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# The Estate Tax Returns in 2011

*by Dennis V. King, CPA, Managing Partner*

The Bush-era tax cuts, more formally known as the "Economic Growth and Tax Relief Reconciliation Act of 2001," gradually lowered the maximum estate tax rate and raised the exclusion amount over the years 2002-2009. In 2010, the estates of wealthy individuals didn't pay any federal estate tax at all. Now, as a result of the recently enacted "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010," that's about to change.

For 2011 and 2012, a federal estate tax is imposed at a top rate of 35 percent of the estate's value. The exemption amount will be $5 million per individual for 2011 and will be indexed for inflation after 2011.

That means the vast majority of estates (all but about 3,500 nationwide in 2011) will not be subject to the federal estate tax. In fact, the tax will raise only about $11.4 billion for the government, compared to a 55 percent tax with a $1 million exemption, which would have affected 43,540 estates and raised about $34.4 billion.

An interesting feature of the new law is that it gives heirs of decedents dying in 2010 a choice of which rules to apply—2010's or 2011's. What does that mean? Although there is no estate tax in 2010, some inherited assets are subject to higher capital gains tax under the 2010 rules, a situation that actually raises the tax burden for some heirs. Inherited assets under the 2010 rules have a tax basis equal to the price when they were purchased (referred to in tax parlance as "carryover basis") rather than the price at death. That could lead to a significant tax burden for heirs who sell assets such as stocks that had been held for many years and have greatly appreciated in value.

Under the 2011 rules, by contrast, heirs will be allowed to inherit assets with a "stepped-up basis." While most heirs would choose the 2011 regime ($5 million exemption from both estate and generation-skipping tax and an unlimited step-up in the basis of assets to their current market value), the heirs of superrich decedents could find it more advantageous to elect the 2010 law (limited step-up in the basis of assets and no estate tax). If the executor elects to apply the 2010 rules, the due date of the estate tax return will not be earlier than the date that is nine months after the new law's enactment date.

The return of the estate tax also affects gifts. For gifts made after December 31, 2010, the estate and gift tax exemptions will be reunified, which means that the $5 million estate tax exemption will also be available for gifts. The law in effect prior to 2010 provided a $3.5 million lifetime exemption for estates, but only $1 million for gifts. The gift tax rate, starting in 2011, will be 35 percent. The exemption from the generation-skipping tax—the additional tax on gifts and bequests to grandchildren when their parents are still alive—will also rise to $5 million from the $1 million it would have been without the new law. The generation-skipping tax rate for transfers made in 2011 and 2012 will be 35 percent.

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## KKAJ news briefs

Congratulations Partner Robert "Bob" Jensen, Jr., who was recently elected Governing Board President of the William S. Hart Union High School District.

The 2010 Tax Organizers were sent out in December. You can also download a copy by visiting kkajcpa.com.

## Deadlines and Reminders*

***January 31***
1099 Statements Due to Recipients

W-2 Statements Due to Employees

***February 28***
1099 Statements Due to IRS

***March 15***
Calendar Year Corporate Tax Returns Due

***April 18***
Individual Income Tax Returns Due

1st Quarter 2011 Estimated Tax Payment Due

*This is not intended as a comprehensive list of deadline dates. Consult with a KKAJ tax professional for deadlines applicable to your situation.



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# Small Business Jobs Act Brings New Reporting Requirement for Rental Property Owners

*By Charles R. "Bud" Alleman, CPA, Partner*

The recently enacted Small Business Jobs Act, P.L. 111-240, requires recipients of rental income to issue Forms 1099-MISC (Miscellaneous Income) to service providers for payments of $600 or more during the year. Service providers means accountants, contractors, handymen and the like who are hired to perform work related to the rental property.

As rental property owners will need to start issuing the Forms 1099 in early 2012, it's important that they start keeping accurate records on payments to service providers beginning January 1, 2011. They will also need to obtain the names, addresses and taxpayer identification numbers of the service providers, using Form W-9 or a similar form.

There will be a few exceptions to the new reporting requirement. Members of the military or employees of the intelligence community are exempt if substantially all their rental income comes from renting their principal residence on a temporary basis. In addition, the IRS is in the process of developing and issuing guidance on two other exceptions. One will be for individuals who can demonstrate that the requirement would be a hardship for them. Another will be for individuals who receive rental income of "not more than a minimal amount." So far, the IRS has not defined what it means by "hardship" or what constitutes the "minimal amount" that would qualify for an exception. Until further guidance is issued, all individuals who receive rental income should begin keeping records of payments to service providers as of January 1, 2011, so they can issue accurate Forms 1099 in 2012.

