MEADOWS, COLLIER, REED, COUSINS, CROUCH & UNGERMAN, L.L.P.
ATTORNEYS AT LAW

901 MAIN STREET • SUITE 3700 • DALLAS, TX 75202 • 214.744.3700 • 214.747.3732 FAX
TOLL FREE 800.451.0093 | WWW.MEADOWSCOLLIER.COM

VOLUME 4

2010 Tax Act Changes Transfer Tax Rules

By Alan K. Davis, J.D., CPA

This issue of our Newsletter focuses on Estate Planning and the impact of recent legislation on the gift, estate, and generation-skipping transfer ("GST") taxes. In December 2010, Congress passed and the President signed into law the "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010" (referred to throughout this Newsletter as the "2010 Tax Act"). Among other things, the 2010 Tax Act reinstituted the estate tax and GST tax regimes that had expired at the beginning of 2010. In addition to reinstituting these taxes, the 2010 Tax Act made sweeping changes to the estate, gift and GST tax structures.

This article summarizes the transfer tax provisions of the 2010 Tax Act, and the remaining articles delve into details of certain important provisions of the Act.

A. Estate Taxes

The 2010 Tax Act increases each person's estate tax exemption to $5 million for individuals dying in 2011 and 2012. This means that estates valued at less than $5 million will pay no estate tax, and since each spouse has a separate exemption amount, a couple can pass up to $10 million to their children without paying estate tax. In addition to the increased exemption amount, the tax rate for estate taxes was set at the historically low rate of 35% for 2011 and 2012 decedents.

B. Gift Taxes

Several important changes were also made to the federal gift tax. First, the gift tax exemption was unified with the estate tax exemption. This means that each individual may now give up to $5 million of property during their lives without paying gift tax. The 2010 Tax Act did not change the annual exclusion amount which, for 2011, will remain at $13,000 per donee.

The gift tax rate on gifts that exceed the $5 million gift tax exemption and $13,000 annual exclusion amounts will also be 35%.

C. GST Tax Changes

The 2010 Tax Act changed the GST exemption to $5 million and the GST tax rate to 35% for transfers during 2011 and 2012.

D. Looking Back

Shari Ellington's article discusses the new transfer tax rules for deaths during 2010, and Eric Marchand's article on "Filing a 2010 Form 709" addresses important tax return filing issues for gifts during 2010.

E. Looking Forward

Eric Marchand's article on "Estate Tax Portability" discusses the ins and outs of the new "portability" rules for spouses.

F. Sunset Provision

It is important to realize that the provisions enacted under the 2010 Tax Act will sunset on December 31, 2012. This means that unless Congress acts again to modify the gift, estate and GST tax laws, we will return to pre-2001 law which includes a $1 million gift, estate and GST tax exemption and a 55% top tax rate.

The 2010 Tax Act does provide, however, some stability to these laws. Even though the current rules are set to sunset or expire in 2013, one of four scenarios will likely occur:

1. Congress does not act and the pre-2001 law comes back into effect;
2. Congress acts and reduces the exemption from $5 million but not as low as $1 million (e.g., $3.5 million);
3. Congress acts and permanently or temporarily extends the current

continued on page 2

exemption ($5 million) and rate (35%); or

4. Congress acts and permanently repeals the estate and/or gift tax laws.

Given these very likely parameters, it is now possible to draft and implement Estate Plans that carry out clients' objectives yet limit exposure to unnecessary taxes.

It is safe to say that many people have put off necessary or desired changes to Estate Planning documents due to the uncertainty in the estate and gift tax laws.

High net worth clients will likely still be subject to significant estate taxes. Accordingly, aggressive planning will continue for these families. Middle net worth clients will likely shift their Estate Planning focus to asset protection, asset management and income tax planning matters. For these clients whether to rely on the new portability provisions will become an important Estate Planning decision.

Immediately following this article is a summary of the more important provisions of the new transfer tax laws. It is important to know that different rules apply for the different tax periods as indicated by the tables.

