

## Temporary Tax Repeals May Alter Your Estate Plan

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[J. Michael Cooney](#)

We recommend a current review of your estate plan due to the temporary repeal of the Federal Estate Tax and Generation Skipping Tax. This review is particularly important because estate planning documents often divide assets among beneficiaries by using a tax-based formula that is premised on the existence of a federal estate tax. This temporary repeal could alter a foundational premise of your estate plan.

### **What does the Temporary Repeal Mean to You**

- On January 1, 2010, the federal estate tax and generation-skipping tax are repealed for one year (or until earlier Congressional action).
- The federal gift tax is not repealed; the gift tax rate will be reduced to 35% from 45%.
- Reinstatement of the estate tax is possible during 2010, but timing is very uncertain. Constitutional issues, or Congressional opposition, may prevent retroactivity to January 1.
- If new legislation does not reinstate the estate tax in 2010, the current law will reinstate it on January 1, 2011, with the exemption reduced from the current \$3.5 million to \$1 million.
- While there is no estate tax, estates of persons dying after January 1, 2010 are subject to a complicated carry-over basis regime.

### **Unique Planning Opportunities May Be Available for a Short Window of Time**

- There may be a short window of time to make gifts to grandchildren and lower generations free of generation-skipping tax. To ensure that you understand all of the consequences, please consult your estate planning attorney before making any such gifts.
- Estate tax changes next year could include elimination or significant restriction of wealth-shifting opportunities currently available, including restrictions on valuation discounts and on the use of Grantor Retained Annuity Trusts (GRATs). While current law applies, and values and interest rates remain low, planning opportunities are available.