

---

Attorney at Law

# Manish C. Bhatia

Estate Planning | Wills & Trusts

Newsletter #21 • January 2012

Phone: (773) 991-8423 • Email: manish@mcb-law.com • Web: www.mcb-law.com

---

## Estate Tax 2012 and Beyond

Over the past decade, transfer tax exemptions, rates and planning opportunities have varied from year to year due to nearly annual changes in the laws. As the calendar turns to the new year, it is important to take a look at what Federal and Illinois legislatures have told us about Estate, Gift and Generation-Skipping Transfer (“GST”) Taxes for 2012 and beyond as well as the uncertainty ahead.

### *Estate Tax 2012*

The *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (the “Act”), signed into law by President Obama on December 17, 2010, affects the estates of decedents dying between January 1, 2010, and December 31, 2012. The Act includes a Federal Estate Tax exemption of \$5 million per individual, as well as \$5 million exemptions from Gift Tax and GST Tax for 2011. Since the taxes were indexed for inflation, the exemption amounts will increase to \$5.12 million for 2012. All three transfer taxes have a maximum tax rate of 35% through 2012.

The Act also introduced us to the portability of the Estate Tax exemption, which allows the surviving spouse of a decedent to utilize the decedent’s unused Estate Tax exemption amount (see the January 2011 Newsletter). The portability feature will remain available to the estates of decedents dying in 2012 but has not yet been made permanent.

Additionally, the annual Gift Tax exclusion remains at \$13,000 per individual for 2012. Meanwhile, the annual Gift Tax exclusion amount for gifts made to a spouse who is not a U.S. citizen has increased to \$139,000 for 2012.

Regarding Illinois’ exemption, Governor Pat Quinn signed Senate Bill 0397 into law on December 16, which increases the Illinois Estate Tax exemption to \$3.5 million for decedents dying in 2012. This is a significant increase to the state’s exemption, which was only \$2 million for decedents dying in 2011, and will allow greater flexibility in planning for the estates of Illinois residents.

---

## ***Estate Tax Beyond 2012***

After a rumor that the Congressional “Super-Committee” would roll back the \$5 million Gift Tax exemption to \$1 million effective November 2011 rather than after the provisions of the Act expire at the end of 2012, Congressman Jim McDermott (D-WA) introduced a bill (the *Sensible Estate Tax Act of 2011*) (the “Bill”) that would restore pre-2001 levels of the Estate, Gift and GST Taxes.

The Bill would bring the Estate Tax exemption back to \$1 million per individual (\$2 million for married couples) with a maximum tax rate of 55%. The exemption amount would be indexed for inflation from the year 2000. Additionally, the Bill would reunify and make permanent the portability of the Gift and Estate tax exemptions for spouses, require a minimum 10-year period for Grantor Retained Annuity Trusts and modify the rules for asset valuation and minority discounts.

There will certainly be other proposals regarding the Estate, Gift and GST Taxes beyond 2012, but the Bill gives us an idea of the levels and rates for which the Democrats will campaign. An additional bargaining tool at the disposal of Congressman McDermott and other Democrats is the existing law that is in place; without Congressional action prior to 2013, the Estate Tax exemption will return to \$1 million and a maximum tax rate of 55% on January 1, 2013.

The Illinois Estate Tax exemption will be \$4 million for decedents dying in 2013. However, if the Federal exemption were to decrease below \$4 million, Illinois law would likely match it.

## ***Planning Opportunities***

With the increased exemption amount in Illinois for 2012 and Federal uncertainty ahead, this is an ideal time to discuss your estate with a specialist to ensure that all opportunities for reducing transfer taxes and protecting your assets are utilized. If you have an existing estate plan, it should be reviewed at this time. If you do not currently have an estate plan, this is the time to discuss your goals and financial situation and to have a proper estate plan in place.

Not having an estate plan or having an improperly drafted plan can result in a significant tax bill and probate costs that can be avoided through proper planning.

For additional information on Estate, Gift and GST Taxes and how to plan for your estate, please feel free to contact me at your convenience.



Manish C. Bhatia is an Illinois attorney focusing his practice in the area of Estate Planning. Manish has focused his education and practice on Tax Planning, Estate Planning and Business Succession Planning since the first year of law school. He has also added Asset Protection, Elder Law and Nonprofit Organizations/Charitable Giving to his fields of practice. Manish is also a member of the Chicago Bar Association, the Asian American Bar Association of Chicago and the Indian American Bar Association.

---

Manish C. Bhatia  
1222 Chicago Ave., #305  
Evanston, IL 60202

**Phone:** (773) 991-8423  
**Email:** manish@mcb-law.com  
**Web:** www.mcb-law.com

### **Disclaimer**

The information provided in this newsletter is provided as a courtesy and is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual circumstances. I invite you to contact me and welcome your inquiries. Contacting me does not create an “attorney-client” relationship. Please do not send any confidential information to me until such time as an “attorney-client” relationship has been established.

### **Circular 230 Disclosure**

I am required by Treasury Regulations (Circular 230) to inform the readers of this newsletter that, to the extent that the information contained herein concerns federal or state tax issues, such information was not written or intended to be used, and cannot be used, for (1) avoiding federal or state tax penalties or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

*This newsletter is written by and property of Manish C. Bhatia, Attorney at Law. All rights reserved.*