SUMMARY OF NEW TAX ACT 2010

PROVISIONS FOR 2010:

	I. Gifts	Amounts	Comments
A	Annual Exclusion	$13,000	
B	Exemption	$1,000,000	
C	Rate	35%	
D	GST Issues		
	1. Exemption	$5,000,000	
	2. Rate	0%	
	3. Allocation		May elect out of Allocation
	4. Use of Trusts		May use Trust, but must be a direct skip that triggers "push-down" rule
E	Returns		
	1. Gift Tax Returns		Normal Rules - No Special Extensions
	2. GST Returns		Returns [and election] extended to 9 months following enactment
	II. Estates	**Amounts**	**Comments**
A	Exemption	$5,000,000	
B	Rate	35%	
C	Basis		§1014 Applies [§1022 Repealed]
D	GST Issues		
	1. Exemption	$5,000,000	
	2. Rate	0%	
E	Returns		
	1. Estate Returns		Returns [and elections] extended to 9 months following enactment
F	Option/Election		
	Executor may elect to apply law as if new rules not enacted.		
	1. Estate Tax		Not Applicable
	2. GST Tax		Election would have no effect on application of new GST rules. Transferor would be determined as if Chapter 11 (Estate Tax) applied.
	3. Basis		§1022 would apply "Modified Carry-Over Basis"
	4. Return		Election Form (and Timing) to be determined by Treasury
G	Portability	N/A	Portability not available until 2011

continued on page 3

SUMMARY OF NEW TAX ACT 2010

PROVISIONS DURING 2011 AND 2012:

	I. Gifts	Amounts	Comments
A	Annual Exclusion	$13,000	Indexed
B	Exemption	$5,000,000	Indexed after 2011 and possibly portability enhanced
C	Rate	35%	
D	GST Issues		
	1. Exemption	$5,000,000	Indexed after 2011
	2. Rate	35%	
	3. Allocation		Normal Rules
	4. Use of Trusts		Normal Rules
E	Returns		
	1. Gift Tax Returns		Normal Rules - No Special Extensions
	2. GST Returns		Normal Rules - No Special Extensions
	II. Estates	**Amounts**	**Comments**
A	Exemption	$5,000,000	Indexed after 2011 and possibly portability enhanced
B	Rate	35%	
C	Basis		§1014 Applies
D	GST Issues		
	1. Exemption	$5,000,000	Indexed after 2011
	2. Rate	35%	
E	Returns		
	1. Estate Returns		Normal Rules - No Special Extensions
F	Portability		
	Unused applicable exclusion amount may be added to surviving spouse's applicable exclusion amount		
	1. Election		Requires an election to be made on first deceased
	2. Amount		Lesser of (i) $5,000,000, or (ii) unused exclusion of first deceased spouse. Limit applicable whether or not "last spouse" made an election.
	3. Statute of Limitations		Secretary may examine Return of deceased spouse for purposes of determining unused applicable exemption
	4. GST		Portability not appliable for GST Exemption
	5. Return		Election Form (and timing) to be determined by Treasury.
	6. Examples		1. H-1 dies having used $3 million of his $5 million exemption. With election, W now has a $7 million exemption (her $5 million exemption plus H-1's unused $2 million exemption) 2. Same as #1 - W now marries H-2, who also predeceases W, but has used $4 million of his $5 million exemption. With or without election W now has a $6 million exemption (her $5 million exemption plus H-2's $1 million exemption). She loses H-1's exemption. Question: If before H-2 dies, W gifts $2 million, does she use a part of her $5 million exemption or does she use up H-1's $2 million exemption? If she uses her exemption, then after H-2's death she has a $4 million exemption (her $3 million exemption plus H-2's $1 million exemption). If she uses H-1's exemption, she has a $6 million exemption (her $5 million exemption plus H-2's $1 million exemption). Maybe Regulations will clarify. 3. Same as #1 and #2 except that W predeceases H-2 with a $3 million estate. Per example #1 W has a $7 million exemption, that is reduced by her $3 million estate, leaving $4 million unused. With election, H-2 now has a $9 million exemption (his $5 million exemption plus W's $4 million exemption).

continued on page 4

SUMMARY OF NEW TAX ACT 2010			
PROVISIONS AFTER 2012:			
I. Gifts		Amounts	Comments
A	Annual Exclusion	$13,000	Indexed
B	Exemption	$1,000,000	
C	Rate	55%	
D	GST Issues		
	1. Exemption	$1,000,000	Indexed
	2. Rate	55%	
	3. Allocation		Pre EGTRRA rules
II. Estates		Amounts	Comments
A	Exemption	$1,000,000	
B	Rate	55%	
C	Basis		§1014 Applies
D	GST Issues		
	1. Exemption	$1,000,000	Indexed
	2. Rate	55%	
	3. Allocation		Pre EGTRRA rules
E	Portability	N/A	

Alan K. Davis, J.D., CPA, is a partner practicing in the areas of Estate Planning and Probate, and Income Tax and Business Planning. Mr. Davis is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization.

