Estate and Gift Taxes — Back to the Future

A DISCUSSION ON TODAY'S ESTATE AND GIFT TAX LAWS –

WHAT MAY (OR MAY NOT) BE AFTER 12/31/12…

AND SOME PLANNING THOUGHTS

HARVARD | BUSINESS | SCHOOL

Donald M. Etheridge

Director, Gift Planning
Harvard Business School
Boston, MA 02163
T +1-617-495-6027
detheridge@hbs.edu

Don Etheridge, HBS Director of Gift Planning, has 35 years of experience advising families and charitable organizations on tax, estate and philanthropic planning.

As an attorney in private law practice, Don's practice focused on advising high net worth families concerning a broad range of legal matters, including tax, estate and philanthropic planning. He has also served as an advisor to several family offices. In one instance, he helped design an office to provide support to four generations of family members as well as the family's private charitable foundation, and served as the initial executive director of the family office.

Don also spent over 11 years working as an in-house attorney for Duke University, serving as Associate University Counsel and also as Director of Planned Giving. He assisted in the establishment of Duke Management Company, Duke's endowment and asset management subsidiary, and served as the company's general counsel.

Don holds undergraduate and law degrees from Duke University, an LL.M. degree in Taxation from Georgetown University, and is also a Certified Public Accountant. He was a Senior Lecturer in Law at Duke Law School and an Associate Adjust Professor at the Fuqua School of Business while at Duke, and a member of the adjust law faculty at Emory University Law School while in private law practice in Atlanta. He is currently a member of the adjunct law faculty at Boston University Law School.

Christian G. Koch

KAM South, LLC
1040 Riverside Trace
Atlanta, GA 30328
(404) 843-3745
Christian@KAMSouth.com
www.KAMSouth.com

Christian Koch is founder and principal of KAM South, an investment management and financial planning firm located in Atlanta, Georgia.

In additional to the Certified Financial Planner ™ and Certified Divorce Financial Analyst ™ designations, Mr. Koch is also a Fee-Only NAPFA Registered Financial Advisor.

He completed a BBA at Stetson University an MBA at Jacksonville University and is a graduate of the Advance Management Program at Harvard Business School.

He lectures locally on Investment and Retirement Planning. Mr. Koch is a member of the Rotary Club of Buckhead.

Estate and Gift Taxes —

Back to the Future

PART I

BRIEF HISTORY OF THE TRANSFER TAX SYSTEM

GIFT, ESTATE AND GENERATION SKIPPING TRANSFER TAXES

Historical View of Estate Tax Exemptions and Rates

Calendar Year	Value of Estate Tax Exemption ($)	Top Estate and Gift Tax Rate
1977	$120,667	70%
1978	$134,000	70%
1979	$147,333	70%
1980	$161,563	70%
1981	$175,625	70%
1982	$225,000	65%
1983	$275,000	60%
1984	$325,000	55%
1985	$400,000	55%
1986	$500,000	55%
1987	$600,000	55%
1988	$600,000	55%
1989	$600,000	55%
1990	$600,000	55%
1991	$600,000	55%
1992	$600,000	55%
1993	$600,000	55%
1994	$600,000	55%
1995	$600,000	55%
1996	$600,000	55%
1997	$600,000	55%
1998	$625,000	55%
1999	$650,000	55%
2000*	$675,000	55%
2001*	$675,000	55%
2002	$1,000,000	50%
2003	$1,000,000	49%
2004	$1,500,000	48%
2005	$1,500,000	47%
2006	$2,000,000	46%
2007	$2,000,000	45%
2008	$2,000,000	45%
2009	$3,500,000	45%

