

## Services

Private Wealth  
Tax

## Professionals

PATRICK T. CONNER  
ST. LOUIS:  
314.480.1637  
KANSAS CITY:  
816.983.8637  
PATRICK.CONNER@  
HUSCHBLACKWELL.COM

CHRISTOPHER E. ERBLICH  
PHOENIX:  
480.824.7950  
PHOENIX:  
480.824.7890  
CHRIS.ERBLICH@  
HUSCHBLACKWELL.COM

MATTHEW G. PERLOW  
ST. LOUIS:  
314.345.6442  
MATTHEW.PERLOW@  
HUSCHBLACKWELL.COM

MICHAEL J. SILVER  
ST. LOUIS:  
314.480.1634  
MICHAEL.SILVER@  
-----

## “Fiscal Cliff” Agreement Changes Gift and Estate Tax Law

The last-minute “fiscal cliff” agreement enacted on January 2, 2013, contains important provisions that affect estate, gift and generation-skipping transfer taxes. Further changes could be ahead as Congress debates the debt-ceiling issue and the president releases the next federal budget.

Highlights of the transfer tax provisions of the new law – known as the American Taxpayer Relief Act of 2012 – are as follows:

**Transfer tax exemptions.** The 2012 exemptions for estate, gift and generation-skipping transfer taxes remain in effect and are indexed for inflation.

The 2013 exemption is \$5,250,000, which is \$130,000 more than the 2012 exemption.

Due to this annual indexing, you can expect to acquire additional amounts of estate, gift and generation skipping transfer tax exemptions each year. For example, if inflation is annually 2.4 percent, the exemption would be approximately \$6,340,000 in 10 years.

**Gift tax exclusion.** The annual gift tax exclusion is also indexed to inflation. This year, the annual gift tax exclusion is \$14,000 per recipient (\$28,000 per recipient for a married couple).

**Transfer tax rates.** The tax rates for estate, gift and generation-skipping transfer taxes are increased from 35 percent (under the 2012 law) to 40

percent.

**Portability.** The portability provisions (allowing spouses to combine their respective estate tax exemptions) remain and have been clarified to improve their effectiveness.

**Other provisions.** All other transfer tax provisions from the 2001 and 2010 tax acts will continue.

**Effective period.** Most important, these provisions are “permanent” as opposed to merely temporarily extended for several years.

The permanence of these changes is welcome and will allow us to give you more certain guidance relating to your future tax planning. However, further changes relating to transfer tax laws and planning techniques may result from the ongoing debate regarding how best to address our country’s \$16 trillion national debt.

For example, President Barack Obama’s most recent budget proposal includes significant changes to transfer tax provisions that would:

Limit the duration of dynasty trusts to 90 years;

Eliminate or curtail the ability to use grantor trusts – i.e., intentionally defective irrevocable trusts (IDITs) – for estate planning;

Reduce the availability of valuation discounts in gift transfers; and

Require at least a 10-year term for grantor retained annuity trusts (GRATs).

### **What This Means to You**

Each one of the president’s proposals would take effect prospectively, not retroactively. For now, these techniques remain available for planning. We will continue to closely follow developments regarding any changes to the transfer tax law and will issue another update, including ideas for planning in 2013, shortly after the debt ceiling issue has been resolved in early spring.

### **Contact Info**

If you have questions about this or any other Trusts & Estates matter, contact your Husch Blackwell attorney.

Husch Blackwell LLP regularly publishes updates on industry trends and new developments in the law for our clients and friends. Please contact us if you would like to receive updates and newsletters, or request a printed copy.

Husch Blackwell encourages you to reprint this material. Please include the statement, "Reprinted with permission from Husch Blackwell LLP, copyright 2013, [www.huschblackwell.com](http://www.huschblackwell.com)" at the end of any reprints. Please also email [info@huschblackwell.com](mailto:info@huschblackwell.com) to tell us of your reprint.

This information is intended only to provide general information in summary form on legal and business topics of the day. The contents hereof do not constitute legal advice and should not be relied on as such. Specific legal advice should be sought in particular matters.