Email: adavis@meadowscollier.com

Estate Tax Portability — What is it and What Does it Mean To Your Clients?

By Eric D. Marchand, J.D., LL.M.

Prior to the 2010 Tax Act, the estate tax exemption has historically been a use it or lose it proposition. Starting in 1981 with the unlimited marital deduction, spouses could avoid an estate tax on the death of the predeceasing spouse simply by executing Wills leaving all their assets to the surviving spouse. In estate planning parlance, these Wills are referred to as "I love you Wills." The price for this type of simplistic planning has always been the loss of the predeceasing spouse's estate tax exemption. In general, spouses that wanted to preserve the estate tax exemption of the predeceasing spouse were forced to utilize a bypass trust.

The 2010 Tax Act introduces a new concept — a "portable" estate tax exemption. This is accomplished by amending the definition of applicable exclusion amount found in I.R.C. § 2010(c) to equal the sum of the "basic exclusion amount" and, for a surviving spouse, the "deceased spousal unused exclusion amount" ("DSUEA"). The "basic exclusion amount" is $5 million, indexed for inflation after 2011. The DSUEA is essentially the lesser of (i) the basic exclusion amount or (ii) the last deceased spouse's remaining unused exemption amount.

continued on page 5

This concept, referred to by most estate planners as "portability", applies for both the gift and the estate tax but does not apply for generation-skipping transfer "GST") tax purposes. Moreover, it is important to note that the DSUEA is limited to an individual's last deceased spouse. In other words, an individual may not stack the unused exemption amount of multiple deceased spouses.

Despite some of the complex scenarios that may present themselves if a spouse remarries (see example below), portability may greatly simplify planning for some couples by eliminating the necessity of the bypass trust to capture the predeceasing spouse's estate tax exemption. In other words, the "I love you Will" may work just fine for many clients. In addition to the simplicity portability affords, it also offers the advantage of a stepped-up basis for the DSUEA.

Does this mean that the bypass trust will become a thing of the past, especially for clients that have assets of less than $10 million? The answer is no. A bypass trust still affords many advantages that portability does not.

Let's take a look at why clients may still use bypass trusts.

- *GST Tax.* Portability does not apply for GST tax purposes. Accordingly, without a bypass trust the first spouse's GST exemption is lost.
- *Asset Protection.* A bypass trust is an excellent asset protection tool. Assets left to a bypass trust are generally exempt from the creditors of the surviving spouse.
- *DSUEA Not Indexed.* The DSUEA is not indexed for inflation so all post death appreciation will be included in the surviving spouse's estate. Appreciation on assets in a bypass trust is excluded from the survivor's estate. Even couples that do not expect the survivor to have an estate in excess of the exemption amount may consider utilizing a bypass trust just in case the survivor "strikes it rich".
- *Portability Expires After 2012.* Portability is set to expire on December 31, 2012. Thus, without action by Congress to extend portability, a surviving spouse could lose 100% of a DSUEA. At this point that appears unlikely, but clients relying on portability must appreciate this possibility.

- *Potential Loss of DSUEA on Remarriage.* Under the portability rules, if the surviving spouse gets remarried and the new spouse dies before the surviving spouse, the surviving spouse loses the DSUEA from the first spouse. The use of a bypass trust would prevent the loss of the first spouse's estate tax exemption.
- *Administrative Issues.* Under the 2010 Tax Act, the only way the surviving spouse may take advantage of the DSUEA is if the executor handling the estate of the predeceasing spouse files an estate tax return and makes an appropriate election. Thus, even smaller estates will have to file an estate tax return (or perhaps some abbreviated form of an estate tax return) to take advantage of portability. In contrast, there is no requirement to file a federal estate tax return or otherwise make an election to utilize the exemption of a predeceasing spouse that passes to a bypass trust.