For 2011 only, there is another exception to the new reporting requirement. Recipients of rental income need not issue Forms 1099 for payments to corporations which provide services. However, beginning with payments on January 1, 2012, payments to corporations are no longer an exception. That means in early 2013, recipients of rental income will need to issue Forms 1099 to all service providers for payments of $600 or more, including corporations, with the exception of tax-exempt corporations.

The Small Business Jobs Act also imposes stiff penalties for failure to file a correct information return. Effective January 1, 2011, the first-tier penalty increases from $15 to $30; the second-tier penalty increases from $30 to $60; and the third-tier penalty increases from $50 to $100. For small businesses with average annual gross receipts under $5 million, the calendar-year maximum increases from $25,000 to $75,000 for the first-tier penalty; from $50,000 to $200,000 for the second-tier penalty; and from $100,000 to $500,000 for the third-tier penalty. The minimum penalty for each failure due to intentional disregard increases from $100 to $250.

We will keep you up to date on any developments regarding the exceptions to the new reporting requirement. Meanwhile, if you require assistance in modifying your record-keeping procedures to document payments to service providers, or would like to discuss how the new reporting requirement affects you, please contact your KKAJ advisors at **818-848-5585**.

*Bud Alleman is a Partner of King, King, Alleman & Jensen Accountancy Corporation He can be contacted at bud@kkajcpa.com. Visit www.kkajcpa.com for more information.*

# Important Changes for 2011

The following summaries highlight two important tax changes effective January 1, 2011.

### Business standard mileage rate increases.

Beginning in 2011, the optional mileage allowance for owned or leased autos (including vans, pickups or panel trucks) will be 51¢ per mile for business travel, an increase of 1¢ per mile from the 2010 allowance. The 2011 rate for vehicle use to receive medical care or in connection with a move that qualifies for the moving expense deduction is 19¢ per mile, up from 16.5¢ in 2010. Calculating reductions to basis for depreciation taken under the business standard mileage rate and the maximum standard automobile cost that may be used in computing the allowance under a fixed and variable rate plan have also been updated.

### Electronic payment system expands; paper coupons eliminated.

Paper-based federal tax deposit (FTD) coupons for all deposits and payments made after December 31, 2010 have been eliminated. Use of electronic funds transfer (EFT) will be required as of January 1, 2011 for the following tax deposits:

- Corporate income and corporate estimated taxes;
- Unrelated business income taxes of tax-exempt organizations;
- Private foundation excise taxes;
- Taxes withheld on nonresident aliens and foreign corporations;
- Estimated taxes on certain trusts;
- FICA taxes and withheld income taxes;
- Railroad retirement taxes;
- Nonpayroll taxes, including backup withholding;
- Federal Unemployment Tax Act (FUTA) taxes; and
- Excise taxes reported on Form 720, Quarterly Federal Excise Tax Return.

The IRS is providing transitional relief under which it won't impose certain penalties for FTDs made in 2011 that would have been timely under the former rules.

# Overview of the 2010 Tax Relief Act

*By Louis Hamel, Partner*

The recently enacted "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010" is a sweeping tax package that includes, among many other items, an extension of the Bush-era tax cuts for two years, estate tax relief, a two-year "patch" of the alternative minimum tax (AMT), a two-percentage-point cut in employee-paid payroll taxes and in self-employment tax for 2011, new incentives to invest in machinery and equipment, and a host of retroactively resuscitated and extended tax breaks for individuals and businesses. Here's a look at the key elements of the package:

- The current income tax rates will be retained for two years (2011 and 2012), with a top rate of 35 percent on ordinary income and 15 percent on qualified dividends and long-term capital gains.
- Employees and self-employed workers will receive a reduction of two percentage points in Social Security payroll tax in 2011, bringing the rate down from 6.2 percent to 4.2 percent for employees, and from 12.4 percent to 10.4 percent for the self-employed.
- A two-year AMT "patch" for 2010 and 2011 will keep the AMT exemption near current levels and allow personal credits to offset AMT. Without the patch, an estimated 21 million additional taxpayers would have owed AMT for 2010.
- Key tax credits for working families that were enacted or expanded in the American Recovery and Reinvestment Act of 2009 will be retained. Specifically, the new law extends the $1,000 child tax credit and maintains its expanded refundability for two years, extends rules expanding the earned income credit for larger families and married couples, and extends the higher education tax credit (the American Opportunity tax credit) and its partial refundability for two years.

