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2011 IFES: Estate Planning in Uncertain Times

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This is a presentation summary from the 2011 Illinois Farm Economics Summit (IFES) which occured December 12-16, 2011 at locations across Illinois. Summaries and MP3 podcasts of all presentations will be republished on farmdoc daily. The 'Presentations' section of the farmdoc site has PDF presentation slides and MP3 podcasts from all presenters here.

http://farmdoc.illinois.edu/IFES/2011/IFES-2011-GaryHoff.mp3
The Economic Growth and Tax Relief Reconciliation Act of 2001 made major changes in estate planning. It increased the federal estate tax exclusion over a nine year period and eliminated the estate tax completely for deaths in 2010. While planners never thought the repeal would occur, it did.

On December 17, 2010, the President signed the Tax Relief, Unemployment Insurance Reauthorization, and Jobs Creation Act of 2010. This act reinstated the estate tax. The act was made retroactive to January 1, 2010; however, for prior deaths in 2010, this could have been unconstitutional. Consequently, Congress wrote the legislation so estate executors could elect to have the estate taxed under the old or the new law.

2010 Deaths

For 2010 deaths, the choice is to have no federal estate tax and a limited step-up in basis. The basis increase is limited to $1.3 million. The decedent's spouse is entitled to a $3 million step-up, plus the $1.3 million. Alternatively, the estate executor can elect to use a $5 million exclusion and increase the basis of the assets to their fair market value on the date of death. The top tax rate is 35%

2011 and 2012 Deaths

The new law provides for a $5 million exclusion, a maximum 35% tax rate and a step-up in basis to the fair market value on the date of death. The estate can also use the fair market value six months after the date of death if the value of the estate has declined. In addition, IRC §2032A was reinstated which is the special-use valuation for farm land.

2013 and Later Deaths

The new law sunsets on December 31, 2012. Therefore, the exclusion reverts back to $1 million with a 55% top rate. Planners predict Congress will readdress estate taxes before the end of 2012; however, there is no assurance this will happen.

Portability

A new feature was added by the 2010 Act. This is the portability of any unused estate tax exclusion amount from a decedent to the surviving spouse.

There are limitations on using the excess exclusion amount. First, the spouse receiving the excess must die before the end of 2012. Second, only the exclusion of the last spouse can be used if there is a remarriage and the new spouse dies before the end of 2012.

For example, Tom and Martha have been married for 60 years. Tom dies in 2011 with an estate valued at $3 million. Therefore, his estate has an excess exclusion of $2 million which can be added to Martha's basic exclusion of $5 million. Martha marries Alex in 2012 and he dies in 2012 with an estate of $4 million. Alex estate's excess exclusion of $1 million is added to Martha's basic exclusion of $5 million. Martha loses the excess exclusion of Tom. However, Martha must also die in 2012 to get any benefit from the portability provision.

2011 Illinois Deaths

Taxable Estate	Federal Estate Tax	Illinois Estate Tax	Total
$2 million	0	0	**0**
$3 million	0	167,279	**167,279**
$4 million	0	253,986	**253,986**
$5 million	0	352,158	**352,158**
$6 million	190,375	456,071	**646,446**

First death 2011 or 2012

Basic exclusion	**$5,000,000**
Prior gifts	-1,500,000
Remaining exclusion	$3,500,000
FMV Estate	3,000,000
Excess exclusion	$500,000

Spouses' death 2011 or 12

Basic exclusion	**$5,000,000**
Prior gifts	-1,500,000
Remaining	$3,500,000
Portable amount	500,000
Total exclusion	$4,000,000
FMV estate	4,750,000
Taxable estate	$750,000

Additional Resources

The slides for this presentation can be found at:
http://www.farmdoc.uiuc.edu/presentations/IFES_2011
For current tax information, see:
http://www.taxschool.illinois.edu/taxbookarchive
http://ruraltax.org
http://www.irs.gov