*Pre-EGTRRA law

Historical View of Estate Tax Exemptions and Rates

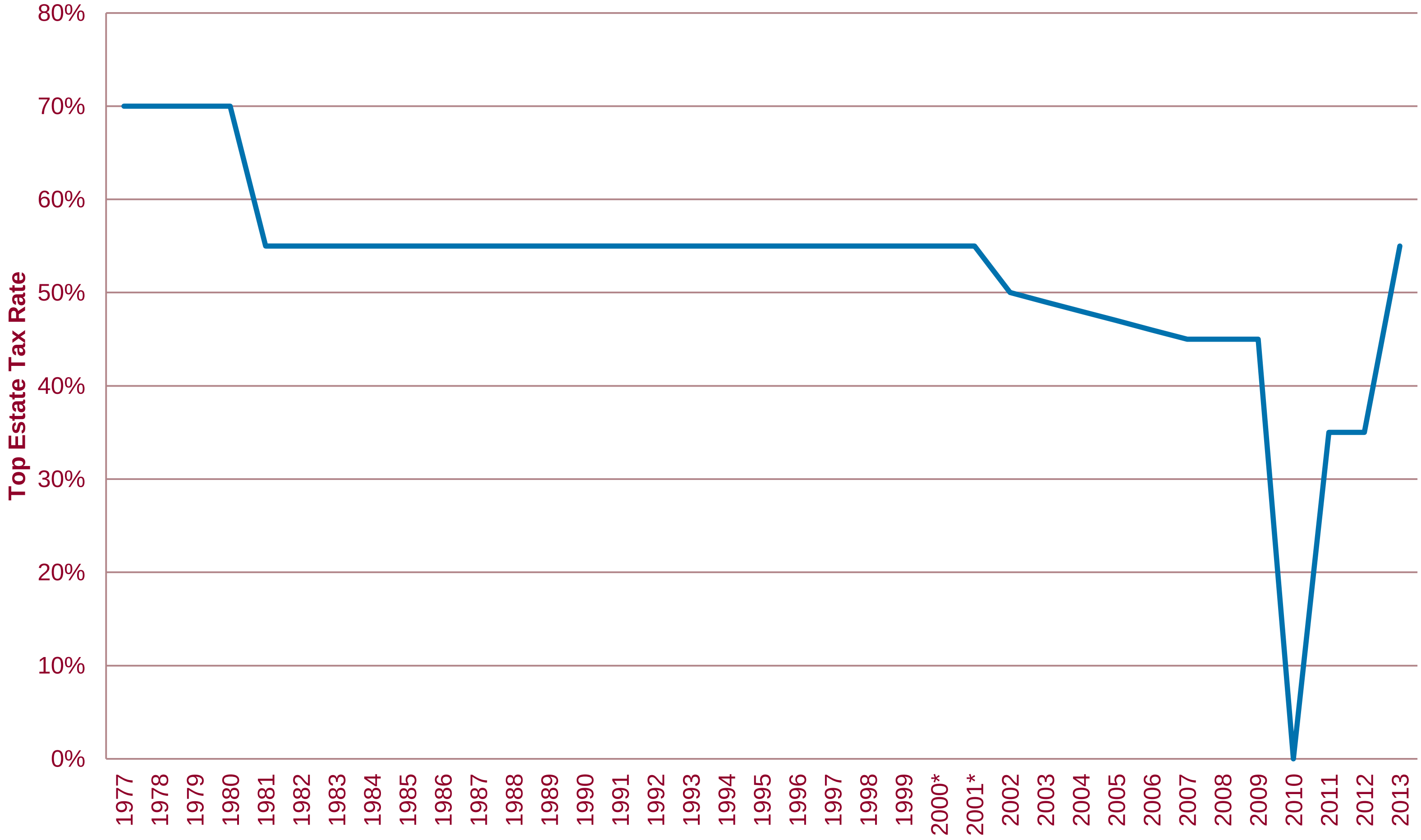
2010

2011-2012

2013 and beyond – Back to the Future

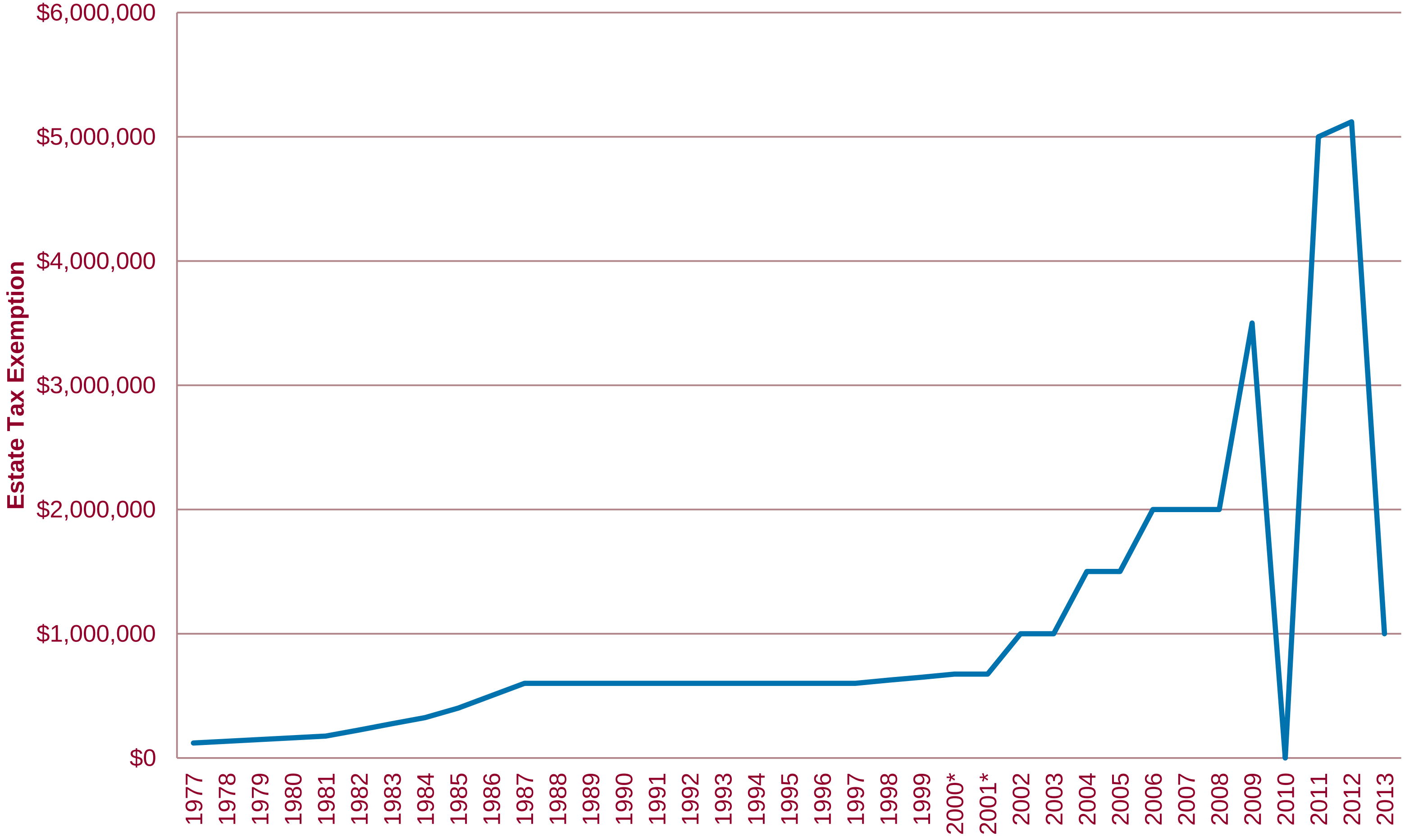
2010	Repealed - Modified carryover basis by election of Executor; 2009 estate tax rules apply if Executor does not elect out of estate tax regime	0%, or 45% if opt for estate tax regime to apply to 2010 decedent's estate
2011	$5,000,000	35%
2012	$5,120,000	35%
2013	**$1,000,000**	**55%**

Changes in Estate Tax Rates



HARVARD | BUSINESS | SCHOOL

Changes in Estate Tax Exemption



HARVARD | BUSINESS | SCHOOL

Estate and Gift Taxes — Back to the Future

PART II

CORE ESTATE PLANNING DOCUMENTS

AND METHODS OF TRANSFERRING ASSETS

What Are the Core Estate Planning Documents?

