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# MEMORANDUM

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TO: Wooden & McLaughlin Clients

FROM: Ronald G. Salatich and Kent M. Broach

DATE: December 30, 2010

RE: 2011 Estate Planning Update

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On December 17, 2010, the President signed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 which contains, among other things, important changes to the federal estate, gift and generation-skipping tax laws.

With respect to decedents dying after December 31, 2009, the amount of the federal estate tax exemption available to each person is \$5 million and the maximum estate-tax rate is 35%. The gift-tax exemption available to each person is also raised to \$5 million (i.e., it is reunified with the estate tax exemption).

The Act also provides for “portability” of the estate tax exemption between spouses. Portability means that any unused portion of the estate tax exemption of the first spouse to die would be available to the estate of the surviving spouse. For example, if a spouse passes away, using only \$1 million of his/her estate tax exemption, then \$9 million would be available for use by the surviving spouse’s estate.

The above-described changes are temporary and will expire on December 31, 2012.

Because estate planning documents often, in the event that a decedent is survived by his/her spouse, automatically first allocate the available exemption amount to a "Credit Trust", the increase in the exemption amount to \$5 million means that the “Credit Trust” will receive (to the extent assets are available) an allocation of \$5 million.

Such an allocation of \$5 million may have the effect of disproportionately funding the Credit Trust vis-à-vis the remaining assets available to a surviving spouse. Additionally, such increased allocation to a “Credit Trust” may significantly increase the amount of Indiana inheritance taxes payable upon the death of the first spouse to die. Therefore, planning documents and estate/tax-planning goals should be reviewed in light of the increased exemption amount.

Please do not hesitate to contact us if you have any questions regarding these changes.

Thank you.