

S & G Law Update

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Stumpf & Gutknecht, P.C.

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ESTATE & GIFT TAX UPDATE

Tax Rate Adjustments

1. Annual Gift Exclusion from Tax

2012	\$13,000
2013	\$14,000

2. Federal estate tax exemption

2012	\$5,120,000
2013	\$5,250,000

3. Illinois estate tax exemption

2012	\$3,500,000
2013	\$4,000,000

4. GST exemption

2012	\$5,120,000
2013	\$5,250,000

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New Traffic & Vehicle Laws

Took effect January 1, 2013

Here are a few new laws that may affect you:

Cell Phones

The ban on cell phone use in a “construction zone” now includes the area in between the signs announcing that a construction zone is coming up and the actual construction zone, itself. Lesson? Hang up (or go into speaker mode) as soon as you see the first sign.

Also, the ban is extended to the area 500 feet before or after an emergency scene so, in addition to moving over a lane when you see flashing lights by the side of the road, hang up or go into speaker mode.

Further, the use of cell phones is, now, prohibited while driving a commercial vehicle. Our business clients should be aware of this new law!

Finally, legislation is currently pending to ban the use of cell phones while driving for all drivers. We will keep you updated.

Disabled Persons and Parking Meters

The general exemption from paying parking meters for all disabled persons will expire at the end of this year. Only those disabled persons with a special placard – based on difficulty in feeding a meter – will continue to be exempt.

Motorcycles and Red Lights

Last year, a law was passed allowing motorcyclists stopped at a red light to proceed through the intersection if, after waiting a reasonable length of time, the red light fails to change to green. The law has now been amended to define “reasonable length of time” to be not less than 120 seconds.

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Estate Planning 2013

Congress has provided greater certainty to planning for death taxes . . . for the time being. Changes to gift and estate tax provisions made on December 31, 2012, subject to inflation adjustments, are as follows:

- Estate, gift, and generation-skipping exemptions are \$5,250,000.
- The gift tax annual exclusion amount is increased to \$14,000.
- Once assets are above the exemption threshold, they are taxed at 40%.

The exemptions are now unified, meaning if you use your exemption during your lifetime, it is not available when you die.

Portability of estate tax exemptions is now permanent. Subject to limitations, a surviving spouse can use whatever exemption a deceased spouse (who died in 2012 and later) did not use before his or her death. If married, you can now shield \$10,500,000 from federal estate taxation using the portability of exemption rules.

If assets are sold, a maximum capital gains rate of 20% will apply. In planning an estate, note an important tax basis rule: If you receive appreciated property by a lifetime gift, you will receive a carryover basis (the donor's basis). If a beneficiary receives assets after a decedent dies, the beneficiary gets a step-up in basis to the date-of-death value of such assets received.

The Illinois death tax exemption remains at \$4,000,000. Most plans will focus on saving Illinois death taxes. Illinois has not adopted portability rules for its exemptions.

Using an experienced estate planner is the best way to make a strategy that is right for you and your family. Call us for an appointment, today. ■

Illinois Gifts in Estates

Commentators and planners have indicated that, when completing tax planning for an Illinois resident, reducing one's estate below the Illinois estate tax exemption amount will eliminate Illinois inheritance taxes.

Stepped-up basis at the time of death is lost if a gift of appreciated property is made.

Portability Election

One of the provisions renewed in the 2012 legislation is the ability for the unused federal estate and gift tax exemptions from a decedent's estate to be transferred to the surviving spouse's estate.

The portability provision allows for greater flexibility in planning between spouses with regard to asset ownership. For example, assume a wife owns \$5 million in assets and a husband owns \$1 million of assets. Without portability, it is generally advisable to have the assets equalized in value between the spouses since it is uncertain which spouse will pass away first. However, with the portability option, this need has been reduced. In the above example, if the husband with \$1 million dies in 2013, it is now possible for the husband's unused federal exemption (\$4,250,000) to be "shifted" to the surviving spouse, which means that she can have a taxable estate of \$9,500,000 (under current law) and not pay any federal estate tax.

While portability is helpful, planners should also still consider the following:

- (1) This rule is not applicable for Illinois taxes;
- (2) The assets owned by the surviving spouse remains subject to inflation, claims of creditors, divorce and remarriage; and
- (3) The federal laws may be changed.
- (4) The election is made on an estate tax return filed with the IRS after the first spouse's death even though no estate tax is due.

