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January 26, 2010

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Dear Client/Friend of the Firm:

We are writing to advise you of an **extremely important and surprising development** in federal estate tax laws that may affect your estate plan. We hope you will take the time to review this short letter and contact us if you have any questions or if you would like for us to review your estate planning documents and advise you whether changes are necessary to achieve your estate planning goals.

In a tax act passed in 2001, Congress dramatically amended the federal estate tax regime by, among other things, adopting an estate tax law that called for gradual increases in available estate, generation-skipping and gift tax exclusions and exemptions over a ten year period. Because of certain procedural rules, the act contained provisions that result in the **suspension** of estate and generation skipping taxes in calendar year 2010 and the **reinstatement** of estate and generation-skipping taxes in 2011, with dramatically **lower** exclusions and exemptions than were in effect in 2009—in the case of the estate tax, an exclusion of only \$1,000,000 in 2011 as compared to the \$3,500,000 exclusion that was available in 2009. Additionally, for individuals who die in 2010, the act introduced a completely new set of tax basis rules and elections that may have a significant impact upon beneficiaries.

For the last decade, both politicians and the estate planning community have considered it extremely likely (if not inevitable) that in the years between 2001 and 2010, Congress would adopt legislation that would prevent the suspension and then reinstatement of estate taxes with which we are now faced. Indeed, many members of Congress and estate planning professionals believe that Congress will fix this anomaly sometime in 2010 and that the “fix” will be retroactive to January 1, 2010. However, **we cannot know** whether Congress will pass any such legislation and, if it does, whether it will (or can) be retroactive. Having failed, for almost a decade, to reach agreement on legislation that would prevent this from happening, it seems quite possible that Congress may fail to reach agreement in 2010.

How might this affect you? There are numerous ways that the suspension and then reinstatement of estate and generation-skipping taxes might affect you. Among them are the following:

1. If you have an estate plan that contains a **formula clause** that is designed to insure that you are able to take full advantage of the estate tax exclusion amount as it existed from 2001 to 2009, you may have unintended results if Congress does not act.¹
2. If your estate planning documents contain formula bequests to charitable beneficiaries, your existing documents could result in **all** or **none** of your estate passing to the charities.
3. If you created certain trusts within your estate plan solely for tax purposes, it may now be possible to revise or eliminate those provisions.
4. If you or a loved one are in uncertain health, the 2010 regime contains provisions that may make it desirable to make certain asset transfers or sales during 2010.
5. If your estate (including life insurance policies and retirement plans) exceeds \$1,000,000 and you have an estate plan that is a “simple” plan, a “disclaimer” plan or a “joint revocable trust” plan, the rules applicable in 2011 will likely cause your estate to pay unnecessary taxes unless we revise the plan.

In addition to possible federal tax law changes that would address the issues presented by the 2010 suspension, state law may be changed to prevent the most egregious results from occurring. Again, however, we cannot rely on any such changes and even if changes are adopted, we cannot be assured that they will solve all issues for all of our clients.

We encourage you to contact us at your earliest convenience to review your estate planning documents in light of 2010's unexpected changes.

Finally, we hope you noticed the change in our firm name and address. On October 1, 2009, we welcomed Lisa Hughes and Everett Hoeg as new partners in Yates Campbell Christopher & Yates LLP and changed our name to Yates Campbell & Hoeg LLP. We are also moving to occupy another unit in our complex. The addition of Lisa, Everett and their support staff provides increased depth and capacity for our Firm. They will be available, along with all of the other members of the former Yates Campbell Christopher & Yates firm, to assist you in navigating your way through this and any future transfer tax and estate planning developments.

Best regards.

YATES CAMPBELL & HOEG LLP

¹ For example, if your formula clause gives an amount equal to the maximum estate tax exclusion amount to your children or to a “family trust” and the remainder of your estate to your spouse or to a marital trust for your spouse, that clause might now result in all of your estate passing to your children or to the family trust and none of your estate passing to your spouse or your marital trust.