

## IS YOUR ESTATE PLAN OUTDATED?

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The Economic Growth and Tax Relief Reconciliation Act of 2001 (the “Act”) has been in effect now for several years, and you may have reviewed your estate plan when the Act was passed initially to determine its potential effects. However, you should consider reviewing your estate plan on a regular basis, so that the Act does not inadvertently change your estate plan.

The Act provides for the following estate and gift tax rates and exemptions:

<b>Federal Transfer Tax Amounts</b>					
Year	Gift Tax Applicable Exclusion Amount	Estate Tax Applicable Exclusion Amount	GSTT Exemption Amount	Top Marginal Tax Rate	Gift Tax Annual Exclusion
2002	1,000,000.00	1,000,000.00	1,100,000.00	50%	11,000
2003	1,000,000.00	1,000,000.00	1,160,000.00	49%	11,000
2004	1,000,000.00	1,500,000.00	1,500,000.00	48%	11,000
2005	1,000,000.00	1,500,000.00	1,500,000.00	47%	11,000
2006	1,000,000.00	2,000,000.00	2,000,000.00	46%	12,000
2007	1,000,000.00	2,000,000.00	2,000,000.00	45%	12,000 (Indexed)
2008	1,000,000.00	2,000,000.00	2,000,000.00	45%	12,000 (Indexed)
2009	1,000,000.00	3,500,000.00	3,500,000.00	45%	12,000 (Indexed)
2010	1,000,000.00	Unlimited	Unlimited	0% Estate Tax; 35% Gift Tax	12,000 (Indexed)
2011	1,000,000.00	1,000,000.00	1,000,000.00 (Indexed)	55%, plus 5%	12,000 (Indexed)

In light of the changes in tax rates and exemptions, it becomes increasingly important for you to review your estate plan every few years. For example, a Will or Revocable Trust drafted in 2003 may provide for the creation of a trust for your children to be funded with your available estate tax applicable exclusion amount (the “Children’s Trust”). In 2003, the estate tax applicable exclusion amount was \$1 million. Today, the applicable exclusion amount has doubled to \$2 million. Accordingly, if you were to die this year, the Children’s Trust may be

funded with as much as \$2 million – twice as much as you may have intended. In addition, this would result in \$1 million less for distribution to the other beneficiaries.

Estate planning is about more than minimizing taxes upon your death. There also are important non-tax reasons for updating your estate plan. You need to ensure that your assets pass to the persons whom you intend, in the amount that you intend, and in the manner that you intend. Also, it is important from time to time to review the persons whom you have designated as your fiduciaries, such as the personal representative of your estate, the trustee of trusts for your children and the guardian of your minor children. You need to make certain that you have the right persons in the right positions that can make important decisions for your estate and your beneficiaries.

Certain events, such as a divorce, may have an effect on your estate plan. For example, you may have nominated your sister and her former husband as guardians for your minor children. As a result of the divorce, you may want to change your Will to remove the former husband as a guardian.

A complete estate plan, however, includes more than a will and trusts, which direct the proper disposition of your assets upon your death. To ensure that your personal needs and intentions are carried out while you are living, you need certain documents in place, in which you name one or more persons who can make financial decisions and health care decisions for you at a time when you are incapable of making such decisions for yourself, because of illness, an accident or otherwise. Such documents include a durable power of attorney, a living will and a designation of health care surrogate. If you were in a serious car accident today and were unable to make medical decisions and/or financial decisions for yourself, who would you trust to make those

decisions for you? As we all have learned from the case of Terri Schiavo, it is extremely important for us to make our wishes and desires known in writing.

The implementation of an effective estate plan is an ongoing process. It may be time to review your estate plan and possibly update your plan in terms of the disposition of your assets and/or the designation of persons whom you want to take charge of your person and/or property in the event of your incapacity or death.

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