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## **Two-Minute Drill: Year-End Gifting Opportunity**

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There is an impending change in the estate and gift tax law which as of January 1, 2013 will reduce the estate, gift, and generation-skipping tax exemptions from \$5,120,000 per individual (\$10,240,000 per married couple) to \$1,000,000 per individual (\$2,000,000 per married couple). This slated change in the law means that the opportunity to make gifts in 2012 using the higher exemption amount may expire at the end of 2012. Anyone who is considering making such a gift should act immediately.

There has been much discussion in Congress and commentary in the press about whether to extend the higher exemptions, allow the lower exemptions to take effect, or settle on some amount in between. As the end of the year quickly approaches, there still is no greater certainty about how the estate tax, gift tax and generation-skipping tax laws will evolve. The political parties have taken different positions; within each party there are different points of view; and this discussion is only a small part of the debate and negotiation about the so-called "fiscal cliff" that is rapidly approaching. While it is possible that there will be legislation before the end of the year that will set new estate, gift and generation-skipping tax exemption amounts for 2013 and beyond (or extend the current law for one or more years), it is also certainly possible, that Congress will not act until some time in 2013. Given the uncertainty, and the lead time necessary to plan and implement gifts, it may be a mistake to wait until after the Presidential election to examine these gifting issues.

Given that there is a distinct possibility that the \$5,120,000 gift tax exemption may not be in place after 2012, you may want to consider a variety of planning options, including, for instance:

- 2012 gifts to children, grandchildren and others, either outright or in trust. Such gifts also would be exempt from any New Jersey gift tax.
- 2012 gifts in trust for the potential benefit of the donor's spouse, but not subject to estate tax in the spouse's estate.

If you think you are a candidate for 2012 planning, particularly gift planning using the \$5,120,000 gift tax exemption, you should contact our Business Group lawyers. If you do plan to make major gifts, there are complexities involving the creation and funding of trusts and the valuation of assets. Time is of the essence.

Contact our Business Group lawyers if you should have any questions.

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