



TAX ALERT

DECEMBER 7, 2009

House Bill Extends the Estate Tax

The estate tax law is scheduled to expire at the end of this month. On Thursday, the House passed a bill extending the Federal estate tax at the current rate of 45% on assets in excess of the current \$3.5 million exemption (effectively \$7 million for married couples). The bill passed by a vote of 225 to 200 with most of the Democrats voting in favor of it and all of the Republicans voting against it.

The Democrats and the Republicans have been struggling for years to reach an agreement on this issue. The “no” votes in the House and Senate Republicans led by Sen. Jon Kyl (R., Ariz.) and Senate Democrats led by Sen. Blanche Lincoln (D., Ariz) want a more generous bill — a tax rate of 35% on assets in excess of a \$5 million exemption (effectively \$10 million for married couples). Many Republicans want to abolish the estate tax altogether. If Senators Kyl and Lincoln do not get a bill with a lower effective tax, they are threatening to oppose the extension when it is voted on by the Senate. If the bill does not pass in the Senate, the estate tax will lapse in 2010. However, it is scheduled to return in 2011 with higher tax rates and a much lower exemption. The likelihood of an extension being passed prior to year-end is diminished by the fact that Congress is also trying to reach an agreement on health insurance legislation.

Estate planners have faced uncertainty since 2001 because of this pending expiration. They want a permanent extension of the estate tax law which would permit tax planning.