

ALERTS

Tax Alert - Minnesota State Legislature Enacts New Gift Tax

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The Minnesota State Legislature recently enacted a gift tax in the state of Minnesota, which will take effect on July 1, 2013. This new tax will make Minnesota one of only two states in the nation with a gift tax.

The basic structure of the gift tax is to impose a 10 percent tax on gifts by an individual in excess of a \$1,000,000 lifetime exemption. Gifts to charity, to a spouse, or gifts that qualify for the federal gift tax exclusion (currently \$14,000 per person) will not be considered by the state to use a portion of this exemption. Additionally, lifetime gifts will now be taken into account in the determination of a decedent's taxable estate for Minnesota estate tax purposes. Given all of the above, there are now clearly additional considerations while making gifts if you are still a Minnesota resident.

Additionally, the new law seeks to expand the reach of the Minnesota estate tax to estates of non-residents. Specifically, if a non-resident holds real estate or tangible personal property physically in the state, these assets will be subject to estate tax in Minnesota. Importantly, this also includes real estate or personal property held through a "pass through" entity, including limited liability companies, S-Corporations, partnerships and certain trusts. This portion of law is retroactive to Jan. 1, 2013. Accordingly, even if you are no longer a Minnesota resident, and you own such property (whether directly or indirectly through an entity), this tax could have an impact on your estate and your estate planning strategy.

For more information, contact the Barnes & Thornburg attorneys with whom you work, or the following members of the firm's Private Wealth Services practice group: Howard Rubin, (612) 367-8714 or howard.rubin@btlaw.com; Bradley Frank, (616) 367-8720 or bradley.frank@btlaw.com; or Sarah Rowley, (612) 367-8719 or sarah.rowley@btlaw.com.

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