- Businesses can write off 100 percent of their equipment and machinery purchases, effective for property placed in service after September 8, 2010 and through December 31, 2011. For property placed in service in 2012, the new law provides for 50 percent additional first-year depreciation.
- Many of the "traditional" tax extenders are extended for two years, retroactively to 2010 and through the end of 2011. Among many others, the extended provisions include the election to take an itemized deduction for state and local general sales taxes in lieu of the itemized deduction for state and local income taxes; the $250 above-the-line deduction for certain expenses of elementary and secondary school teachers; and the research credit.
- After a one-year hiatus, the estate tax will be reinstated for 2011 and 2012, with a top rate of 35 percent. The exemption amount will be $5 million per individual in 2011 and will be indexed to inflation in following years. Estates of people who died in 2010 can choose to follow either 2010's or 2011's rules (see Estate Tax article on page one.)
- Omitted from the new law: Repeal of a controversial expansion of Form 1099 reporting requirements.
- Also not included: Extension of the Build America Bonds program, which permits state and localities to issue federally-subsidized municipal bonds.

If you would like more details about these provisions or any other aspect of the new law, please contact your advisors at KKAJ at **818-848-5585**.

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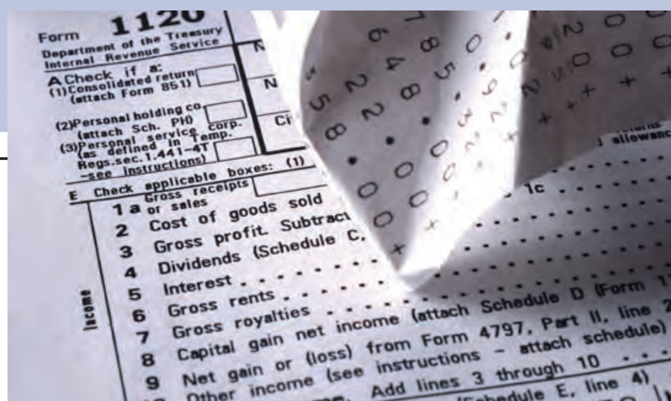
*KKAJ Partner Mike Wilford attended the GMN International Conference held in Hong Kong in October 2010, and was selected as the organization's incoming International Chairman. China is currently one of the fastest growing economies in the world, and the conference gave attendees a chance to participate in that excitement. Attendees also took time out of their busy conference schedule to visit sights, including a Buddha temple. See back page article for full coverage of the conference and Wilford's upcoming position.*




*Estate Tax 2011 continued from page 1*

From a planning standpoint, a nice feature of the new law is that the estate tax exemption will be "portable." That means it will be easier to transfer the $5 million exemption to a surviving spouse, so married couples can shield $10 million of their assets from taxes.

If you would like further information or advice on planning ahead for the new estate tax and gift tax regulations, please contact your advisors at KKAJ at **818-848-5585**.

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# Wilford Elected GMN Chairman

At the recent GMN International Conference held in Hong Kong, KKAJ Partner Mike Wilford was selected to serve a two-year term as International Chairman starting in October 2011. Wilford currently serves as vice-chairman on GMN's four-member management committee and has served on the 12-member executive committee since 2008.

"I'm honored by my selection and upcoming position, and excited to help in the process to continue to move the organization forward," Wilford remarked. The recent conference also afforded Wilford the opportunity to be part of the excitement of China, one of the hottest economies in the world. "All of Asia is booming," said Wilford. "It was interesting to hear how things are run in that part of the world, and acquire knowledge that helps our clients here at home."

GMN International is an association of legally independent accounting firms worldwide with administrative offices located in Cape Town, South Africa. The association allows all GMN member firms to offer clients international service in a cost effective way. The organization is comprised of 77 associate firms representing 40 countries within four regions: North America, Europe, Asian Pacific and South America.

"In preparation for the chairmanship, I intend to become familiar with member firms by going to most regional meetings during 2011 so I better know them and they have a chance to know me." The 2011 regional conference schedule includes Singapore in April, Vienna in May, and New York in June.

*KKAJ Partners*
*Seated:*
*Dennis V. King, CPA, Managing Partner*
*Charles "Bud" R. Alleman, Jr., CPA*
*Robert N. Jensen, Jr., CPA, MAcc*
*Standing:*
*Thomas E. Engman, CPA*
*Michael E. Wilford, CPA*
*Louis N. Hamel, CPA*

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