



Estate Planning Update

February 20, 2014

FEDERAL ESTATE, GIFT, AND GST TAX EXCLUSIONS INCREASE IN 2014

Due to inflation adjustments, the Federal estate, gift and generation-skipping transfer (“GST”) tax exclusions have increased from \$5.25 million in 2013 to \$5.34 million per person for 2014. Those who have previously fully utilized their exclusion amounts through gifting may now give an additional \$90,000 without Federal gift tax, or \$180,000 if splitting gifts with a spouse (the “2014 Inflation Adjustment”).

OF INTEREST TO NEW YORK RESIDENTS: NEW YORK ESTATE TAX RULES MAY CHANGE

Governor Andrew M. Cuomo’s budget bill, if enacted, would:

- Increase the New York estate tax exclusion amount from \$1,000,000 to match the Federal exclusion amount (\$5.34 million, subject to inflation adjustments) over the next five years.
- Decrease the top New York estate tax rate from 16% to 10% over the next four years.
- Eliminate the New York generation-skipping transfer tax.
- Tax gifts made by New York residents on or after April 1, 2014 by including such gifts in the calculation of New York estate tax at death.
 - Gifts made during life are currently not subject to New York estate tax at death, but the proposed legislation would add back gifts made by New York residents on or after April 1, 2014 to their gross estates at death. **There is a potential opportunity to save taxes in the event the proposal is enacted by gifting prior to April 1, 2014.**
 - New Yorkers who planned to make gifts this year should consider gifting prior to April 1, 2014.
 - New Yorkers who have fully utilized their Federal exclusion amounts may wish to consider gifting the 2014 Inflation Adjustment prior to April 1, 2014.
 - Whether it makes sense to consider gifting prior to April 1 will depend on many factors, such as the likelihood of dying a New York resident, age and health, and past history of giving. We are happy to discuss your individual situation.

PROPOSED TAXATION OF NEW YORK RESIDENT TRUST BENEFICIARIES

The Governor's budget bill would tax certain distributions of accumulated trust income to New York resident beneficiaries regardless of whether the trust was created by a New Yorker. This rule would not impact grantor trusts and non-grantor trusts that are already subject to New York tax on all income.

The proposal would also tax incomplete gift non-grantor trusts (sometimes known as "DING" trusts) as grantor trusts for New York purposes even if they are non-grantor trusts for Federal income tax purposes.

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This memorandum is for general information purposes and should not be regarded as legal advice. Please contact your relationship partner if we can be of assistance regarding these important developments. The names and office locations of all of our partners, as well as our recent memoranda, can be obtained from our website, www.simpsonthacher.com.

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