

## **The New Tax Law: A Summary for Gift Planners (excerpted from PGCalc.com)**

On December 16, the U.S. House of Representatives passed the compromise tax bill that was passed by the U.S. Senate a few days earlier. President Obama signed the bill into law on December 17. The tax bill contains a number of provisions that may be of interest. A summary of these provisions is below.

### ***Extension of the charitable IRA rollover***

The new law extends the charitable IRA rollover for two years, retroactive to January 1, 2010 (that is, through 2011). Recognizing that there is little time left to take advantage of this extension in 2010, the new law allows donors to elect to treat IRA rollover gifts made in January 2011 as if they were made on December 31, 2010. Taxpayers who make this election get to count their gift against the \$100,000 limitation on such gifts in 2010 instead of against the 2011 limitation. They may also count their gift toward fulfilling their required minimum distribution for 2010.

### **Adjustments to Estate, Gift, and Generation Skipping Tax**

Estate, gift, and generation skipping taxes were scheduled to return to pre-2001 levels on January 1, 2011: a top tax bracket of 55% with a \$1 million exemption. Under the new law, the top bracket will be 35% with a \$5 million exemption per person, \$10 million per married couple. These changes apply in 2011 and 2012. This means that for all taxpayers but the tiny minority with estates in excess of \$5 million (\$10 million for married couples), federal transfer taxes will cease to be a concern for at least the next two years. Accordingly, during this time most planned gift donors will not save transfer tax as a result of their gift because they had no transfer tax to pay in the first place. Nevertheless, it is important to keep these changes in perspective; most donors make gifts from their estates because of their commitment to your mission, not because of estate or gift tax savings.

***Estate, gift, and generation skipping taxes in 2011 and 2012.*** Estate and generation-skipping transfer taxes have been phased out over the past six years and were fully repealed in 2010. Meanwhile, the gift tax rate was reduced to 35 percent and the gift tax exemption maintained at \$1 million for 2010. As mentioned above, the new tax law sets the exemption at \$5 million per person and \$10 million per married couple and a top tax rate of 35 percent for the estate, gift, and generation skipping transfer taxes, effective through 2012. The exemption amount is indexed beginning in 2012. The new rates and exemption are effective January 1, 2010, but executors may elect to choose no estate tax and modified carryover basis for estates arising anytime during 2010.

***Extension of enhanced charitable deduction for contributions of food inventory.*** The new law extends for two years (through 2011) the provision allowing businesses to claim an enhanced deduction for the contribution of food.