

ESTATE PLANNING ALERT

How Will the Economic Growth and Tax Relief Reconciliation Act Affect You?

The Economic Growth and Tax Relief Reconciliation Act of 2001 (the "Act") was enacted into law on June 7, 2001 and is being extolled as a major federal tax cut. The Act contains numerous provisions with respect to individual and business income taxation, pension and employee benefits, and wealth transfer taxes. Eckert Seamans Cherin & Mellott, LLC is planning a series of bulletins to cover various aspects of this long and complicated Act. This Estate Planning Alert is directed mainly to readers, like you, who may be interested in a brief summary of some of the wealth transfer tax changes contained in the Act.

- The Act revises the federal estate, gift and generation-skipping transfer ("GST") tax rules to include (i) increases in the threshold amounts that an individual can transfer without the incidence of tax, and (ii) reductions in the applicable rates of tax over the next several years. The following chart illustrates these scheduled changes by year.

Calendar Year	Estate Tax Exemption Equivalent of Unified Credit and GST Exemption	Gift Tax Lifetime Exemption Equivalent (1)	Highest Estate, Gift & GST Tax Rates
2001	Estate - \$675,000 GST - \$1,060,000	\$675,000	55% (2)
2002	Estate - \$1 Million GST - \$1,060,000 (3)	\$1 Million	50%
2003	Estate - \$1 Million GST - \$1,060,000 (3)	\$1 Million	49%
2004	\$1.5 Million	\$1 Million	48%
2005	\$1.5 Million	\$1 Million	47%
2006	\$2 Million	\$1 Million	46%
2007	\$2 Million	\$1 Million	45%
2008	\$2 Million	\$1 Million	45%
2009	\$3.5 Million	\$1 Million	45%
2010	Not applicable	\$1 Million	0% (4)

Notes:

1. The gift tax exemption equivalent is available for use during an individual's lifetime and is not granted in addition to the estate tax exemption equivalent. Thus, if an individual uses all or any portion of his or her gift tax exemption equivalent during life, it will reduce his or her remaining estate tax exemption equivalent, dollar-for-dollar.
2. There is an additional 5% surtax levied on aggregate transfers between \$10 million and \$17,184,000.
3. The GST exemption will continue to be indexed for inflation through 2003.
4. The Act repeals the estate and GST taxes in 2010, but does not repeal the gift tax. The maximum tax rate for gift tax purposes in 2010 will be the highest individual income rate (scheduled to be 35% in 2010).

- When the estate tax is completely repealed in 2010, a modified carryover basis regime will replace the current step-up in basis system. Recipients of property transferred at the decedent's death will then receive a tax basis equal to the lesser of the decedent's adjusted basis or the fair market value of the property as of the date of the decedent's death. An exception to this general rule will permit a limited step-up in basis up to \$1.3 million for certain transfers after December 31, 2009. Additionally, beginning in 2010 the basis in property passing from a decedent to his or her surviving spouse may be increased up to \$3 million. These basis adjustment amounts will be indexed for inflation. In effect, the current estate tax systems will be supplanted by the capital gains tax.
- Beneficial changes have been made to the rules regarding allocation of the GST exemption. The new rules, which take effect after December 31, 2000, simplify the allocation process, provide for favorable retroactive allocations of the GST exemption and permit the severance of certain trusts with GST tax exposure.
- Beginning in 2002, the Act gradually decreases the state death tax credit and in 2005 the credit is completely replaced with an estate tax deduction.
- The Act repeals the qualified family-owned business exclusion in the year 2004.
- "Sunset" language is contained in the Act which means that none of the statutory provisions will apply for taxable years beginning after December 31, 2010 unless legislation is enacted to extend the provisions. Unless otherwise extended, the law on January 1, 2011 will revert back to the tax rates, exemption amounts and rules as they existed immediately prior to the Act becoming law.

The wealth transfer tax provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 outlined above are a few of the significant provisions that will affect your estate planning strategies. In light of these and other changes brought about by this legislation, we encourage you to review your estate plans and to contact us with any questions or concerns you may have regarding the Act in particular or with your estate planning matters in general. Issues of particular interest raised by these legislative changes may include: (i) whether a surviving spouse would remain adequately provided for and (ii) whether your plan contains the flexibility to manage the gradual phase-out and potential reinstatement of the federal wealth transfer tax regime.

The Estate Planning Alert is intended to keep readers informed on matters affecting estate planning and is not to be construed as legal advice. If you have any questions regarding the information presented herein please contact your Eckert Seamans lawyer or, in Pittsburgh call: **Edward J. Greene** at 412.566.6021, **Fred W. George** at 412.566.5928, **Raymond C. Vogliano** at 412.566.6994, **John P. Shaffer** at 412.566.6962; **Molly E. Few** at 412.566.2588, **Jennifer L. Rawson** at 412.566.6784 or **Candace K. Gottschall** at 412.566.1912; in Harrisburg call: **Norman P. Hetrick** at 717.237.6079, or **Thomas P. Gacki** at 717.237.6093; and in Philadelphia call **Mark T. Carlidge** at 215.851.8430.

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