Ansell & Anderson P.A.
TRUST AND ESTATE LAW
Ruth Tolf Ansell, Christine S. Anderson
www.ansellpa.com

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We begin 2013 with wonderful news. More than a decade of uncertainty with respect to estate, gift and generation-skipping transfer tax planning has finally ended. On the eve of the significantly lower ($1,000,000) exemption, we were both pleased and relieved that Congress adopted a $5,000,000 exemption, indexed for inflation after 2011, with a 40% tax rate. This new law benefits all of our clients, whether it allows them to minimize or entirely avoid the payment of these taxes. For many clients, the increased exemption also allows them to avoid the complicated estate plans which we have traditionally recommended in order to minimize taxes.

For 2013, the indexed estate, gift and generation-skipping transfer tax exemption is $5,250,000. The annual gift tax exclusion increased to $14,000 and tax-free transfers to a non-U.S. citizen increased to $143,000 for 2013.

In addition to the increased exemptions, the new law also extends the application of "portability." First adopted in 2011 on a temporary basis, portability allows spouses to share their estate tax exemptions. Under this law, if a spouse dies without fully utilizing his or her estate tax exemption, an estate tax return may be filed to identify the unused portion of the exemption which can be later used by the surviving spouse. This concept effectively allows assets with a current value of $10,500,000 to pass without tax from a couple to their children or to others, without creating separate trusts. This planning may be especially helpful for couples who own significant retirement accounts or professional business assets. For more information, please read the February 2012 article about this planning posted on our website. Also note that portability is not applicable for clients who want to take advantage of the generation-skipping transfer tax exemption.

In light of the new law, estate planning for married clients with a combined net worth of significantly less than $5,000,000 can be simplified. Trusts can still be useful in order to avoid probate, and to manage assets after a person's death for the benefit of others, but many complex trusts originally designed for tax planning can be amended to a simpler form. Please call to schedule an appointment if you want to review your documents with us.

Significantly more attention has been paid in the media to the income tax changes included in the new tax law, which are beyond the scope of this letter. One change, however, merits some discussion. The new law reinstates the ability for IRAs owners who have attained the age of 70½ to direct up to $100,000 of qualified charitable distributions, both retroactively for 2012 (under limited circumstances) and for 2013. These relatively simple, direct distributions may be better for some taxpayers than IRA withdrawals and independent charitable gifts.

40 South River Road, Bedford Place #32, Bedford, NH 03110 (603) 644-8211 fax (603) 644-8744

We encourage each of you to review your estate plan every year, including a review of your current documents, ownership of assets and accounts, and confirmation of beneficiary designations, and to consider whether changes are needed. This recommendation is especially true in light of the significantly increased estate tax exemption and portability available under the new law.

On a state level, the New Hampshire interest and dividends tax law was amended to eliminate the taxation of trusts for tax years ending on or after December 31, 2013. Under the new law, trustees will no longer be required to file a New Hampshire interest and dividend tax return, and trusts will not be required to pay interest and dividends tax on accumulated income after 2012. New Hampshire beneficiaries of New Hampshire trusts will pay interest and dividends tax on trust income when it is received. Interest and dividends accumulated within a New Hampshire trust are not subject to the interest and dividends tax. The new provisions differ from federal tax law, and are designed to make New Hampshire an attractive state for trusts which are likely to accumulate income for future distribution to beneficiaries, such as generation-skipping trusts.

A notable New Hampshire case this past year addressed the counting of life insurance proceeds payable to the father of minor children as gross income under the child support guidelines for the purpose of determining his child support obligation. Although not specifically included or excluded in the statutory definition of "gross income", the Court concluded that gross income includes life insurance proceeds. In light of this case, estate planning clients may want to consider making life insurance proceeds and other cash payments payable to a trust for the benefit of an individual who is or may be subject to a child support obligation, in lieu of a direct payment to the beneficiary, if the client does not want to potentially increase the child support payments. For more on this issue, check out the October 2012 article on our website.

We are delighted to officially announce the addition of Alyssa Graham as an associate attorney. Alyssa joined us in July and many of you have already had the pleasure of meeting her. A native of Derry, she is a 2011 Suffolk University Law School graduate with a 2012 Master's Degree in Taxation from Boston University.

Time marches on. This year, Christine will mark the milestone of practicing law for 25 years.

Once again, we were honored to be counted among the best trust and estate attorneys in New Hampshire and New England. We are thankful for all of our clients and peers who have helped us to achieve this distinction. Many of our clients, and potential clients, have been reading the monthly articles that we have posted on our website over the years and have "liked" us on facebook at "Ansell & Anderson P.A. Trust and Estate Law." No matter how we communicate, we appreciate your loyalty and referrals of other family members and friends for our services.

Ron and Christine