

Estate Planning Alert

Rumors of Impending Gift Tax Changes Are Apparently Just Rumors, but Acting Soon Has Advantages

We have received a number of inquiries regarding rumors that the Joint Select Committee on Deficit Reduction (also known as the “super committee”) might cut back substantially on the current \$5,000,000 lifetime gift tax exemption when it releases its deficit reduction plan by the November 23rd deadline. The most troubling part of those rumors was that the super committee might make that change effective as of that date (rather than at the end of 2011 or of 2012). **The rumors are just rumors.** However, if you are considering making substantial gifts to use that gift tax exemption, there are great advantages to acting now to preserve and protect wealth and transfer it to younger generations with minimal tax cost. Our friends and clients who would like to discuss how these new developments affect their specific situations and existing estate plans should contact a member of the Estate Planning Group of Vedder Price.

Executive Summary

The following is an executive summary of this new development; additional information is available from Vedder Price upon request:

- ***Super Committee Deadline Is Approaching.*** The super committee is due to report its proposals on November 23, 2011. If the super committee can reach an agreement on deficit reduction proposals, the deficit agreement reached earlier this year will give any super committee proposals expedited consideration in Congress.
- ***Rumors of Super Committee Action on Gift Tax.*** For several weeks, Vedder Price has been tracking a rumor that the super committee would propose reducing the gift tax lifetime exemption from its current \$5,000,000 level back to the \$1,000,000 level that applied from early 2001 through 2010. Even more troubling, the rumor suggested that the super committee would make the changes effective as of November 23, 2011.
- ***Reasons to Doubt the Rumors.*** Influential and well-connected lobbyists for the life insurance and banking industries have looked into this rumor and found it to be baseless, as have we. Additionally, under congressional budget scoring rules, any such change could not be made effective on November 23rd due to the time required for the Congressional Budget Office (CBO) to “score” the proposals for their budgetary impact. While the rumor may have accurately described a worst-case, shortest-fuse scenario on how the super committee *might* act, there is no evidence that it *will* do so.
- ***Advantages of Prompt Action.*** Nevertheless, persons who are ready, willing, and able to make substantial gifts, particularly as a year-end planning strategy, should consider accelerating their plans in case the super committee proposes reducing the lifetime gift tax exemption effective as of December 31, 2011. This is especially true for persons who would like to further leverage those gifts with a loan or installment sale, as the current lowest-ever Applicable Federal Rates are expected to begin increasing as early as December 2011.

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The Estate Planning Group

Vedder Price has long recognized the importance of estate planning and has been at the forefront of this ever-changing area of the law. The firm's practice has both a national and an international scope. Vedder Price attorneys combine technical experience in all aspects of estate and financial planning with a strong appreciation of personal objectives and concerns in servicing clients in this uniquely personal area.

The firm represents clients with diverse personal objectives and financial interests, including individuals with large estates, individuals with personal situations requiring special planning, owners of closely held businesses, corporate executives and professionals. Vedder Price estate planning attorneys also represent executors, administrators, trustees and guardians. In addition, the firm provides estate and financial planning counsel to businesses and not-for-profit organizations, as well as other professionals who consult Vedder Price with respect to their own clients.

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