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**"Winning Business Strategies"  
Webinar Series**



**Estate and Income Tax Laws:  
New Two-Year Countdown Begins**

Presented by:

Jeffrey A. Jackson, CPA/PFS, CFP® & Michael P. Moloney, JD, CFP®



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*Join us as we review the new federal income and estate tax law and the emerging planning opportunities these new laws create.*

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### Estate Planning After the 2010 Tax Act

- Federal Estate taxes have been temporarily eliminated for most of us
- Estate planning will change but it should not be ignored
- Trusts should still be used in most estate plans

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### Estate Tax Law Prior to 2010 Act

- Federal Estate taxes decreased dramatically in the last decade
  - Estate tax exclusion increased from \$1M to \$3.5M in 2009
  - Tax rates were decreased from 55% to 45%
- Federal Estate taxes were eliminated in 2010 but the Gift tax exclusion remained at \$1M
- In 2011, the Estate tax exclusion was supposed to revert to \$1M and the Estate tax rate was to return to 55%

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### 2010 Tax Act – Impact on 2010 Estates

Under 2010 law prior to December 2010:

- No Estate tax but carry over basis

Under 2010 as a result of 2010 Act:

- Option to choose old law or new law
- No Estate tax but carry over basis
- Estate tax with a \$5M exclusion, 35% rate, and stepped up basis
- Executors must make election on timely filed return

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### 2011 - 2012: Estate Tax

- \$5M Estate tax exclusion and rate reduced to 35%
- This will exclude most estates from Federal Estate tax
- Still have to die to benefit




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### 2011 - 2012: Estate Tax

#### Portability

- Ability to use unused portion of deceased spouse's \$5M Estate tax exclusion
- Spouses dying after 2010
- Executor makes election
- What if law changes?




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### 2011 - 2012: Gift Tax

- Gift tax exclusion increases from \$1M to \$5M
- Not only can this be taken advantage of currently; it might be lost if not used
- Question for most is how to take advantage of this in a way that provides for flexibility




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### 2011 - 2012: GST Tax

- \$5M GST allocation for gifts
- \$5M GST allocation for estates
- Use of this important allocation is widely overlooked
- Greatest wasted opportunities will occur with failure to use GST




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### 2013 – Sunset of Estate Tax Provisions

- Unless changed, return to the \$1M exclusion for Estate, Gift and GST taxes
- 55% Estate and Gift tax and GST rate
- Indexed (from 1997) for inflation
- Will this happen?




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### 2011 - 2012 Estate Tax Planning for the Very Wealthy

- Great opportunity in planning for the wealthy
- Use \$5M exclusion with gifts
- Don't forget loss of step up in basis
- Combine with GRATs, FLP discounts and current low interest rates




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### 2010 Tax Act – Income Tax Laws

- Tax Relief/Job Creation Act of 2010
  - Tax Rate Extension
  - Reduced Dividend/Capital Gains Tax Rate
  - IRA to Charity Distributions
  - 100% Bonus Depreciation

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### 2010 Tax Act – Income Tax Laws

- Tax Rate Extension
  - Extends 2010 rates until 12/31/12
  - Capital Gains and Dividends

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### 2010 Tax Act – Income Tax Laws

- Zero Percent Capital Gains Tax Rate
  - Applies to income in 10% or 15% brackets
  - For Singles, \$34,500
  - For Married Couples, \$69,000
- Zero Percent Capital Gains Tax Rate
  - Gift Appreciated Securities to parents or children in lower brackets

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### 2010 Tax Act – Income Tax Laws

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- What happens in 2013?
  - Extra Medicare Tax on High Earners
  - Extra Medicare Tax on Investment Income of High Income Individuals
  - Sunset (again) of Two Highest Brackets
  - Sunset of Low Rates on Capital Gains and Dividends

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### 2010 Tax Act – Income Tax Laws

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- Medicare Tax on Investment Income
  - 3.8% of Net Investment Income where AGI exceeds \$250,000 for MFJ or \$200,000 for others

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### 2010 Tax Act – Income Tax Laws

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- What is Net Investment Income?
  - Interest & Dividends
  - Rents & Royalties
  - Gains from sale of property used in Passive Activity (i.e. a rental)
  - Passive income from an S corporation

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### 2010 Tax Act – Income Tax Laws

- Net Investment Income does not include:
  - Retirement Plan Earnings
  - Retirement Plan Distributions

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### 2010 Tax Act – Income Tax Laws

- Consider the Defined Benefit Plan
  - Out of favor for years
  - Appealing now in some cases
  - Consistently profitable small business
  - Family well compensated
  - Adequate Cash Flow to fund retirement

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### 2010 Tax Act – Income Tax Laws

- IRA to Charity Distributions
  - 70 ½
  - \$100,000 for 2010 by January 2011
  - \$100,000 for 2011 by December 2011
- IRA to Charity – Why do it?
  - Satisfies RMD
  - Effectively creates deduction for state tax purposes

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### 2010 Tax Act – Income Tax Laws

- Rental Property Owners
  - 1099 Reporting Requirements Apply Now
  - Payments for Services > \$600




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### 2010 Tax Act – Income Tax Laws

- Bonus Depreciation
  - 100% from 09/08/10 through 12/31/11
  - 50% in 2012
  - New Property Only
  - Not limited to small business




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### 2010 Tax Act – Income Tax Laws

- 2011 Section 179 Expense
  - New or Used
  - \$500,000 maximum
  - Deduction phases out when total equipment purchases exceed \$2M
  - New Restaurant/Retail Buildings
  - Leasehold Improvements




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### 2010 Tax Act – Income Tax Laws

- 2012 Section 179 Expense
  - New or Used
  - \$125,000 maximum
  - Deduction phases out when purchases exceed \$500,000
  - Not New Restaurant buildings
  - Not Leasehold Improvements




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### QUESTIONS?

**Thank you  
for participating.**

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