At first blush, portability seems rather straight forward. In practice, however, portability can be quite complex and confusing. Adding to this confusion are unanswered questions as to the application of portability. For example, assume Wife has a $1 million DSUEA from Husband 1. If Wife has not utilized any of her applicable exclusion amount, she now has an applicable exclusion amount of $6 million (i.e., her basic exclusion amount of $5 million and a $1 million DSUEA from Husband 1). Now, let's assume Wife gives $1 million to her children. Does the gift to her children utilize the $1 million DSUEA from Husband 1 or $1 million of her own basic exemption? The statutory language does not answer this question and there is nothing in the Joint Committee on Taxation Technical Explanation that answers this question either. This is important, because as noted above, Wife may not stack unused exclusion amounts. Thus,

continued on page 6

Estate Tax Portability, continued from page 5

what happens if Wife remarries Husband 2 and Husband 2 passes away before Wife having previously utilized his entire applicable exclusion amount? In this case, Husband 2 becomes the "last deceased spouse" of Wife and the DSUEA Wife received from Husband 1 disappears. The end result will depend on whether Wife is deemed to have utilized the DSUEA of Husband 1 when she made the $1 million gift to her children or whether she is deemed to have utilized a portion of her own applicable exclusion amount. If Wife is deemed to have utilized the DSUEA of Husband 1 before utilizing any of her applicable exclusion amount, she is left with a $5 million applicable exclusion amount. If, however, she is deemed to have utilized a portion of her own applicable exclusion amount, then she is left with only a $4 million applicable exclusion amount.

Estate planners must carefully analyze each situation before recommending a client rely on portability or the use of a bypass trust to shelter the exemption of the predeceasing spouse.

Eric D. Marchand, J.D., LL.M., is a partner practicing in the areas of Estate Planning and Probate, and Income Tax and Business Planning. Mr. Marchand is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization.

Email: emarchand@meadowscollier.com

Estate Tax or No Estate Tax — The Choice is Yours

By Sharon L. Ellington, J.D., CPA

Pursuant to the Economic Growth and Tax Reconciliation Act of 2001 ("EGTRRA"), estates of decedents dying after December 31, 2009, were not subject to a federal estate tax. However, EGTRRA included a sunset provision under which the transfer tax laws in effect prior to the enactment of EGTRRA were to be reinstated on January 1, 2011. As a result, the estate tax was to be reinstated and estates of decedents dying after December 31, 2010, were to be subject to a substantially increased estate tax.

On December 17, 2010, the 2010 Tax Act was enacted to provide temporary relief. In general, the 2010 Tax Act reduced estate, gift, and generation-skipping transfer ("GST") taxes for 2011 and 2012 and continued other estate and gift tax relief provisions that were scheduled to expire on December 31, 2010. Notably, it preserved the estate tax repeal for 2010, but did so in an unconventional way — an executor of an estate of a 2010 decedent that wants a zero estate tax must elect that option.

Default Rule — Estate Tax Applies to 2010 Decedents

The 2010 Tax Act retroactively reinstated a revised estate tax making it applicable to decedents dying during 2010. Pursuant to the 2010 Tax Act, the estate tax exemption for 2010 is $5 million and the maximum tax rate is 35%. In addition, the basis of assets in an estate will be equal to the fair market value on the date of death (or the alternate valuation date). Moreover, the assets will be deemed to have a one year holding period and thus any post-death appreciation of an asset will result in a long-term capital gain.

The 2010 Tax Act also reinstated the GST tax for 2010, with a $5 million GST exemption, but a 0% GST tax rate. An executor of an estate of a 2010 decedent opting the default rule will need to carefully analyze these GST tax rules.

The due date of Forms 706 for decedents dying between January 1, 2010 and December 16, 2010, was extended by the 2010 Tax Act to September 17, 2011. Forms 706 for decedents dying after December 16, 2010, were not extended and thus, will be due nine months after the date of death.

Election to Have Modified Carryover Basis Rules Apply to 2010 Decedents

Pursuant to the 2010 Tax Act, an executor may elect to have the law that was in effect prior to the 2010 Tax Act apply with certain modifications. The time and manner for making this election is to be determined by the Secretary of the

continued on page 7

Treasury and once made is revocable only with the consent of the Secretary. If the election is made, there is no applicable estate tax regardless of the size of the estate, but the assets will be subject to the modified carry-over basis rules.

Under the modified carryover basis rules, the basis of property passing from a decedent will be equal to the lesser of: (i) the decedent's adjusted basis or (ii) the property's fair market value on the date of death. Additionally, there are two aggregate basis increases that may be allocated to the property. First, $1.3 million of basis increases may be allocated to any property that was owned by the decedent. The $1.3 million amount is increased by (i) the decedent's unused capital loss carry forward, (ii) the decedent's unused net operating loss carry forward, and (iii) the decedent's unrealized losses. In addition, $3 million of basis increases may be allocated to property deemed to be passing to a surviving spouse. It should be noted that these aggregate basis increases can not be used to increase the basis of an asset above its fair market value on the decedent's date of death.

