changes ~ Richard D. Gates, President

President George W. Bush implemented several tax cuts in 2001 and 2003. These laws contain sunset provisions that take effect at the end of 2010 in the absence of action on the part of Congress. Should these laws expire, taxes on ordinary income, capital gains, dividends, gifts and estates will all increase.

Income Taxes

Changes: Qualified dividends which are currently taxed at a maximum rate of 15 percent will be taxed at ordinary income rates beginning in 2011. Capital gains tax rates will rise from a top rate of 15 percent to a top rate of 20 percent. The top two ordinary income tax brackets will increase from 33 percent to 36 percent and from 35 percent to 39.6 percent. Coupled with continued phase-outs of personal exceptions and itemized deductions, a taxpayer's effective tax rate could increase even further.

Planning Considerations:

With income tax rates expected to rise, some may want to accelerate income into 2010 when rates could be considerably lower than in 2011. Conversely, it may make sense to defer deductions, if possible, into 2011 when they may be worth more.

Consider taking capital gains in 2010 while they will be taxed at 15 percent. Also consider deferring capital losses to offset capital gains in future years when they could be worth more.

Health Care Reform

The recently passed Health Care and Education Reconciliation Act provides for a tax increase for high income earners on both earned and unearned income

beginning in 2013. The Medicare tax on earned income will increase by .9 percent to 2.35 percent. This additional .9 percent Medicare tax is only paid by the individual with no increase to the employer. This legislation also creates a new 3.8 percent surtax on unearned income. This will apply to income such as capital gains, dividends, rents and taxable distributions from annuities. It does not apply to tax exempt municipal bonds or income from retirement accounts.

Estate and Gift Taxes

Changes: Effective January 1, 2010, both the estate tax and the Generation Skipping Tax (GST) were repealed, and taxable gifts are subject to a maximum rate of 35 percent. Both the estate and GST are scheduled to return in 2011 with a \$1 million exemption and a maximum rate of 55%.

Planning Considerations:

In a year like 2010 with no estate tax, and the potential for a \$1 million exemption and a maximum 55 percent rate in 2011, it may be a good time to take inventory of your estate, determine whether assets are titled properly and review your estate planning documents with your attorney.

From a gifting perspective, anyone who is contemplating taxable gifts should consider taking advantage of the current 35 percent maximum rate which will remain in effect through 2010, assuming congress does not pass retroactive tax legislation this year, which seems unlikely. Many taxpayers are holding assets which have depreciated in value due to the events in the market over the last two years. Gifting these types of assets not only allows a transfer at a lower value, but removes all future appreciation from the donor's estate. ■

This is not to be considered tax advice. Please consult your tax advisor to assess your own situation.