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## *The Tax Relief Act 2010*

### *From Estate Tax and Income Tax Perspectives*

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 ("The Tax Relief Act"). This Act has a significant impact on Estate and Income Tax Laws, but only through the end of 2012. We summarize the Act's most important provisions below and offer some planning tips for you to consider and discuss with your Novare Capital Management service team.

#### ESTATE AND GIFT TAX LAWS

For individuals who die in 2011 and 2012, the federal estate tax exemption, or applicable exclusion amount, will be \$5,000,000 per person. The tax rate for estate values exceeding this amount will be 35%. After several years of being different amounts, the federal gift and generation skipping transfer tax exemptions will also be \$5,000,000 each with the same 35% tax rate. If Congress does not act before the end of 2012, all three of these tax exemptions revert back to \$1,000,000 per person with 55% tax rates above that amount.

The Act also includes a "portability" provision for use between married couples. This permits the executor of an estate the ability to transfer unused applicable exclusion amounts to a surviving spouse. Therefore married couples may pass \$10,000,000 to their heirs with minimal estate planning. However, this flexibility goes away at the end of 2012 unless Congress extends the provision via subsequent action. As a result of the temporary aspect of the Act, you should still incorporate credit shelter trusts in your estate planning.

#### INCOME TAX LAWS

The Personal Income tax rates that were introduced while George W. Bush was President are extended through 2012. This six-rate structure still ranges from 10% to 35%.

Long term capital gains rates of 15% (for tax payers above the 15% personal tax bracket) and 0% (for those in the 10% and 15% brackets) are extended through 2012.

Qualified Dividends continue to be taxed at the 15% rate through 2012.

Social Security tax rates decrease from 6.2% to 4.2%. This is the employee portion only and it is only applicable through 2011.

The alternative minimum tax (AMT) exemption amounts for individuals and married couples increase in 2011.

The Act repeals the limitations that would have impacted the full use of itemized deductions and personal exemptions by higher income earners through 2012.

Individuals who must take a Required Minimum distribution from an IRA may again elect to have up to \$100,000 of these funds go directly to charity. This provision results in no income tax and no deduction to report to the IRA.

#### ITEMS TO CONSIDER:

Given the temporary nature of the Tax Relief Act, we want to remind you of certain fundamental planning techniques that stand the test of time regardless of the specifics of existing estate tax laws.

- Make sure your will, revocable trust and other estate planning documents carry out your desires for the disposition of your assets at death.
- Make sure your Retirement Account and Insurance Beneficiary

Designations carry out your desires for these assets. Your Will or Revocable Trust does not address and dispose of these types of assets.

- Make sure the individuals or entities currently named as your executor, trustee, and attorney-in-fact (in your power of attorney document) should still be named. These important fiduciary appointments may be out of date due to personal and corporate changes that have occurred in the interim.
- Make annual exclusion gifts of \$13,000 per donee. (If you die your executor cannot do this).
- Pay medical expenses and tuition for children and grandchildren directly to the health care provider and school.
- Fund 529 Plans for children and grandchildren.
- Consider low rate family loans.
- Consider a Roth Conversion for your IRA.
- Fund a Grantor Retained Annuity Trust (GRAT).

Please contact any of us at Novare Capital Management to discuss your specific planning objectives. We look forward to working with you in 2011 and for years to come.

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