The modified carryover basis regime provides for tacking of the decedent's holding period. In other words, the decedent's holding period is added to the estate's holding period, if the basis is carried over in whole or in part from the decedent's basis. As such, unlike the automatic long-term holding period under a stepped-up basis regime, some of the property may have a short-term holding period.

If an executor makes the election and the fair market value of the property (other than cash) acquired from the decedent exceeds $1.3 million, the executor is required to file a carryover basis report which details the assets passing to each distributee as well as each asset's carryover basis, fair market value, holding period, and allocated basis increase. Currently, the due date for filing this report is the due date of the decedent's final income tax return. The 2010 Tax Act extended the due date of Forms 706 for decedents dying between January 1, 2010 and December 16, 2010, but did not extend the due date of the carryover basis report.

The IRS has issued a draft of the report (Form 8939), but has not issued any instructions. The IRS' website indicates that the final Form 8939 will be posted at least 90 days before it is required to be filed. As such, the due date of the Form 8939 will be sometime after the due date of the decedent's final income tax return (i.e., April 18, 2011).

Considerations in Making Election

If an estate will not be subject to the estate tax, the executor should not make the election because the estate will receive a new basis for its assets that is at least as high as it would be under the modified carryover basis rules. For example, an executor of an estate that is valued at less than $5 million or one that will not owe estate tax because of a marital or charitable deduction will not want to make the election.

The executor of an estate that is otherwise taxable has a difficult decision to make because of the numerous factors involved. Some of the factors an executor should consider in deciding whether to make the election are the following:

1) The amount of estate tax that will be owed if the election is not made compared to the income tax on gains if the election is made.

2) When the income tax on gains will have to be paid if the election is made. Based on the time value of money, it may be advantageous to pay a larger income tax in the future than a smaller estate tax now.

3) The anticipated future capital gain and ordinary income tax rates. If such rates are expected to drastically increase before a sale of the assets, it may be advantageous to pay an estate tax now and receive a stepped-up basis.

4) Whether the assets will be sold by the estate or will be distributed to the beneficiaries. Some beneficiaries may prefer a stepped-up basis at the expense of paying estate tax now, while others may prefer not to have the assets reduced by an estate tax.

Sharon L. (Shari) Ellington, J.D., CPA, is an associate practicing in the areas of Estate Planning and Probate, and Income Tax and Business Planning.

Email: sellington@meadowscollier.com

Traps for the Unwary in Filing a 2010 Form 709

By Eric D. Marchand, J.D., LL.M.

In 2010, many wealthy individuals took advantage of a congressionally approved generation-skipping transfer ("GST") tax "holiday." Tax professionals should therefore approach the filing of 2010 federal gift tax returns (Forms 709) with caution so as not to frustrate clients' planning objectives.

GST Tax Changes in 2010

The 2010 Tax Act impacts transfers subject to the GST tax in three significant ways: (1) reduces the applicable GST tax rate to zero for any GST in 2010; (2) increases the GST tax exemption from $3,500,000 to $5,000,000; and (3) reinstates the automatic GST exemption allocation rules under I.R.C. § 2632.

Outright GST Transfers in 2010

For individuals making outright direct skip gifts to grandchildren or more remote descendants (or another "skip person") professionals will want to elect out of the automatic GST allocation rules. While such gifts will trigger gift tax and GST tax, the GST tax will be zero because the applicable GST rate is 0%. Therefore, outright direct skip gifts in which a taxpayer does not elect out of the automatic allocation rules on a timely filed return will result in the automatic allocation of GST exemption to a transfer that is otherwise wholly exempt from the GST tax. In other words, a failure to elect out of the automatic allocation rules in this scenario will unnecessarily waste GST exemption. This mistake is magnified when one considers that affirmative allocations of GST exemption are irrevocable.

