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Estate Tax Legislation Update

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There have been a number of new developments related to federal and state level estate taxes over the past few months.

- **House passes 10 year minimum term for GRATs.** On March 24, 2010, the House passed the Small Business and Infrastructure Jobs Tax Act of 2010 which contains a provision instituting a 10 year minimum term for GRATs and a requirement that the remainder interest for GRATs be greater than zero. As we have detailed in prior blog posts, short term GRATs are an effective estate planning tool to transfer significant wealth to younger generations estate and gift tax free. If enacted into law, the use of GRATs will be severely limited. The bill now goes to the Senate for consideration. If you have been considering implementing a GRAT, you should move forward quickly before it is too late.
- **NJ estate tax extended to non-residents?** A bill was introduced on February 8, 2010 in New Jersey seeking to extend the New Jersey estate tax to non-residents who own real or tangible property in New Jersey. Currently, the New Jersey estate tax only applies to New Jersey residents.
- **Florida estate tax on non-residents?** Bills were filed in both the Florida House and Senate in February, 2010 to impose a Florida estate tax on non-residents who own real or personal property in Florida and who reside in states that tax Florida residents who own property in those states. If enacted, the law would be effective July 1, 2010.

- **Federal estate tax repeal.** We are three months into the one year estate tax repeal and there are no new significant developments. It remains pure speculation at this point whether the repeal will be replaced with a new estate tax law and if so, will the new law be retroactively applied so that the repeal is treated as if it never existed, or whether the repeal will run its course for 2010 and 2011 will bring a reinstated estate tax with much lower exemption amounts (\$1 million federal exemption and generation-skipping transfer tax amounts).

We of course will be following all of these developments closely and will post updates if and when the status of the above matters change.

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