

January 2010

### URGENT ESTATE PLANNING ALERT

#### ESTATE TAX REPEAL: DOES YOUR ESTATE PLAN STILL WORK?

As you may be aware, the federal estate and generation-skipping transfer ("GST") taxes—but not the gift tax—expired for one year on December 31, 2009, and are scheduled to return with lower exemptions and higher rates on January 1, 2011. We, along with many other practitioners, believed that Congress would not permit the one-year repeal to occur but instead would extend the 2009 law through 2010 and perhaps beyond. However, no such legislation has been enacted to date.

Absent future legislation providing for application of these taxes and the resolution of certain related issues retroactive to the beginning of this year, many existing estate plans could be significantly affected. For example, certain bequests in your Will (or Revocable Trust) designed to take advantage of pre-2010 tax law (e.g., a Credit Shelter Trust or a GST bequest for your grandchildren) may now be ineffective and/or could result in assets being taxed or transferred in ways that you did not intend. Lifetime gifts in trust may be similarly affected. In addition, in many States, including New York and New Jersey, if you are married and leave property in trust for your spouse, there could be an unexpectedly high State estate tax if you die this year.

In light of the current situation, we recommend that you contact us to discuss your current estate plan. In many cases, adding certain provisions to your Will or Revocable Trust may resolve ambiguities in these documents, and therefore, avoid the risk of unnecessary and expensive court proceedings to interpret them. In addition, for some, the current situation may present unique estate planning opportunities.

Please consult with your Phillips Nizer attorney or with one of the members of the firm's Trusts & Estates Department. We look forward to hearing from you.

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