GST Transfers in Trust in 2010

This same logic may hold true for transfers to trusts where the "drop-down" rule of I.R.C. § 2653(a) applies. The "drop-down" rule applies if there is a GST (e.g., a direct skip) and the property is held in trust. Provided certain criteria are met, the "drop-down" rule provides that the transferor will be treated as being one generation above the generation of the oldest beneficiary. For example, a grandparent making a transfer to a trust for a grandchild will result in the grandparent, transferor, being "dropped-down" to the parent level such that a subsequent distribution to a grandchild would not be a distribution that would generate a GST tax. In a "drop-down" trust scenario, electing out of the automatic GST allocation rules may be prudent if the only beneficiaries are grandchildren (and it is likely such beneficiaries will take distributions from the trust) because any subsequent distributions to the grandchildren will not be treated as GST tax transfers.

On the other hand, the allocation of GST tax exemption may be prudent to the extent the beneficiaries of the trust are the grandchildren and more remote descendants of the transferor because the "drop down" rule would not protect distributions to descendants more remote to the transferor than the grandchildren. In other words, the "drop-down" rule does not act to produce a zero inclusion ratio for the trust.

The deadline for filing a 2010 Form 709 is April 18, 2011. An automatic six month extension is available by filing Form 4868 for the donor's income tax return.

In closing, professionals must carefully review all direct skip gifts made in

Form **709** | **United States Gift (and Generation-Skipping Transfer) Tax Return** | OMB No. 1545-0020

(For gifts made during calendar year 2010)

Department of the Treasury
Internal Revenue Service

▶ See separate instructions.

2010

Part 1—General Information

1 Donor's first name and middle initial | 2 Donor's last name | **3 Donor's social security number**

4 Address (number, street, and apartment number) | 5 Legal residence (domicile)

6 City, state, and ZIP code | 7 Citizenship (see instructions)

Yes | No

- 8 If the donor died during the year, check here ▶ ☐ and enter date of death ____ , ____.
- 9 If you extended the time to file this Form 709, check here ▶ ☐
- 10 Enter the total number of donees listed on Schedule A. Count each person only once. ▶
- 11a Have you (the donor) previously filed a Form 709 (or 709-A) for any other year? If "No," skip line 11b
- b If the answer to line 11a is "Yes," has your address changed since you last filed Form 709 (or 709-A)?
- 12 **Gifts by husband or wife to third parties.** Do you consent to have the gifts (including generation-skipping transfers) made by you and by your spouse to third parties during the calendar year considered as made one-half by each of you? (See instructions.) (If the answer is "Yes," the following information must be furnished and your spouse must sign the consent shown below. **If the answer is "No," skip lines 13–18 and go to Schedule A.**)
- 13 Name of consenting spouse | 14 SSN
- 15 Were you married to one another during the entire calendar year? (see instructions)
- 16 If 15 is "No," check whether ☐ married ☐ divorced or ☐ widowed/deceased, and give date (see instructions) ▶
- 17 Will a gift tax return for this year be filed by your spouse? (If "Yes," mail both returns in the same envelope.)
- 18 **Consent of Spouse.** I consent to have the gifts (and generation-skipping transfers) made by me and by my spouse to third parties during the calendar year considered as made one-half by each of us. We are both aware of the joint and several liability for tax created by the execution of this consent.

Consenting spouse's signature ▶ | **Date** ▶

Part 2—Tax Computation

Line	Description	Line	Amount	
1	Enter the amount from Schedule A, Part 4, line 11	1		
2	Enter the amount from Schedule B, line 3	2		
3	Total taxable gifts. Add lines 1 and 2	3		
4	Tax computed on amount on line 3 (see *Table for Computing Gift Tax* in separate instructions)	4		
5	Tax computed on amount on line 2 (see *Table for Computing Gift Tax* in separate instructions)	5		
6	Balance. Subtract line 5 from line 4	6		
7	Maximum unified credit (nonresident aliens, see instructions)	7	330,800	00
8	Enter the unified credit against tax allowable for all prior periods (from Sch. B, line 1, col. C)	8		
9	Balance. Subtract line 8 from line 7. Do not enter less than zero	9		
10	Enter 20% (.20) of the amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977 (see instructions)	10		
11	Balance. Subtract line 10 from line 9. Do not enter less than zero	11		
12	Unified credit. Enter the smaller of line 6 or line 11	12		
13	Credit for foreign gift taxes (see instructions)	13		
14	Total credits. Add lines 12 and 13	14		
15	Balance. Subtract line 14 from line 6. Do not enter less than zero	15		
16	Generation-skipping transfer taxes (from Schedule C, Part 3, col. H, Total)	16	0	00
17	Total tax. Add lines 15 and 16	17		
18	Gift and generation-skipping transfer taxes prepaid with extension of time to file	18		
19	If line 18 is less than line 17, enter **balance due** (see instructions)	19		
20	If line 18 is greater than line 17, enter **amount to be refunded**	20		

Attach check or money order here.

