

# **JUNE 2009 ESTATE PLANNING NEWSLETTER**

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To: Clients and Friends  
From: A. Kel Long, III  
Re: News from the Estate Planning World

## ESTATE AND GIFT TAX CHANGES

A new bill introduced by Senator Max Baucus is thought to be a good indication of what lawmakers will eventually agree upon. The estate and gift tax changes that are being proposed are as follows:

- The basic estate tax exemption would be set at \$3.5 million for 2010, adjusted annually to reflect the rate of inflation.
- The exemption for the generation-skipping tax would be set at \$3.5 million as well.
- The estate tax rate would be capped at 45%, the rate currently in effect.
- The gift tax exemption would increase to \$3.5 million, starting in 2010. It's currently \$1 million now.
- Any unused estate tax exemption would be available for use by the surviving spouse. Thus, the estate tax exemption for married couples would be \$7 million.

We also expect that there may be additional proposals from the House affecting certain estate planning strategies. However, it is unknown at this time whether these proposals will be added to the tax bill.

## ESTATE TAX EXEMPTION - 100% AUDIT PROBABILITY

A recent article published in an estate planning trade magazine estimated that with an increase in the death tax exemption to \$3.5 million, there is a high probability that all taxable estates will be audited. This is a result of a smaller number of returns being required to be filed since only estates over \$3.5 million are required to file a federal estate tax return. Based on the current number of estate tax examiners employed by the IRS, and given the case load per examiner, there will now be enough examiners to review and audit all of the estate tax returns expected to be filed in the upcoming years. As a result, and unless the IRS reduces the number of examiners it employs, clients should plan for their estate tax returns to be audited.

## RECENT SPEAKING ENGAGEMENTS

I spoke in April to the Georgia Trail Lawyer's Association regarding special needs trusts for injured and incapacitated clients. My talk was part of the ethics continuing legal education presentation.