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As a service to our clients, Holifield & Associates, PLLC periodically issues a newsletter to keep you informed of developments in statutes, regulations, and case law in the field of estate planning. If you would like any assistance or further information about any of the matters described in this update, please call, and we will be happy to discuss these issues with you further.

Tennessee Repeals Gift Tax/Relief Granted for 2013 on Federal Exemption for Gift Taxes

The Tennessee legislature repealed Tennessee's tax on gifts effective January 1, 2012. Also, with the passing of the American Taxpayer Relief Act of 2012 on January 1, 2013, the gift tax lifetime exemption remains at \$5 million, with adjustments for inflation. The exemption for calendar year 2013 is adjusted to \$5.25 million with inflation. Annual exclusions for 2013 are \$14,000.00 to each donee and \$28,000.00 for married couples on jointly owned property to each donee. This means an individual may gift up to \$14,000 in 2013 (per donee) without the necessity for filing a gift tax return or using any portion of his or her lifetime exemption amount. The gift tax rate is permanently set at 40 percent on



gifts above the lifetime exemption amount.

Many people use these types of gifts as an alternative avenue for passing on a portion of their children's inheritance tax-free. The gift tax exclusion also applies to some assets transferred into trust. Gift tax may apply to gifts of real estate, the right to receive income from property, cash or other assets. Also, if something is sold for less than its full value or if an interest-free or reduced-interest loan is given, the transaction or a portion of the transaction

may be considered a gift to which gift tax may be assessed. Finally, many additional alternatives exist to transfer money to children tax-free, such as college savings plans. Please contact Sarah Johnson in our office to learn more.

The Tennessee legislature reformed Tennessee's inheritance tax earlier this year to phase out the inheritance tax by 2016.

Tennessee Phases Out Inheritance Tax/ 2013 Changes to Federal Estate Tax

The Tennessee legislature reformed Tennessee's inheritance tax earlier this year to phase out the inheritance tax by 2016. The inheritance tax is only assessed on an estate when the total value of the estate exceeds the exemption. The total estate could include real estate in Tennessee, vehicles, bank accounts, investment accounts, retirement account fund, business interests, proceeds from life insurance, assets held in a revocable living trust, along with other assets. The inheritance tax exemption in Tennessee will increase until 2016, as set out in

Chart 1. Inherited amounts over the exemption are taxed in Tennessee at the rates set out in Chart 2.

The Tennessee inheritance tax exemption must be considered along with the federal estate tax exemption, which is set at \$5.25 million for decedents dying in 2013 pursuant to the American Taxpayer Relief Act. The exemption will be adjusted for inflation annually. The maximum estate tax rate is 40% in 2013.

Also, the unused portion of the first spouse's full exemption is now preserved for use by the second spouse, effectively doubling the exemption for most couples. This preservation between spouses is called portability, which means any unused exclusion of the spouse who died most recently may be transferred to the surviving spouse's exemption so that he or she can use the deceased spouse's unused exemption *plus* his or her own exemption when the surviving spouse later dies. In order to take advantage of this benefit, the surviving spouse must elect portability by filing a federal Estate Tax Return, even if no tax is due.

Many possibilities exist to ensure your investments, real property and other assets pass to your surviving spouse and other heirs with limited or no tax consequences. Please contact Sarah Johnson in our office to schedule an overall assessment of your current estate plan.

Chart 1

2012	\$1,000,000
2013	\$1,250,000
2014	\$2,000,000
2015	\$5,000,000
2016	no tax for decedents dying in 2016 and thereafter

Chart 2

First \$40,000	5.5%
Next \$40,000 – \$240,000	6.5%
Next \$240,000 – \$440,000	7.5%
\$440,000 and over	9.5%

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