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Dear clients and friends:

**I moved. My previous office building was sold. I moved to a building in the same complex, but at the intersection of Von Karman and Campus. It is a single story office with excellent parking and handicap access, and the address is listed above. This is also a good time for me to let you know about recent developments in our tax and other laws.**

**1. No estate tax repeal (or increased exemption, or estate tax rate reduction) yet.** First, congressional attempts to repeal the estate tax failed (please recall that repeal would also repeal the "step-up" in income tax basis at death). Second, Congress considered increasing the amount exempt from estate tax at death to \$5,000,000 (for deaths in 2015), and to reducing the estate tax rate on the next \$20,000,000 in assets to 15%, and the rate on any excess to 30% (again for deaths in 2015). That bill failed as well. Therefore, we are currently left with the following rules (at least for the short term):

for deaths in 2006-2008: \$2,000,000 exemption and flat tax of 45% or 46%

for deaths in 2009: \$3,500,000 exemption plus flat tax of 45%

for deaths in 2010: No estate tax whatsoever

for deaths in 2011: \$1,000,000 exemption and tax of 41% to 45%

The above exemption and rate schedule will change, we just don't know how yet.

**2. Gift tax rules remain unchanged.** Our present gift tax rules remain unchanged. You may give any person an annual gift ("annual exclusion") of \$12,000 without any reporting requirement, and may give lifetime additional gifts of as much as \$1,000,000 (in the aggregate) without any gift tax being imposed.

**3. Consider changes to beneficiary designations on qualified retirement plans and IRAs.** There are two pieces of "good news" regarding IRAs and qualified plan benefits, both coming from the federal Pension Protection Act of 2006.

a. The first change [Internal Revenue Code Section 402(c)(11)] now confirms that non-spouses (which includes children, registered domestic partners, and all other persons) who are beneficiaries of a deceased person's qualified retirement plans may "roll-over" the benefits at the decedent's death to an Individual Retirement Account (IRA) and the recipient may "stretch out" the required minimum annual distributions over the beneficiary's lifetime. The law permitted this in the past, but many qualified plan documents would not allow this. The moral to this change: check your beneficiary designations now, and assure that they are appropriate for your circumstances. For most individuals, this means assuring that individuals are primary and alternate beneficiaries, and your trust only as a last alternative.

b. The second change benefits "higher end" participants in IRAs (but not other qualified retirement plans like 401(k) plans). Internal Revenue Code Section 408(d) now allows participants who are age 70-1/2 or older to make as much as \$100,000 outright distributions directly from their IRAs to qualified public charities (but not private foundations), thus fulfilling their required minimum distribution requirements (without declaring the distribution amounts in income) but also not being able to claim a charitable deduction. This benefit may be valuable to clients in high income tax brackets where charitable gifts and income tax deductions are partly or wholly denied because of deduction floors and phase-out rules.

**4. Kiddie Tax.** Last year the net unearned income (over \$1,700 per year) of any minor under age 14 was taxed at the highest marginal rate of the minor's parents. This age limit has now been increased, so the income will be taxed at the parents' rate until the minor reaches age 18.

**5. Exclusion of gain on sale of principal residence.** Internal Revenue Code Section 121 allows taxpayers to exclude from income taxation \$250,000 of capital gain on the sale of a principal residence used as such for at least two of the five years prior to the sale. New private letter rulings explain how a proportionate exclusion may be available for taxpayers who have to sell before the two year occupancy period, but only if the sale is made because of "unforeseen circumstances" such as changes in place of employment, health, death, or divorce.

**6. Post-QPRT rental agreements.** If you had a qualified personal residence trust (QPRT) which terminated, and you are now paying rent to continue to live in the residence, the IRS requires payment of true undiscounted fair market rental. Don't cut any corners, and document both the appraised rental value and the timely monthly rent payments.

**7. Changes to existing documents.** You may wish to review and possibly change your existing estate planning documents to assure accuracy in your desires. For example, you should assure that you have accurately designated:

- a. Persons to receive assets at your death (and on the terms you desire).
- b. Persons to serve as trustees of your trust or as executors of your Will.
- c. Persons to act as agents under your advance health care directive (this is especially important if your existing documents were signed in 1992 or earlier).
- d. Persons to act as agents under your power of attorney over assets.
- e. Persons to act as guardians of any minor children.

**8. Title to assets; beneficiary designations; general grant and assignment.** As always, be certain that title to your assets is correct, and that the proper beneficiaries are designated. If you refinanced real property, and if the lender made you take title out of your trust, you will want to assure that you transferred title back into the trust after the refinancing was complete. You may also wish to sign a "general grant and assignment" as additional protection to avoid probate at the time of death.

Very truly yours,

  
Michael V. Vollmer