Sign Here — Under penalties of perjury, I declare that I have examined this return, including any accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than donor) is based on all information of which preparer has any knowledge.

May the IRS discuss this return with the preparer shown below (see instructions)? ☐ **Yes** ☐ **No**

▶ Signature of donor | Date

Paid Preparer Use Only — Print/Type preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN

Firm's name ▶ | Firm's EIN ▶

Firm's address ▶ | Phone no.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see the separate instructions for this form. Cat. No. 16783M Form **709** (2010)

continued on page 9

Traps for the Unwary, continued from page 8

2010 to determine whether a timely filed gift tax return should be filed electing out of the automatic allocation rules. Practitioners should consult with the donor and the donor's tax counsel before preparing and filing 2010 Forms 709.

Eric D. Marchand, J.D., LL.M., is a partner practicing in the areas of Estate Planning and Probate, and Income Tax and Business Planning. Mr. Marchand is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization.

Email: emarchand@meadowscollier.com

Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P.

wishes to congratulate

STEPHEN A. BECK

on being named a Partner in the firm.

Mr. Beck's practice concentrates on tax planning for entrepreneurs and small businesses, including partnerships, limited liability companies, corporations, and entities disregarded for federal tax purposes. He also represents individuals and businesses in tax related controversy matters, including Internal Revenue Service audits, appeals, and litigation in federal courts. In addition, he represents taxpayers in franchise and sales and use tax disputes with the Texas Comptroller of Public Accounts.

Mr. Beck is Board Certified in Tax Law by the Texas Board of Legal Specialization. He has recently served as an adjunct law professor at Southern Methodist University Dedman School of Law, where he taught Corporate Income Taxation.

Email: sbeck@meadowscollier.com

Upcoming Speaking Engagements

(For complete speaking engagement information, please visit our firm website at www.meadowscollier.com. Click on the News & Events tab from the Home page of the website.)

APRIL 20, 2011 | **JOEL CROUCH**

"Tax issues in Divorce and Separation"
Dallas Collaborative Law Group
Dallas, TX

MAY 4, 2011

Speakers and Topics "TBA"
Taxation and Estate Planning Update for Professionals Seminar
Sponsored by Texas Bank and Trust
Tyler, TX

MAY 4-6, 2011 | **TREY COUSINS**

"Valuation Issues — FLPs and LLCs" and "Litigating With The IRS"
AICPA Conference on Tax Strategies for the High-Income Individual
Las Vegas, NV

MAY 5, 2011 | **ALAN DAVIS**

"Life Insurance Issues in Estate Planning"
Twentieth Annual Institute on Estate Planning
Sponsored by the Amarillo Area Estate Planning Council
Amarillo, TX

MAY 12, 2011 | **DAVID COLMENERO**

"Representing Your Clients Before the Texas Comptroller of Public Accounts: Top Audit Issues in Texas Tax"
Annual Estate Planning Update
Sponsored by the Midland College Foundation and the Midland Memorial Foundation
Midland, TX

MAY 13, 2011 | **DAVID COLMENERO**

"Texas Legislature Ax in the Face of a Budgetary Crisis: Who's Ox Will be Gored Next?"
Corpus Christi Chapter/TSCPA
Corpus Christi, TX

MAY 16, 2011 | **ANTHONY DADDINO**

"Employment Tax Issues"
Dallas Bar Association's Labor and Employment Law Section
Dallas, TX

MAY 18, 2011

Speakers and Topics "TBA"
Taxation and Estate Planning Update for Professionals Seminar
Sponsored by Texas Bank and Trust
Longview, TX

MAY 26, 2011 | **CHUCK MEADOWS** | **MIKE VILLA** | **TREY COUSINS** | **DAVID COLMENERO**

Meadows/Villa – *"Responding to Governmental Inquiries"*
Cousins – *"Resolving Conflicts Through the IRS Taxpayer Advocate's Office"*
Colmenero – *"The Administrative and Legislative Search for Tax Dollars in Texas in Light of a Budgetary Shortfall"*
Dallas CPA Society's Continuing Education Day Conference
Dallas, TX

