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Client Alert: Estate Planning Certainty

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The new year has brought with it several permanent changes to the state and federal estate tax laws. These changes will have a major impact on estates and the terms of estate planning documents on a going forward basis. These changes include the following:

1. The Ohio estate tax is repealed for estates of individuals dying on or after January 1, 2013.
2. For federal transfer tax purposes, the estate tax basic exclusion amount, the gift tax basic exclusion amount and the generation skipping transfer (GST) tax exemption amount are all unified at \$5,000,000, adjusted for inflation from 2011. As a result, for 2013, these amounts are all \$5,250,000. The top tax rate for estate, gift and GST transfers in excess of such amount is 40%.
3. Portability, which was introduced by Congress in 2011, remains a part of federal estate tax law going forward. Essentially, portability permits a surviving spouse to use his or her deceased spouse's *unused* estate tax exclusion amount if an election is filed with the IRS within a certain time period following the death of the first spouse. Although this permits a husband and wife to pass a significant amount of assets estate-tax-free to their children (\$10,500,000 in 2013) without the use of trust planning at the death of the first spouse to die, there are a number of situations where the use of trusts will be appropriate.

These changes are generally quite favorable to taxpayers and likely will impact your current estate plan. Depending upon the value of your estate, your existing estate plan may be more complicated than necessary from a pure tax standpoint. Taxes, however, are not the only estate planning concern. There still are a host of non-tax reasons (i.e., probate avoidance, second marriage and blended families, asset protection, and professional asset management) to continue to utilize trusts for the benefit of your spouse and children in your estate planning.

If you would like to learn how these tax law changes affect your individual situation and whether revisions to your current plan are warranted, please contact your Vorys attorney.