

January 2010

**Ask a trust officer:
Federal estate taxes**

DEAR TRUST OFFICER:

What's this I hear about the expiration of the federal estate tax? Is there something I should be doing this year to take advantage of the situation?—TARGET FOR DEATH TAXES

DEAR TARGET:

Although it is true that Congress let the estate tax expire, there are several caveats to keep in mind.

First, the estate tax returns in 2011, and under current law there will be lower exemptions and higher tax rates.

Second, assets inherited in 2010 may be subjected to capital gains taxes. The tax basis will no longer be "stepped up" to fair market value at the date of the decedent's death. (However, there are rules for exempting smaller estates from this tax treatment.)

Third, and most importantly, prominent Congressmen already have promised to restore the estate tax in 2010 and to make it retroactive to January 1, 2010. That makes any action that you might take something of a gamble.

If we knew for certain that federal transfer taxes wouldn't be changed in 2010, there would indeed be a number of useful steps that you could take. The gift tax rate, 45% in 2009, dropped to 35% on January 1. Next year the top gift tax rate zooms to 55%.

The generation-skipping transfer tax (GSTT), which applies to major gifts and legacies to grandchildren, also is suspended in 2010. It would be nice to lock in low gift tax rates and avoid the GSTT if we could be confident of the tax treatment.

Consult your tax advisors before taking *any* action.

Do you have a question concerning wealth management or trusts? Send your inquiry to [trustofficer@bankname.com].

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