



**Tribuiani Law Firm**  
**561-676-4049**

**April 2010**

## **Estate Planning Newsletter**

### **BACK TO THE FUTURE**

**By Robert W. Tribuiani, Esq.**  
**4/21/2010**

As of this moment in time, April 21, 2010, you would be correct to say that there is absolutely no federal estate tax. In the near future, however, you may have to stand corrected. It appears that the legislature may be considering enacting an estate tax in the future, that will begin at some point in the past. In effect, the legislature will be granting itself the power to travel back in time in order to collect taxes in the future.

Is this a proposed legislative enactment or a novel about time travel? It may be both.

The most current legislation, which was enacted

in 2001, methodically increased the amount of a person's estate that would be *exempt* from estate taxes. That exemption level continued to increase until this year, when the estate tax was repealed. As a result, the current exemption level is unlimited and there is no part of the estate that would be subject to federal estate taxes.

Here is where it gets interesting. According to current legislation, at the end of the year, the statute will "sunset" and we will return to the 2001 exemption level. In sum, the 2011 exemption level will become the 2001 level. That is, unless our legislature imposes an estate tax that is applied retroactively. If so, the exemption that is applied retroactively will also be applied to future years. Confused yet? (*continued on next page*)

## BACK TO THE FUTURE

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<u>Year</u>	<u>Exemption</u>
2001	\$1,000,000
2004	\$1,500,000
2006	\$2,000,000
2009	\$3,500,000
2010	Tax Repealed?
2011	??????????

Although the 2001 statute has simplified tax planning over the past ten years, the uncertainty as to whether the 2010 tax repeal will be changed retroactively is having the opposite effect on the estate planning process going forward.

To return to our initial example, before we can be certain of our estate tax liability in the present, we must first wait until some time in the future to see whether the legislature will impose an estate tax retroactive to some point in the past. The old adage about fact being stranger than fiction has come to fruition. *Robert W. Tribuiani, Esq., April 21, 2010.*

*This article is not intended to offer legal advice. I encourage you to consult an estate planning attorney to minimize or mitigate your estate taxes.*

*Tribuiani Law Firm  
3300 PGA Blvd., Suite 520  
Palm Beach Gardens, FL 33410  
561-676-4049*

### **Robert W. Tribuiani, Esq.**

#### **Tribuiani Law Firm**

Wills, Trusts, & Estate Planning  
3300 PGA Blvd., Suite 520  
Palm Beach Gardens, FL 33410

[www.TribuianiLaw.com](http://www.TribuianiLaw.com)

561-676-4049

[Robert@TribuianiLaw.com](mailto:Robert@TribuianiLaw.com)

- Evenings and Weekends available upon request.
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Florida, New York, New Jersey, District of Columbia, and United States Supreme Court.



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