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Summary of 2013 Estate and Income Tax Laws

Even though Washington addressed part of the "fiscal cliff" by permanently extending several tax saving provisions, tax planning remains very important. Before briefly listing some reasons for tax planning, here is a brief summary of current tax law:

- Income taxes on single taxpayers earning less than $400,000 and married taxpayers earning less than $450,000 are virtually the same as they were in 2012 (except social security payroll tax has gone back up to 6.2% and normal annual inflation adjustments will apply in 2013).

- Single taxpayers earning over $400,000 and married taxpayers earning over $450,000 in income will now pay a top rate of 39.6% instead of 35% on ordinary income and 20% instead of 15% on long term capital gains and qualified dividends. Additionally, caps on itemized deductions and phase-out of personal exemption will apply to single taxpayers with more than $250,000 and married taxpayers with more than $300,000.

- Furthermore, an additional 3.8% tax on net investment income kicks in this year for single taxpayers earning more than $200,000 and married taxpayers earning more than $250,000 under the universal healthcare laws. These taxpayers will also pay an additional 0.9% in Medicare tax on their wages.

- The gift, estate and generation-skipping transfer ("GST") taxes remain intact with the only major changes being an increase in the top tax rate from 35% to 40% and an increase in the exemption from $5,120,000 to $5,250,000.

Even though these tax laws are much better than the ones that would have been installed if we had "gone off the fiscal cliff", tax planning can still save individuals significant amounts of money. So how can one plan to avoid these taxes or minimize her/his tax obligations? Here are some examples:

- Professionals such as doctors, dentists, chiropractors, accountants, architects, lawyers, etc. can establish a corporation (or LLC) for their professional practices to avoid or reduce the additional Medicare tax and/or the net investment income surtax.

- Certain gifts to charities can eliminate the additional 3.8% tax on net investment income.

- Moving investment income producing assets to certain trusts, LLCs, partnerships or other entities can eliminate the additional 3.8% tax as well, and transfer those assets to children or grandchildren on a gift-tax free basis.

- With annual inflation increases to the gift, estate and GST tax exemption amount individuals should be able to transfer wealth to family members each year on a transfer tax-free basis and move those assets to family members in lower income tax brackets while still maintaining control over the investment of those assets.

- Individuals who currently have trusts in place may be able to take advantage of techniques that will allow the creator of the trusts to minimize the capital gains tax that the beneficiaries would otherwise incur if such techniques are not utilized. Not only could this eliminate the capital gains tax, but also the additional 3.8% tax.

- Even though Portability (carryover of deceased spouse's unused estate tax exemption) is now permanent, surviving spouses must still act quickly after spouse's death to elect this benefit.

- Portability can provide many income and transfer tax savings opportunities, such as eliminating capital gains and, when coupled with other wealth transfer techniques can lead to tax savings of $100,000's.

- Making investments in income tax preferred vehicles, such as IRAs, tax-deferred annuities, life insurance policies and charitable trusts can defer the 3.8% additional tax for many years into the future.

We have only briefly summarized these tax saving strategies. If you would like to have a more in-depth discussion, we would be happy to sit down with you personally to specifically discuss how these strategies can benefit you. Furthermore, these tax saving strategies can be integrated into other business and estate planning techniques, such as transferring control of the family business or home to certain beneficiaries and other family assets to other beneficiaries, to create tax savings. Therefore, please do not hesitate to contact Ted A. Koester at 312-924-4257 or via e-mail at tkoester@lksu.com (Ted A. Koester's profile) for more information.