

## Use It Or (Possibly) Lose It

Unless the U.S. Congress and the President reach an agreement on tax legislation before the end of December, there will be significant and automatic changes to the tax laws on January 1, 2013. While we are hopeful that the laws will be “fixed” in 2013, there are no guarantees how, when or if that will happen.

Clients considering gifts to their families should begin planning now so that they can decide whether to take action before the changes in the gift, estate and generation-skipping transfer tax laws take effect on January 1, 2013.

Among many other changes, the exemption from the federal gift, estate and generation-skipping transfer tax will decline from \$5.12 million to approximately \$1 million per individual, and the top tax rate will increase from 35% to 55%.

Until December 31, 2012, each individual can give up to \$5.12 million (depending on the amount of prior gifts) outright or

in trust for their children, grandchildren or others without paying any federal gift tax. This means married couples can give up to \$10.24 million. Families can also allocate generation-skipping transfer tax exemption to these gifts in trust to allow the assets to benefit future generations without the payment of additional gift, estate and generation-skipping transfer tax.

If you are in a position to give, you should consider making a gift before year-end. There are vehicles available to use the exemption now, while it exists, but also maintain flexibility regarding when the beneficiaries have access to the gifts.

Finally, interest rates are now at historically low levels. This makes certain types of sophisticated planning — including Grantor Retained Annuity Trusts, Charitable Lead Trusts, and family loans — very attractive planning options in 2012. New tax legislation may curtail the efficiency of these planning vehicles as well.

If you would like to discuss the details of any of these planning choices, please contact your Dechert private client lawyer.

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## Practice group contacts

If you have questions regarding the information in this legal update, please contact the Dechert attorney with whom you regularly work, or any of the attorneys or professionals listed. Visit us at [www.dechert.com/private\\_client](http://www.dechert.com/private_client).

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