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Illinois Estate Tax Changes in 2012

The Illinois legislature recently amended the estate tax law. The Illinois estate tax exemption has been increased from the previous exemption of \$2 million in 2011 to \$3.5 million in 2012 and \$4 million in 2013 and thereafter.

The Illinois tax rates on taxable estates have not changed and the top rate is 16%. However, the state allows a marital deduction (for Illinois estate tax purposes only) with respect to assets passing to certain qualifying trusts for the benefit of a surviving spouse.

Also, the federal transfer tax exemption (for estate and gift tax purposes) has been increased to \$5.12 million in 2012 (from \$5 million in 2011) due to an inflation adjustment. The top marginal estate and gift tax rate remains at 35% for 2012. Unless there is legislation passed this year, the federal transfer tax exemption will drop to \$1 million—and the top marginal rate will increase to 55% in 2013. We do not think this will happen but at this point there is no way to know what the tax law regarding estate taxes will be in 2013.

The increased Illinois estate tax exemption will be beneficial for estates that do not exceed \$3.5 million in 2012 and \$4 million thereafter. However for estates that exceed these amounts, married couples can still use the Illinois marital deduction to defer payment of Illinois estate tax until the death of the surviving spouse. Otherwise, an estate plan that was designed to fully utilize only the federal estate tax exemption could inadvertently cause up to \$364,245 of Illinois estate tax when the first spouse dies.

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The table below illustrates the amount of Illinois estate tax and the effective estate tax rate for several hypothetical estates of Illinois decedents in 2012:

<u>Taxable Estate</u>	<u>Illinois Estate Tax</u>	<u>Effective Tax Rate</u>
\$2,000,000	\$0	0%
\$3,500,000	\$0	0%
\$5,000,000	\$352,158	7.0%
\$5,120,000	\$364,245	7.1%
\$10,000,000	\$926,923	9.3%

Due to the different estate tax exemptions for Federal and Illinois, Illinois estate tax could result even if there is no Federal estate tax. The Illinois estate tax triggered in such a situation could possibly be reduced or eliminated with proper planning.

We can review your estate plan to ensure you are maximizing all exemptions and minimizing Federal and Illinois estate taxes.

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