

## CLIENT ADVISORY

### New Tax System Imposed on Estates of Individuals Dying in 2010

Due to Congressional inaction, a new tax system has been implemented as of January 1, 2010. The new tax system is effective for one year only.

- Under this system, the federal estate tax does not apply to estates of individuals who die in 2010, and there is no generation-skipping transfer tax in 2010.
- The federal gift tax continues to apply, although the gift tax rate has been reduced for gifts made in 2010.
- In place of the estate tax, complicated rules have been developed to determine the income tax basis of assets inherited from individuals who die in 2010. These rules (known as “carry-over basis”) are designed to increase the amount of capital gain realized when inherited assets are sold.
- Many commentators believe that, sometime in 2010, Congress will reinstate the estate and generation-skipping transfer tax and eliminate carry-over basis retroactive to January 1. Given that the current one-year tax system is the result of Congressional inaction, however, there can be no assurances that Congress will act. In addition, constitutional issues may prevent any reinstatement of the estate and generation-skipping transfer tax from being retroactive.
- In light of the new tax system, current estate planning documents should be reviewed, particularly those that divide a decedent’s assets based upon an estate tax or generation-skipping transfer tax driven formula. In many cases, failure to review and revise documents could result in ambiguity and misdirection of assets if death occurs in 2010. In addition, some planning opportunities may be lost.
- At this time, we recommend that you contact your estate planning attorney to determine how your estate plan may be affected by the new tax system.

The estate planning attorneys of Hahn Loeser & Parks would be pleased to assist you in this regard, and can be reached at 877.HAHN.LAW (877.424.6529).