To: Our Clients and Friends January 2011

Estate Tax Law Changes Beginning January 1, 2011

As you are aware, Congress enacted a new tax law extending certain tax benefits that were set to expire at the end of 2010. This new law, known as the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (“2010 Tax Law”), in addition to extending certain tax benefits, made substantial changes to the estate, gift and generation-skipping transfer (GST) tax system.

We are sending this letter out to make sure you are aware of the changes and how they may impact the estate plan we prepared for you. In addition, the 2010 Tax Law provides some planning opportunities over the next two years of which you may want to take advantage.

As recently as ten years ago, estate tax rates were as high as 60% for some estates and GST tax rates were set at a flat 55%. The exemptions for these taxes have ranged from $675,000 in 2000 to $3,500,000 in 2009. Beginning on January 1, 2011, under the 2010 Tax Law, the estate and GST tax rate is set at 35% and the exemptions for both taxes have been increased to $5,000,000.

Furthermore, and most importantly for planning purposes, under the 2010 Tax Law, for the next two years, the gift tax rate has been set at 35% and the lifetime gift tax exemption has been increased to $5,000,000, up from the 2010 gift tax exemption of $1,000,000. This is a cumulative amount, so if you have made taxable gifts that have utilized your $1,000,000 gift tax exemption in prior years, then the present gift tax exemption of $5,000,000 will be reduced by the amount of gift tax exemption you used in prior years. [1/]

The 2010 Tax Law is set to expire at the end of 2012, barring additional action by Congress and the President. At that time, the exemptions and rates for all three taxes will return to their 2001 levels. Obviously we cannot plan to take advantage of the increased estate tax exemption that is only

[1/] While the lifetime gift tax exemption increased beginning in 2011, no change was made to the gift tax annual exclusion, which is the amount an individual can give each year to each of any number of donees without tax consequences. The gift tax annual exclusion will remain $13,000 per donee (or $26,000 for a married couple, under most circumstances) during 2011.

available for two years, but you can plan to take advantage of the increased gift and GST tax exemptions over the next two years.

In addition to these changes, the estate tax exemption is also now “portable” between spouses dying during 2011 and 2012, meaning that the unused estate tax exemption of a decedent may be transferred to his or her surviving spouse. While at first blush this may seem like an attractive feature of the 2010 Tax Law, we believe that estate tax exemption portability will be of limited utility for most of our clients.

We believe that it is important that you understand how your current estate plan might be impacted by these important and dramatic changes in the estate, gift and GST tax laws. Many of our clients use a formula funding in their revocable trusts or wills that results in their estate or GST tax exemption funding a trust or gift for their family or children, with the balance passing to the client’s spouse. The increase in the estate and GST tax exemptions to $5,000,000 could drastically alter, and perhaps distort in unwanted or unexpected ways, how your assets are distributed at your death if your revocable trust or will uses a formula funding. [2/]

With such a large estate tax exemption if you were to pass away in the next two years, more assets than you may have intended will pass under your documents, since there is not as high of an estate tax burden as you expected. This result may lead you to decide to leave assets in trusts for the benefit of other family members, rather than using outright bequests; or you may decide to make bequests to additional beneficiaries, including charities.

While the Federal estate, gift and GST exemptions and rates have changed for 2011 and 2012, the 2010 Tax Law does not change state estate, inheritance and gift tax systems. States that have an estate or gift tax determined separately from the Federal estate and gift tax have exemptions substantially lower than the Federal estate and gift tax exemptions of $5,000,000. As a result, even though there may be no Federal estate tax on estates up to $5,000,000, substantial state estate taxes may be due on such estates. If you live or have assets in a state with a separately determined estate or gift tax, a review of your estate plan is highly recommended to determine whether the Federal and state estate taxes applicable to your estate can be reduced consistent with your objectives.

Finally, the recent changes to the tax law also will have an effect on your income taxes and extend the opportunity to make $100,000 per year tax-free rollovers of your Individual Retirement Accounts (IRAs) directly to charities during 2010 and 2011, and provide that such distributions in January 2011 be counted as completed in 2010. If you have any questions regarding these changes, we recommend you discuss them with your income tax advisors.

During the past year, various proposals have been discussed that could limit the use of grantor retained annuity trusts and the application of valuation discounts to family limited partnerships. While none of

[2/] The increases in the estate and GST exemptions will not affect clients whose revocable trusts and wills use the disclaimer funding method, which is often expressed in your documents as a bequest of your entire estate to your surviving spouse, and if your surviving spouse disclaims any amount, such disclaimed amount passes to a trust for the benefit of the surviving spouse and other family members.

these proposals was included in the recent legislation, they continue to be floated by Congress as deficit offsets and could be included in subsequent legislation. Any planning you may have been considering using either grantor retained annuity trusts or family limited partnerships, should be completed as soon as practical.

Finally, interest rates also continue to be at or near all-time lows, and estate planning opportunities based on low interest rates remain an attractive option.

We encourage you to contact us to review your estate plan in light of the 2010 Tax Law and we look forward to hearing from you.