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**EXECUTIVE SUMMARY OF THE ESTATE, GIFT & GENERATION-
SKIPPING TRANSFER TAX (GST) CHANGES UNDER THE 2010 TAX ACT¹**

<u>YEAR OF DEATH</u>	<u>EXEMPTION AMOUNT</u>	<u>TAX RATES</u>
2010	NO ESTATE TAX ²	0% or 35% ³
2011 ⁴	\$5,000,000 ⁵	35%
2012	\$5,000,000 ⁶	35%
2013-	\$1,000,000 ⁷	37 to 60%

¹ The “short title” of the Bill is the “Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010” (“TRUIRJCA”), signed into law and effective on December 17, 2010.

² The representative for a 2010 decedent may elect either the prior law for 2010 (no estate tax; limited stepped-up basis) or the new law for 2011 (\$5 million estate tax exemption; full stepped-up basis). The 2010 gift tax exemption remains at \$1 million at a 35% rate. The GST exemption is \$5 million, but with 0% rate. For 2010 decedents who died prior to December 17, 2010 (and for those who made 2010 GST transfers), the deadlines for filing a 706 (or gift tax return to report GST), basis allocation returns and qualified disclaimers (though this may not qualify under Illinois law) are extended to September 17, 2011.

³ The 35% rate applied to taxable gifts in 2010. The GST rate in 2010 is set at 0%. Estate tax is either 0% (if 2010 rules are elected) or 35% (if 2011 rules are elected).

⁴ State death taxes remain a deduction rather than a credit. Under the 2001 Act, the credit was phased out and replaced with a deduction. States that fail to change their laws will not collect estate tax. In 2010, Illinois did not have an estate tax. However, in January 2011, Illinois quickly acted to “re-decouple” and reinstate its estate tax, with a maximum exemption amount of only \$2 million. Thus, while estates below \$5 million will not owe Federal Estate Tax in 2011 and 2012, those estates above \$2 million will be required to file Illinois Estate Tax Returns and pay Illinois Estate Tax on net estates over \$2 million.

⁵ Estate, gift and GST tax exemptions are “reunified”, beginning in 2011, each with a \$5 million exemption. Additionally, a brand new “portability” election has been added beginning with 2011 decedents (but see footnote 7 for “sunset” of this law) leaving a surviving spouse. For 2011 and 2012 decedents, the estate can representative can elect on a timely filed Federal Estate Tax Return (Form 706) to transfer the decedent’s remaining unused exemption to his or her surviving spouse. Please note that the transfer of unused exemption is not automatic and is only effective if a Federal estate Tax Return is timely filed (within 9 months after first spouse’s death, plus additional 6 months if extension is requested). If a 706 is not timely filed, the unused exemption is lost. Accordingly, it will be recommended that a 706 be filed for each and every decedent who leaves a surviving spouse, regardless of the size of their estate(s).

⁶ The exemption is indexed for inflation beginning in 2012, rounded to the nearest \$10,000. Thus, the exemption in 2012 may, for example, be \$5,010,000 or \$5,020,000, instead of \$5,000,000.

⁷ Last, but not least, under the terms of this legislation, ALL of these changes are due to expire (“sunset”) after December 31, 2012. **This is a two year law only.** If Congress fails to act prior to December 31, 2012, the estate tax will return to pre-2002 law with a \$1 million estate tax exemption at rates from 37% to 60%. Moreover, the new “spousal portability” provisions will no longer be in effect. Stay tuned!