

InBrief

PEMBERTON, SORLIE,
RUFER & KERSHNER, P.L.L.P.
— Attorneys at Law —



110 N. Mill Street, PO Box 866, Fergus Falls, MN 56537
phone: 218-736-5493 or toll free: 800-862-3651
For more information, refer to our website at www.ferguslaw.com

Providing Legal Information and Updates for Our Clients

April 2002

Tax Act of 2001 PART 1



Robert O. Blatti

Robert O. Blatti

On June 7, 2002, President George W. Bush signed into law the “Economic Growth and Tax Relief Reconciliation Act of 2001” – hereinafter referred to as the “Tax Act of 2001” or “Tax Act”. Much of the information generated to taxpayers regarding this new law has been focused on the reduction of income taxes, and the reduction and eventual elimination of the estate tax. However, the Tax Act of 2001 has many other components, which are summarized below and will be described in more detail in a series of articles in this newsletter.

Sunset Provisions

The most interesting aspect of the Tax Act of 2001 is the manner in which it became effective. The income tax provisions of the Tax Act became effective on July 1, 2001; many taxpayers saw their first federal income tax rebate in the summer and fall of 2001 as a result. Most of the remaining provisions of the Tax Act of 2001 are gradually rolled-in over a period of one to nine years, beginning on January 1, 2002.

Exemptions for lifetime gifts and assets and property passing at death are increased over time, and the tax rate at which nonexempt gifts and inheritance are taxed is decreased over the same time. An “exemption” is the value of property or amount of money that a taxpayer can give away during their life, or pass to others upon their death, without incurring a tax.

Prior to the Tax Act, a taxpayer could transfer \$675,000.00 worth of property or money during their lifetime and at their death without incurring a gift or estate tax. Because this \$675,000.00 applied to both lifetime gifts and transfers at death (inheritance), the exemption was called the “unified credit”. The Tax Act of 2001 splits this unified credit into a separate gift tax exemption and an estate tax exemption. Beginning in 2002, the estate tax exemption increases to \$1,000,000.00, increases again to \$1,500,000.00 in 2004 – 2005, and again to \$2,000,000.00 in 2006 – 2008. In year 2010, the estate tax is completely repealed. Under the Tax Act of 2001, the gift tax exemption is

increased to \$1,000,000.00 beginning in year 2002, and remains at that level.

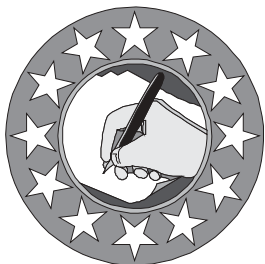
The most troubling provision of the Tax Act of 2001 for estate planners and tax accountants, as well as taxpayers with potentially taxable estates, is that this Act “sunset” on December 31, 2010. Unless Congress and the President choose to extend the Act, all the tax relief simply disappears and we automatically return to tax laws of 2001, including the old income tax rates and the unified credit of \$675,000.00. Whether the Tax Act of 2001 will be extended beyond year 2010 is the subject of much speculation. Many involved in estate planning feel it is possible that the Tax Act of 2001 will be repealed or retooled long before Year 2010 since the federal government is facing budget shortfalls that were not fully realized when it was passed.

Other Provisions

IRA Contributions and Distributions: The Tax Act of 2001 increased the contribution limits to IRA and certain qualified retirement plan contributions, and changed the rules pertaining to the distribution of these retirement plans after the death of the account holder that makes post-death planning a little easier.

Generation Skipping Tax: The Tax Act of 2001 also changed the exemptions for generation skipping transfers and the way these transfers are taxed. The most common example of a generation skipping transfer is a gift, or inheritance, from a grandparent to a grandchild.

Income Tax Basis of Property at Death: The eventual elimination of the estate tax under the Tax Act of 2001 does not come without a cost. Under the old tax law, the “basis” of property was “stepped-up” at death. When the estate tax is repealed under the new tax law in Year 2011, it will be replaced with a modified “carry-over” basis system. This is expected to replace some of the tax revenue lost through the repeal of the estate tax. A thorough explanation of basis system will be provided in a future newsletter article.



