

ALERT

June 2009

IT'S ALL ABOUT THE NUMBERS

As we approach the midway point of 2009, we wanted to take this opportunity to update you on some relevant numbers which currently exist in the **Trusts and Estates World**:

(1) **\$3.5 million**: The amount of the **Federal Estate Tax Exemption** in effect for persons dying during calendar year **2009** and the amount which a person can give to their grandchildren **free of Generation Skipping Transfer Tax** upon death.

(2) **\$13,000**: The amount of money (or value of property) which any **one person** can **gift** to any other person (whether family or not) in **2009 without a gift tax consequence**. A **husband and wife** can join together and give a total of **\$26,000** of money (or value) to any one person in **2009**.

(3) **\$1 million**: The total amount which any individual can **gift during their lifetime free of gift tax**. (Please note that the use of any portion of this \$1 million dollar gift tax exemption amount will reduce the amount of that person's Federal Estate Tax Exemption Amount.)

(4) **.75% and 2.25% and 3.88%**: The current amounts of **annual interest** a **family member** must charge to another **family member** when making a short term loan (3 years or less), a mid-term loan (more than 3 years and no greater than 9 years) and a long-term loan (over 9 years), respectively.

Things to Consider:

(1) **Federal Estate Tax Exemption**: Under current law, the Federal Estate Tax is scheduled to disappear entirely for decedents dying during calendar year **2010** and for decedents dying **after 2010**; the Federal Estate Tax Exemption Amount is set to decrease to \$1 million. There have been discussions in Congress about undoing this and instead fixing the Federal Estate Tax Exemption Amount at \$3.5 million per person. However, we cannot be certain as to what the new numbers will

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be **unless** and **until** the law is changed. We will continue to keep you advised of any changes made to this law

(2) **Gifting:** If you are secure with the amount of assets which you have currently, and wish to help children and other family members and at the same time reduce the amount of your assets which can be subject to estate tax, consider utilizing your **\$13,000 annual gift tax exclusion** to pass assets down to the younger generations **free from gift and estate tax**. For example, a couple with 2 children and 4 grandchildren can pass **\$156,000** ($\$13,000 \times 6 \times 2$) down to their children and grandchildren during calendar year 2009. These types of **gifts** can be made **outright** or **in trust** for the younger generation. If that same couple made gifts in these amounts every year for 10 years, then the couple would have given to their children and grandchildren a total amount of **\$1,560,000** free from gift and estate tax.

(3) **Intra-Family Transactions:** With stock, property values and interest rates at all-time low levels, you may want to consider making **loans** to family members. You may also want to contemplate **selling assets to trust created for family members** (called a **Sale to an Intentionally Defective Trust**) while taking back interest paying notes so that the assets will grow **free of federal estate tax** outside of your estate, while you continue to have access to the cash flow from the assets. IRS says that when intra-family loans or sales are made, interest must be charged on the transaction at minimum rates set by the IRS. These rates are called the **applicable federal rates** and I have set forth the June 2009 rates in item 4 above. **Look how low these rates are!! They will not stay this low forever!!** This "bad" economy provides excellent estate planning opportunities to help your family pay less estate taxes down the road.

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