JUNE 22, 2011 | **CHUCK MEADOWS**

"Update on IRS Tax Controversy Procedure: Dealing with the IRS in the Real World"
Accounting Continuing Professional Education Network (ACPEN)
Live Webcast
Dallas, TX

JULY 14, 2011 | **TREY COUSINS**

"Don't Give Up on Family Limited Partnerships"
Victoria Area Estate Planning Council
Victoria, TX

AUGUST 4, 2011 | **JOEL CROUCH** | **ANTHONY DADDINO**

Crouch – *"Tax Preparer Penalty Issues"*
Daddino – *"Audit Issues for Pass-Through Entities"*
Fort Worth Chapter/TSCPA Tax Institute
Fort Worth, TX

AUGUST 5, 2011 | **DAVID COLMENERO**

Colmenero – *"Texas Tax Legislative Update"*
Fort Worth Chapter/TSCPA Tax Institute
Fort Worth, TX

Speaking Engagements, continued from page 10

AUGUST 15, 2011 | **DAVID COLMENERO**

"Representing Taxpayers in Comptroller Audits"
TSCPA Texas State Taxation Conference
Austin, TX

AUGUST 23, 2011 | **DAVID COLMENERO**

"The Hottest Audit Issues in Texas Tax: Who is Being Targeted For Audit and What Can You Do to Protect Your Client's Interests?"

El Paso Chapter/TSCPA
El Paso, TX

AUGUST 24, 2011 | **TREY COUSINS** | **ANTHONY DADDINO** | **CHUCK MEADOWS** | **JOSH UNGERMAN**

Cousins – *"How CPAs Get in Trouble with the IRS"*
Daddino – *"Employment Tax Law"*
Meadows – *"Differences Between Aggressive Tax Planning and Tax Fraud"*
Ungerman – *"What is the IRS Doing to Us Next?"*
Panhandle Chapter/TSCPA Tax Institute
Amarillo, TX

AUGUST 26, 2011 | **TREY COUSINS**

Topic "TBA"
TSCPA's Advanced Estate Planning Conference
San Antonio, TX

SEPTEMBER 22, 2011 | **DAVID COLMENERO**

"The Hottest Audit Issues in Texas Tax: Who is Being Targeted For Audit and What Can You Do to Protect Your Client's Interests?"
and
"Texas Legislature Ax in the Face of a Budgetary Crisis: Who's Ox Will be Gored Next?"
San Antonio Chapter/TSCPA CE Symposium
San Antonio, TX

MEADOWS COLLIER ATTORNEYS

**Board Certified in Tax Law*
***Board Certified in Commercial Real Estate Law*
****Board Certified in Estate Planning and Probate Law*
***** Licensed in New York and New Jersey; Texas Bar Results Pending*

STEPHEN A. BECK*	ALAN K. DAVIS***	MICHAEL E. MCCUE	J. ALLEN SULLIVAN, JR.
GEORGE R. BEDELL	PATRICIA K. DOREY	CHARLES M. MEADOWS, JR.*	JOSH O. UNGERMAN
ROBERT DON COLLIER*	SHARON L. ELLINGTON	STEPHANIE D. MONGIELLO	MICHAEL A. VILLA, JR.
DAVID E. COLMENERO	JASON B. FREEMAN	SARA E. NABAS	SARAH Q. WIRSKYE
WILLIAM R. COUSINS III*	THOMAS G. HINEMAN*	CHARLES D. PULMAN*	MARY E. WOOD
KRISTEN M. COX	TODD A. KRAFT*	DAVID N. REED	
JOEL N. CROUCH*	KATHRYN W. LYLES	ROBERT C. RUHLIN****	
ANTHONY P. DADDINO	ERIC D. MARCHAND***	JAMES M. SCHENDLE**	

IRS CIRCULAR 230 DISCLOSURE

To ensure compliance with requirements imposed by the IRS, we inform you that any United States federal tax advice contained in this communication, including any attachments, is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication.

The Meadows Collier Newsletter is published by Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P.; 901 Main Street; Suite 3700; Dallas, TX 75202. © 2011 by Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P.

Newsletter Editors: Todd A. Kraft, J. D., LL.M. and Susan House, Marketing Manager. Direct all correspondence to Susan House, Marketing Manager, Meadows, Collier, Reed, Cousins, Crouch & Ungerman, L.L.P. at the address noted above or email her at shouse@meadowscollier.com.