

CLIENT BULLETIN

**CHANGES IN ESTATE TAX –
STATE AND FEDERAL**

Currently in existence, both at the federal level and at the state level, there are provisions regarding taxation on the values of a person's estate upon death. In Ohio, the estate tax generally applies to estates of \$338,333, with the distribution of those taxes going 80 percent to the local political subdivision, be it township or municipality (including villages) and 20 percent to the State of Ohio. Currently pending before the Ohio General Assembly is H.B. 326, co-sponsored by Representative Kris Jordan. This legislation is intended to significantly alter Ohio's current estate tax scheme.

This bill does several things. First, H.B. 326 proposes to amend the division of the Ohio Estate Tax from the 80 percent local and 20 percent to the State to a division of 100 percent to the municipal corporation or township in which the tax originates.

In addition, the legislation proposes to reduce the overall amount of the estate tax by increasing the current tax credit. As a result, where the value of the estate is less than or equal to \$366,250, that estate would be exempt from filing an Ohio Estate Tax return. The proposed legislation also provides for an annual review and adjustment to this tax credit based upon the percentage increase in the consumer price index. Thus, as the CPI increases, so proportionally would the estate tax credit.

Finally, H.B. 326, as introduced, would give the governing body of the municipality/township (or its citizens by initiative petition) the right to exempt estate property in its community from the estate tax. The potential overall affect of H.B. 326 would be to allow each local community to decide if it wanted to eliminate the affect of the Ohio estate tax for its citizens.

As of the date of the submission of this article, the legislation has been assigned to committee.

The issue on the federal front with respect to the Federal estate tax is currently less certain. In 2001, Congress passed the Economic Growth and Tax Relief Reconciliation Act which set in place certain estate tax provisions. At that time, based upon that legislation, the estate tax credit put in place gradually increased from \$1 million in 2001 to \$1.5 million in 2004 to \$2 million in 2006 to \$3.5 million in 2009 to currently, for individuals who die in 2010, there is no applicable federal estate tax or generation-skipping transfer tax. If no action is taken by Congress, then in 2011 the estate tax credit reverts back to the \$1 million credit that existed in 2001. In addition, the step-up-in-basis rules are also changed, with estates for individuals who die in 2010 losing the basis equal to the tax value of the decedent's assets as to their carryover basis.

Continued on back . . .

We are always grateful for your trust in recommending us to others.

A referral from you and your continued business are the highest compliments we could ever receive.

Interestingly, but probably not surprising, Congress passed the current legislation because of an inability to reach a more complete consensus on the estate tax situation. It was believed, at that time, that Congress would have plenty of time to reach a consensus before we got to calendar year 2010 and the provision whereby the estate tax is, in essence, eliminated for one year. Obviously over the preceding ten years, Congress was not able to reach an acceptable consensus on the estate tax issue. As a result, we are currently faced with the existing situation.

It is a very difficult time for tax planning with respect to one's estate, not only given the current status of the law, but also given the fact that this is a very volatile area, i.e., one that Congress is well aware of the existing status. There is conversation about re-enacting these taxes retroactively, but that has not occurred.

You are encouraged to consult with your legal and tax advisors regarding your own estate plan and how the existing tax situation could affect your estate.

“TOP LAWYERS”

The April 2010 edition of Columbus C.E.O. includes a special section titled “Top Lawyers,” which lists selected Central Ohio attorneys. Manos, Martin, Pergram & Dietz Co., LPA was included, listing Dennis Pergram with practice areas of labor and employment, litigation and appellate practice, and Steve Martin with practice areas of contracts, real estate and zoning, planning and land use.

****NOTICE****

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.