Recent Changes to Minnesota Gift and Estate Taxes

Beginning July 1, 2013, all gifts over a $1 million dollar lifetime exemption will be subject to Minnesota's 10% gift tax. The gift tax will apply regardless of whether the gift is real property, tangible personal property, or intangible personal property. Similar to federal regulations, the gift tax also includes a $14,000 per recipient annual exclusion. Therefore, only amounts above and beyond the $14,000 per recipient threshold will be considered towards the $1 million dollar lifetime exemption. Furthermore, gifts to spouses and charities remain exempt from the gift tax.

A real world example will be helpful: Let's say that you own two pieces of land (real property), one of which you would like to gift to a sibling. The value of the land you intend to gift is $500,000. Because of the $14,000 per recipient exclusion, $486,000 of that gift will apply against your $1 million dollar lifetime exemption. You also would like to gift $25,000 to your cousin. Based on the $14,000 exclusion, $11,000 of that gift counts towards your lifetime exemption. The $486,000 and $11,000 must be reported on your taxes as a "taxable gift." As a result, your lifetime exemption has been reduced by $497,000 and you may only gift $503,000 without facing the gift tax.

Let's say your other piece of property is worth $600,000 and you wish to gift that to your other sibling. Again, the $14,000 exclusion kicks in and only $586,000 of that gift will count towards your lifetime exclusion. However, you've now exceeded the threshold ($497,000 + $586,000 = $1,083,000) and $83,000 will be taxed at Minnesota's 10% gift tax.

The gift tax will not only affect Minnesota residents. It will also apply to gifts made by non-Minnesota residents, so long as the gift is real property or tangible personal property located within Minnesota.

Minnesota is only the second state in the country to institute a gift tax.

The new gift tax also ties into the changes in Minnesota estate tax rules. All "taxable gifts" that are made within three years of the donor's death will be added back to the donor's death and will now be included in determining whether estate taxes must be paid. This was designed to prohibit gifting on one's death bed in an effort to avoid paying estate taxes.

This new rule applies retroactively to any and all deaths that occurred on or after January 1, 2013. As a result, there are already rumblings that constitutional challenges to this change will be made based on its *ex post facto* implications.