



Client Alert



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Private Wealth Group Bulletin

As the new year approaches, you may wish to revisit your estate plan in light of tax law changes set to take place on January 1, 2009. Under current law, individuals may shelter up to \$2 million from federal estate tax, meaning that married couples may protect up to \$4 million with a properly structured estate plan. Each individual also currently has an exemption of \$2 million from generation-skipping transfer ("GST") tax, and an exemption of \$1 million from federal gift tax.

In 2009, however, the estate tax exemption amount will increase to \$3.5 million. This means that married couples will now enjoy the possibility of sheltering up to \$7 million from federal estate tax liability. In order to accomplish this, however, proper titling of assets is essential. Both the husband and wife must have assets worth at least the amount of the exemption in his or her own name. In order to ensure that neither spouse wastes any exemption, it is often necessary to consider retitling some assets in order to reach \$3.5 million for each spouse.

Moreover, because the GST tax exemption amount will also increase to \$3.5 million per individual in 2009, couples will be able to protect up to \$7 million from any GST tax, assuming proper titling. Again, retitling may be advisable.

Note also that many Wills create trusts for children or grandchildren in the amount of the existing estate tax or GST tax exemption amounts. This often reduces the size of trusts for the surviving spouse. The new larger exemptions may mean that you may now wish to amend your Will to limit the size of these exemption trusts in order to provide more for the surviving spouse.

Finally, while individuals may currently make annual exclusion gifts of up to \$12,000 per individual donee each year without incurring any gift tax liability, the permissible annual exclusion amount will increase in 2009 to \$13,000. This increase means that married couples will now be able to give up to \$26,000 per individual donee in 2009, without decreasing their total gift tax exemption amounts.

In order to plan for the changes discussed here, and to make sure your estate is poised to take full advantage of the 2009 increases in the transfer tax exemption and annual exclusion amounts, we encourage you to contact any of the attorneys listed below at your earliest convenience.

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Arnall Golden Gregory's Private Wealth Group

The Private Wealth Group has a national practice which focuses on representing high net worth individuals in sophisticated wealth transfer matters as well as fiduciaries facing multi-faceted issues occurring during the estate administration process. Our commitment is to provide the most sophisticated legal representation delivered in a timely and effective manner. Our depth and breadth of experience allows the firm to bring a team of experts to solve the many problems that can occur during the wealth transfer planning and estate administration processes.

The services offered by the Private Wealth Group include the following:

- Diversification strategies
- Business succession planning
- Wealth transfer planning
- Estate administration and fiduciary representation
- Partnership planning
- Pre-IPO and restricted securities planning
- Asset conservation planning
- Buy/sell agreements
- Split-dollar agreements
- Will and trust planning
- Charitable planning, including private foundations
- Prenuptial planning
- Wealth transfer tax controversies
- Estate controversy litigation

Arnall Golden Gregory LLP serves the business needs of growing public and private companies, helping clients turn legal challenges into business opportunities. We don't just tell you if something is possible, we show you how to make it happen. Please visit our website for more information, www.agg.com.

This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.