

· UPDATE ·

2010 Seemingly Convenient Time to Die: Federal Government Defaults on Estate Tax

By Timothy J. Rice, Esq.

In the last several months, the founder of Taco Bell and a billionaire Texas oil tycoon passed away, and their mega-estates are not subject to federal estate tax because it was temporarily repealed due to the failure of U.S. Senate, through inaction, to join with the U.S. House of Representatives to act upon proposed legislation.

As of January 1, 2011, however (unless Congress acts this year to modify the law), the federal estate tax will return to assess a 55% tax rate on those estates valued in excess of more than \$1 million. In 2009, the federal estate tax was only assessed on estates valued over \$3.5 million, at a tax rate of 45%.

According to the Tax Policy Center, a joint venture and research group of the Urban Institute and Brookings Institution, the number of estates affected by the federal estate will be about 9 times greater in 2011 than in 2009. And for those estates that will be subject to the federal estate tax, the increased tax rate will result in substantially more tax.

Although the federal estate tax affected only about 5,500 estates in 2009, it is such an incendiary issue that when Congress allowed it to lapse at the end of 2009, experts warned that it might play a chilling factor in end-of-life decisions being weighed by heirs of elderly Americans. Some estate lawyers worry that tax considerations might prompt their clients to keep an ill relative on life support to receive favorable treatment — or worse, resist life-prolonging measures to hasten a relative's demise before the end of 2010.

These dramatic changes in the federal estate tax laws, as well as the generation skipping tax laws and capital gains laws – see the estate tax summary posted on my website earlier this year – make it imperative that individuals review their documents and goals with an estate planning attorney in an effort to preserve wealth and minimize taxes.

Timothy J. Rice, Esq. provides clients with timely Updates which help them make informed decisions about their asset preservation and end-of-life issues. Lending his compassionate and caring nature to each client, Mr. Rice has been helping clients for nearly 20 years in the areas of estate and trust planning and administration; Medicaid planning and guardianships; will contests and litigation, powers of attorney and advance directives, among other areas. Visit us on the web at www.timriceelderlaw.com.

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