I. The Will
II. Revocable Trust
III. Durable Financial Power of Attorney
IV. Health Care Proxy, Power of Attorney or Directive
V. Living Will or Declaration of Desire for a Natural Death
VI. Beneficiary Designations
   I. Life Insurance
   II. Retirement Accounts

Trusts (a potpourri), UTMA's and 529 Accounts

I. Revocable, Living or Grantor Trusts
II. Irrevocable Trusts (non-charitable)
    I. Life Insurance Trusts
    II. Dynasty (and GST) Trusts
    III. Crummey Trusts
    IV. Testamentary Trusts
III. Uniform Transfer to Minor Accounts
IV. Section 529 Accounts for tuition
V. Charitable Trusts
    I. Charitable Remainder Trusts
    II. Charitable Lead Trusts

Probate Estate vs. Taxable Estate

Probate Estate

Assets covered by the Will

I. Assets (Tangible and Intangible) owned in the name of the deceased
II. Other assets subject to a power of appointment

Non-Probate Assets

Assets not covered by Will, but still taxable

I. Jointly owned property subject to a right of survivorship
II. Life Insurance Contracts
III. Retirement Accounts
IV. Revocable Trusts

Transfers With No Estate or Gift Tax Resulting

I. **Annual Exclusion** Gifts – For 2012 - **$13,000** (per donee/per donor)
II. **Unlimited Transfers to Spouses** (who are US Citizens). Special rules for non-US Citizen spouses
III. **Lifetime transfer tax (Gift, Estate and GST) exemption** through 12/31/12: **$5,120,000**
IV. **Charitable** Gifts and Bequests

Note: Tuition paid by family directly to the educational institution and medical payments made directly to the health care provider are not treated as gifts

Estate and Gift Taxes —
Back to the Future

PART III

CASE STUDIES

1. The Case of Susan

Susan is a highly successful entrepreneur

- Age 43
- Her advisory business has taken off in the last few years and is currently estimated to be worth between $9M and $12M.
- Her business generates enough income that Susan recently bought a “second” home where she can take her two children for long weekends.
- Her son, Robert, age 7, and her daughter, age 9, are both in a private school. They recently moved to a new neighborhood close to the school.
- Susan and her husband are recently separated, but she predicts through counseling they will be able to resolve the stresses that developed in their marriage. He is currently unemployed and has no separate assets.
- Susan owns individually around $750,000 in mutual funds, and she and her husband jointly own approximately $500,000 in a stock portfolio.
- Susan has maximized her retirement savings, and currently has over $2M in her 401(k) account. She owns life insurance with about $2M coverage.

2. The Case of Mike and Alice

Mike and Alice are now semi retired

- Mike is age 78 and Alice is age 76, both in good health.
- Mike was an investment banker on Wall Street and, as a couple, Mike and Alice have an overall net worth of between $50M and $75M.
- They still maintain a flat in New York, but have a home in Florida and another in Maine. They have no mortgages or other debt.
- Mike and Alice have two children, both married. They also have 5 grandchildren, ranging from ages 5 to 21. All are still in school, and the oldest plans to attend dental school.
- Mike and Alice have collected art in recent years, with a collection of impressionist paintings estimated at $1.5M.
- Mike still has life insurance with a death benefit of $5M, and retirement accounts totaling over $8M.
- They currently have jointly owned investment accounts with assets ranging from cash to stocks, as well as some tax-exempt bonds, with an overall value of approximately $30M.

Estate and Gift Taxes — Back to the Future

QUESTIONS?