Miorini Law PLLC
Attorneys and Counselors at Law

Miorini Law PLLC | August 2012

In This Issue

Dear Client,

We are pleased to announce that Yahne Miorini has become a member of the Maryland Bar. She is now licensed in four jurisdictions: DC, MD, NY, and VA.

The IRS has issued new temporary regulations regarding the election and use of a deceased spouse's lifetime exclusion. See below information regarding these new regulations.

Sincerely,

Lauren Spradlin, on behalf of Yahne Miorini
Miorini Law PLLC

IRS Issues Rules on Portability

Temporary Regulations on Using a Deceased Spouse's Exemption

Beginning retroactively in 2011 surviving spouses are able to use their deceased spouse's unused estate tax exclusion on their own estate. The estate tax exemption is set for 2012 at $5.12 million, but is scheduled to be reduced to $1 million on 1/1/2013. For portability to work, the estate of the deceased spouse must elect to allow the surviving spouse to use the unused portion of the lifetime exclusion.

The election works as follows:
John died in 2012 with a gross estate of $3 million. Since the estate tax exemption in 2012 is $5.12 million, $2.12 million has not been used.

His surviving spouse, Mary, can elect to keep the exemption portion that has not been used. She can then use both her own exclusion and the unused portion of John's exclusion on her own estate upon her death.

In order to benefit from the portability the executor of John's estate will have to file a tax return (form 706) and make the election within 9 months of the date of John's death. The IRS has provided some flexibility for returns that are filed solely to make the election. For instance, the executor is allowed to make a good faith estimation of the estate value, rather than providing appraisals.

Miorini Law PLLC
2010 Corporate Ridge
Suite 700
McLean, Virginia 22102
P:(703) 448-6121
F: (703) 542-1268