Farr Law Firm Newsletter
Big City Solutions. Small Town Values.
Issue 1 | January 2013

Photo from left to right: Forrest J. Bass, Dorothy L. Korszen and Guy S. Emerich

A Powerful Trusts and Estates Team

Our attorneys implement strategies to advance each client's unique wealth preservation and wealth transfer goals.

Our Practice Areas

- Asset Protection
- Business & Corporate
- Elder Law
- Guardianship
- Litigation
- Marital & Family
- Mediation
- Personal Injury & Wrongful Death
- Physician Services
- Real Estate & Title Insurance
- Trusts & Estates

Looking Past the Fiscal Cliff: Permanent Tax Relief

In an effort to avoid the "fiscal cliff," Congress passed the American Taxpayer Relief Act of 2012 ("ATRA") on January 1, 2013 and President Barack Obama signed the bill into law on January 2, 2013. ATRA made many of the 2001 income tax cuts permanent, made key provisions from the 2010 estate tax law permanent, and allowed some provisions to expire or to phase out.

Estate, Gift, and Generation-Skipping Transfer Tax Exemption

ATRA provides an exemption of $5,250,000 for lifetime gifting, assets passing at death, and for generation-skipping transfer purposes. The gift tax annual exclusion has been increased to $14,000. Gifts made in excess of the annual exclusion will reduce the exemption amount available at death.

Estate, Gift, and Generation-Skipping Transfer Tax Rates

Any amount in excess of the exemption will be taxed at 40%. This is largely seen as a compromise between positions taken by President Obama and the Republican leadership. President Obama sought a 45% rate, while the Republican position was to maintain the 35% rate in effect in 2012.

Portability

The concept of "portability" of a decedent's unused estate tax exemption has been made permanent. Simply stated, if a decedent's estate is less than the applicable exemption amount ($5.25MM in 2013), then the unused amount can be passed to the surviving spouse and added to his or her own exemption. This concept was introduced on a temporary basis in 2010. However, ATRA makes this option permanent. By way of simple example, husband dies with a $2MM estate; thus, $3.25MM of his exemption goes unused. The surviving spouse may

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transfer this $3.25MM exemption to herself, resulting in the surviving spouse now having an $8.50MM exemption.

Income Tax

The income tax rate schedule has been increased for the highest income brackets and will move up to 39.6% (from 35% in 2012) for income above $400,000 (individual filers), $425,000 (head of household), and $450,000 (married filing jointly). Taxable trusts with income over $11,950 for 2013 will also see a top tax rate of 39.6 percent. Tax rates for all other levels of income remains the same.

Tax on Capital Gains and Qualified Dividends

The maximum capital gains tax rate moved up from 15% to 20% (for single taxpayers with more than $400,000 in taxable income and for married taxpayers with more than $450,000 of income). For taxpayers with income below these levels, a maximum 15% rate will apply. This same regime will also apply to qualified dividends.

Other Provisions

- The alternative minimum tax "patch" has been made permanent, thereby insulating millions of taxpayers from the AMT.
- The exclusion of forgiveness of qualified principal residence debt from gross income for short sales has been extended into 2013.
- Tax free distributions from retirement plans for charitable purposes has been authorized through 2013.
- The payroll tax "holiday" was permitted to expire. For most taxpayers, this results in a decrease in their net take home pay of 2% of their gross pay.
- Personal exemptions and itemized deductions will be phased out at the following thresholds: $250,000 (single taxpayers), $275,000 (heads of household), and $300,000 (married taxpayers filing jointly).
- The 3.8% Medicare surtax of the Affordable Care Act remains applicable to certain types of investment income for taxpayers whose income exceeds $200,000 (single taxpayers) and $250,000 (married filing jointly) was maintained.

Farr Law Firm since 1924

Since 1924, the Farr Law Firm has held to our history and tradition of dedication to our community while working with clients to resolve disputes, solve complex problems, realize new opportunities, preserve and protect wealth and maximize growth in changing environments.

Farr Law Firm has been recognized as one of "Florida's Top Ranked Law Firms" for 2013 by LexisNexis® Martindale-Hubbell®. We may be able to help you or your business. Call our office at 941.639.1158, or visit us on the web at www.Farr.com.

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