Call us with questions

The lawyers of Stumpf & Gutknecht are always ready to answer your estate planning questions. Call us for an appointment at 281-7626. ■



Digital Wealth and Property

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If you are like many, you may have all of your important asset information stored online. As a result, if you do not enact a plan for your online property, then passwords, security questions, and other web safety systems may delay or prevent your representative from carrying out your wishes. Planning for this electronic information will reduce digital headaches for your estate.

While some states are addressing after-death digital management difficulties, other states are addressing the privacy issues by enacting laws restricting access to your accounts for privacy protection. There are some solutions available to help with the problem. The best solution is to keep a current paper list of online accounts, passwords, and security question answers in a safe place. Some solutions are more complex. Consumers can buy software for password management, or hire companies that secure their accounts. These options usually make private information available after death. How to manage your electronic property is your choice, but as time goes on, it is becoming a necessary topic in estate-planning discussions.

If you would like to discuss your estate planning with us, the lawyers of Stumpf & Gutknecht are always ready to answer your estate planning questions. Call us for an appointment at 281-7626. ■

This Newsletter

This newsletter is provided as a service to our clients and friends. It is intended to provide timely general information of interest, but should not be considered a substitute for legal advice. Be sure to consult with an attorney before taking action based on the contents.

We welcome comments and questions. We also welcome topic suggestions for future newsletters.

Finally, please be advised that this may constitute advertising material as defined under the Illinois Rule of Professional Conduct.



Motorcycle Handlebars

A new law was passed prohibiting handlebars higher than the height of the operator's head. Also, at least one hand must be on the handlebars at all times.

Speeding

A new law makes it harder to get court supervision for significant speeding offenses. Formerly, if you were 40 or more miles over the posted limit, you were not eligible to receive court supervision and a chance for dismissal of the charge. Now, that has been lowered to 31 miles over the posted limit in non-urban areas and 25 miles over the posted limit in urban areas. Slow down!

Accidents

If you are in an accident that involves property damage, only, and no injuries, you may, now, move the vehicles out of the way of traffic and to a safe location before fulfilling your duty to give information and render aid. This law seeks to prevent traffic backups.

License Plate Fees

Basic license fees are increasing by \$2 to raise money for state parks.

Other New Illinois Laws

Took effect January 1, 2013

Underage Drinking

In the past, permitting persons under the age of 21 to possess or consume alcohol in your residence was only a crime if you owned the house and let the underage individual leave the residence intoxicated. Now, rented property is included, and it is a crime even if no one leaves.

Social Media

Illinois employers may no longer demand access to the social media (Facebook, Twitter, etc.) of their employees or prospective employees.

Harboring Fugitives

Family members are no longer exempt from laws prohibiting the harboring of fugitives. ■

Tax Law Breaks for Businesses

While Congress came up far short of avoiding future crises with the January 1 "Fiscal Cliff" legislation, the tax package contained billions of dollars of tax breaks for many different kinds of businesses. Some of the tax breaks are the following:

- Tax credits for research and development.
- Tax credits for the production of wind, solar, and other renewable energy.
- A provision allowing restaurants and retail stores to write off the cost of improvements more quickly.
- Enhanced deductions for companies that donate food to the needy, books to public schools, or computers to public libraries.
- The electric-powered vehicle tax credit was expanded to include electric-powered motorcycles.

Businesses may also take advantage of tax breaks that were set to expire but were renewed by the legislation. We recommend that our business clients check with their tax advisors with respect to the new legislation. ■

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ADDRESS CORRECTION REQUESTED

Radon and Your Residence

As you may know, the seller of a residence must give a radon disclosure to the buyer. But, what are the consequences?

In areas where radon detection tests are routinely run, approximately one-half of one percent of homes fail the test. Remediation usually consists of cutting a trench in the basement floor, installing drain tile, and using a small fan to pipe the contaminated air away from the home. The cost of this remediation is approximately \$1,000.

Beginning in June of this year, all new homes must be constructed with passive radon measures – which are much cheaper to install during construction than after.

The lawyers at Stumpf & Gutknecht have over fifty years of experience in real estate law. Call us with your questions. 281-7626 ■

Call us for Speaking Engagements

If you need a speaker for a civic group or other organization, please give us a call.



