Estate Planning

“What’s New”

- Estate Tax Revived and Revised
- Higher Exemption
- Lower Maximum Tax Rate
- Unified Estate & Gift Tax
- Portability Between Spouses
- “What’s New” Expires end of 2012
Estate Planning Challenges for the Farm Estate

- The “Farm” is most of the estate
- Farm Heirs vs Non-farm Heirs
- “Untitled Assets” – who owns them
- “Succession” to a retiring generation
- “Incapacitation & Long-term Care”
Estate Planning
Goals and Objectives

- Income & Security for Life
- Treat Heirs Equitably
- Provide for Special Needs
- Minimize Taxes & Settlement Costs
- Transfer of Family Business
- Meet Requirements of Special Provisions
- Special Bequests
- Living Will, Durable Power of Attorney, and Long-term Care Issues
Tools & Provisions

- Annual Gift Exclusion
- Ed. & Medical Gifts
- Marital Deduction
- Gift Splitting
- Step-up in Basis
- Generation Skipping
- Business Organization
- Special Use Valuation
- 14 yr. Tax Installment
- Non-probate Transfers
- Life Insurance
- Wills & Trusts
- Title Ownership
- Annuities
- Charitable Transfers
- Medicare, Medicaid, Long-term Care Ins.
- Health Care Directives
- Durable Power Attorney
# Federal Estate and Gift Rates & Exclusion Amounts

<table>
<thead>
<tr>
<th>Year</th>
<th>Maximum Rate</th>
<th>Estate Exclusion</th>
<th>Gift Exclusion</th>
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<tbody>
<tr>
<td>2003</td>
<td>49%</td>
<td>$1.0 million</td>
<td>$1.0 million</td>
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<tr>
<td>2005</td>
<td>47%</td>
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<td>2006</td>
<td>46%</td>
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<tr>
<td>2009</td>
<td>45%</td>
<td>$3.5 million</td>
<td>$1.0 million</td>
</tr>
<tr>
<td>2010</td>
<td>35% gifts</td>
<td>Repealed</td>
<td>$1.0 million</td>
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<tr>
<td>2010</td>
<td>35%</td>
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<tr>
<td>2011</td>
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</tr>
<tr>
<td>2012</td>
<td>35%</td>
<td>$5.16 million</td>
<td>$5.16 million</td>
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<tr>
<td>2013</td>
<td>55% + 5%</td>
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<tr>
<td>Range</td>
<td>Tax Rate</td>
<td>Calculation</td>
<td>Threshold</td>
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<tr>
<td>--------------------</td>
<td>----------</td>
<td>------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>0 to 10,000</td>
<td>18%</td>
<td>1,800 + 20% &gt; 10,000</td>
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<tr>
<td>10,000 to 20,000</td>
<td></td>
<td>3,800 + 22% &gt; 20,000</td>
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</tr>
<tr>
<td>20,000 to 40,000</td>
<td></td>
<td>8,200 + 24% &gt; 40,000</td>
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</tr>
<tr>
<td>40,000 to 60,000</td>
<td></td>
<td>13,000 + 26% &gt; 60,000</td>
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</tr>
<tr>
<td>60,000 to 80,000</td>
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<td>18,200 + 28% &gt; 80,000</td>
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</tr>
<tr>
<td>80,000 to 100,000</td>
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<td>23,800 + 30% &gt; 100,000</td>
<td>100,000</td>
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<tr>
<td>100,000 to 150,000</td>
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<td>38,800 + 32% &gt; 150,000</td>
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<tr>
<td>150,000 to 250,000</td>
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<td>70,800 + 34% &gt; 250,000</td>
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<tr>
<td>250,000 to 500,000</td>
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<td>155,800 + 35% &gt; 500,000</td>
<td>500,000</td>
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Portability of Exemption

- Unused Exemption
- To Surviving Spouse
- Election Made at Death of 1st Spouse
Avoiding Probate

- Joint Tenancy & Tenancy by the Entirety
- Non-probate Transfers
  - Pay on Death (POD)
  - Transfer on Death (TOD)
  - Beneficiary Deed
- Revocable Trust
BEQUEST vs GIFT

- 160 A. purchased in 1950 for $16,000. Current FMV is $480,000.

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<tr>
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<th>Bequest</th>
<th>Gift</th>
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<tr>
<td>Decedent’s (donor’s) basis</td>
<td>16,000</td>
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<tr>
<td>Heir’s (donee’s) basis</td>
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<td>480,000</td>
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<td>Built-in taxable gain</td>
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Priority Ranking of Estate Asset Transfer Methods

- Title
- Non-probate Transfer
- Will
- Intestate (by state statute)
Life Insurance

- Avoid Incidents of Ownership
  - Right to - change beneficiaries
  - - borrow against policy
  - - cancel the policy

- Taxable Estates - Consider using a “Irrevocable Life Insurance Trust”
Power of Attorney

- Document in which you appoint someone to act on your behalf (as your agent)
- Authority spelled out in document
- Actions legally binding on principal
Durable Power of Attorney

- You appoint someone to act on your behalf (as your agent)
- Certain actions must be specifically authorized – “Extended DPOA”
- Actions legally binding on principal
- Power continues if principal becomes incapacitated
- “Springing DPOA” – only valid when principal is incapacitated
Trusts

- Revocable Living Trusts
  - joint or separate trusts???
- Irrevocable Trusts
- Testamentary Trusts
- Life Insurance Trusts
- Charitable Retained Annuity Trusts
- Qualified Terminal Interest Trusts
- Generation Skipping Trusts
- Many Other Special Types …..
Beneficiaries Up to Date?

Verify – Don’t ASSUME!

May need to update for:

- Change in marital status
- Deaths
- Birth of children
- Change in relationships
Work to Reduce Friction in Estate & Succession Plans

- Make your plans
- Get plan in writing
- Family meeting
  - This is the way I (we’ve) planned it – review the document, explain your decisions (to the degree you choose to)
  - Family questions or concerns, express them now and only now