President George W. Bush signed the “Economic Growth and Tax Relief Reconciliation Act of 2001” into law, causing the widespread reduction of income and estate taxes. But most taxpayers are unfamiliar with many other components of the Tax Act of 2001 that may affect their future or the future of their loved ones.

“Tax Act of 2001” continued on page 2

"Tax Act of 2001" continued from page 1

Conclusion

The Tax Act of 2001 simultaneously created opportunities and uncertainty for both existing estate plans and future estate plans. A good estate plan will take advantage of the opportunities, while at the same time using available tools to ensure built-in flexibility to survive the uncertain future of the federal tax code.

In future newsletter articles we will go into greater detail on each component of the Tax Act of 2001 and explain how these changes may affect your current estate and estate plan. If your estate plan was prepared prior to Year 2001 and you have a total estate of \$675,000.00 or more, ask your estate planner or financial advisor to review your estate plan to ensure that it meets your tax goals now, as well as through the uncertainty of next nine years.

Employment Corner



Michael T. Rengel

What is Your Policy?

Michael T. Rengel

Whether you are an employer or an employee, your company's policies should be of concern to you. It is commonplace in today's work world for a company to create an employment policy which governs many of the elements of the employment relationship between the employer and its employees. A periodic review of this policy, or potential need for a policy, should be mandatory.

A bigger policy is not always better. Your policy should be on point and consistent with all past practices related to the employment relationship. All too often, policies will be comprised of bits and pieces of policies used by other organizations that have made their way into your own policy book. A question you might ask yourself is, "Was the policy reviewed by an attorney prior to its being placed in our policy book?"

Disclaimer language relative to any employment policy should be in place. This language should be placed in a very conspicuous spot, and should outline that the policy is not intended to create a

contract of employment between the employer and employee, and, further, that the terms of the policy cannot be relied upon by an employee relative to making a claim based upon the policy language. Under current law, these disclaimers are valid, yet they remain to be confusing. I have had several employers and employees ask, "Why even have a policy manual then." The reason to have a policy is as a guide, but not to be used for litigation purposes.

A well-organized, informative policy manual can save time and, thus, expense in your business if the policy is written in a fashion to be informative to the employee so the people working in your human resource department do not have to ask every little question that comes to mind.

"What is your policy?" If you have one, make sure it is up-to-date and conforms with the current law and has a disclaimer. If you do not have a policy, look to create one. It may save your business much in time and expense.

Pemberton Named Super Lawyer



Richard L. Pemberton

Attorney Richard L. Pemberton of Pemberton, Sorlie, Rufer & Kershner law firm has been designated as one of the top 40 "Super Lawyers" working in the field of Alternative Dispute Resolution in the state of Minnesota. Alternative Dispute Resolution is the resolution of disputes by negotiated agreements rather than by seeking a judgment in court. Pemberton is frequently asked by lawyers from around the state to act as a mediator, assisting them and their clients to reach a negotiated agreement in order to end the dispute rather than continuing on in a battle in court. He is also frequently asked to act as an arbitrator. As such, the disputing parties contract with each other that Pemberton will make a binding determination of which is right, thus taking the place of the judge and jury.

This rating was reached through a process of interviewing by the publisher of the magazines, Minnesota Law & Politics, Twin Cities Business Monthly, and Minneapolis/St. Paul Magazine. Over 10,000 ballots were mailed to Minnesota attorneys asking them to nominate those attorneys they considered to be outstanding in different specialties. The nominees were submitted to a select panel of attorneys, each of whom are recognized leaders in their area of practice and the top 40 were selected in this way.

Pemberton is a Fellow of the American College of Trial Lawyers which limits its membership to not more than one percent of those trial lawyers in any state who are "unquestionably and eminently qualified" as well as possessed of high ethical and moral standards.