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The Window of Opportunity for Some Types of Planning May Be Closing (Quickly)

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We previously announced that there is currently no federal estate or generation-skipping transfer tax in effect in the United States. The federal gift tax, however, is still in effect. The burning question is whether Congress this year will (i) extend the law that was in effect at the end of 2009, (ii) make repeal of the estate tax permanent, or (iii) do nothing, in which case on January 1, 2011, the estate, gift and generation-skipping transfer tax laws from 2011 will go into effect. For a more detailed discussion, see *Estate Planning in 2010: Thoughts On What To Do In Uncertain Times*.

We want to inform our clients who are interested in minimizing estate, gift and generation-skipping transfer taxes that the window of opportunity for a number of popular estate and financial planning techniques may be closing. This week, President Obama released a 2011 fiscal year budget that confirms many of our "Time is Running Out" concerns.

One of these proposals involves a modification of estate and gift tax valuation rules that would require consistent valuation for both transfer and income tax purposes. Another would impose certain limitations on transfer tax valuation discounts. A third would require a minimum term for GRATs (grantor retained annuity trusts).

It's a long way from a proposal to effective law. But with a fiscal crisis as severe as the one we are going through – the probability of enactment is higher and the time for effective action may be getting shorter.

Amid all the chaos of estate tax repeal and rebirth, there is (with relatively low interest rates, relatively low transfer tax values, more than good valuation discounts, and some terrific Code sanctioned planning techniques) a window of opportunity, but it may be closing quickly. 

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ABOUT RUDER WARE'S TRUSTS & ESTATES GROUP

For over 80 years, attorneys in the Trusts and Estates practice group at Ruder Ware have counseled individuals, corporate executives, small business owners, dairy farmers, and philanthropists on how to prepare for the future. Whether a client's situation is straightforward or complex, our attorneys are able to implement creative and flexible strategies that fulfill a client's personal and business needs.

We offer comprehensive services in business planning; income, gift, and estate tax planning; and trust and estate administration. If clients seek professional management of their assets and simplification of their lives, we can serve as trustees of their assets, pay their bills, and handle distributions of money. If clients are concerned about protecting their assets, we can design trusts that provide protection from the claims of creditors. If clients desire to provide for future generations, our attorneys are experienced in succession planning and working through family dynamics to achieve broad-based acceptance of a coordinated plan. Simply put, our trusts and estates team is dedicated to helping you protect, manage, and dispose of your assets as you see fit, whether that is during your lifetime, in the event of your incapacity, or upon your death.

Our trusts and estates attorneys are widely respected among their peers. Some have been elected as fellows of the American College of Trust and Estate Counsel, the preeminent estate planning organization for attorneys in the United States. Others have been recognized for their service to the State Bar of Wisconsin in the areas of taxation, elder law, estate planning, and trust administration and have been selected for inclusion in Best Lawyers of America and Super Lawyers.

The services provided by our Trusts & Estates practice group include:

- Asset Protection Planning
- Elder Law
- Estate Planning
- Fiduciary Services
- Probate & Trust Administration



As part of a full-service law firm, our attorneys provide clients with a one-stop approach to their legal needs. Ruder Ware, the largest Wisconsin law firm headquartered north of Madison, also provides legal counsel in Business Transactions; Litigation & Dispute Resolution; and Employment, Labor & Benefits.