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local business

## PERMANENT ESTATE TAX LEGISLATION LOOKS UNLIKELY

By Rod K. Sutherland

WHEN PRESIDENT Bush took office, one of his political priorities was the elimination of the federal estate tax. Elimination of the estate tax was not accomplished; instead the Economic Growth and Tax Relief Reconciliation Act of 2001 was enacted.

The law spans 10 years and provides for periodic increases of estate values that are not subject to the federal estate tax, as well as the lowering of the maximum estate tax rate.

Under it, the individual applicable exclusion for estate tax is \$2 million this year and will increase to \$3.5 million in 2009. The maximum estate tax bite is 45 percent to 50 percent throughout the 10 year period. In the year 2010, the estate tax will be repealed and, absent legislation, the estate tax will be reinstated on Jan. 1, 2011, and will mirror the previous system.

Previously, the federal estate tax applied to any descendant's estate with a value over \$675,000. An individual's estate value includes all assets owned by the individual at time of

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death, including life insurance.

Although the estate tax exemption was \$675,000 in 2001, it was phasing into a higher exemption which would have been \$1 million by 2011 if the changes had not been made.

The new law is designed to "sunset" on Jan. 1, 2011. As a result, absent any legislative changes before 2011, the federal estate tax will apply to any descendant's estate valued at over \$1 million beginning in 2011. Any estate value over that amount will be subject to the tax.

## in port today

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Listed are each vessel's name, flag, local destination and agency.

**Traveller,**  
Netherlands Antilles,  
Newport News  
Marine Terminal,  
Inchcape Shipping  
Services.

**Tokyo Express,**  
Germany, Norfolk  
International  
Terminals, Hapag  
Lloyd Agencies  
(Norton Lilly  
International).

**Toba,** Norwegian  
International  
Register, NIT,  
Wallenius  
Wilhelmsen/Barwil/  
T. Parker Host.

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## in port monday

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**Saudi Tabuk,** Saudi  
Arabia, Newport  
News Marine  
Terminal, NSCSA  
America (Carolina  
Shipping).

**Dipper,** Marshall  
Islands, Giant  
Cement, T. Parker  
Host.

**Ever Devote,**  
Panama, Portsmouth  
Marine Terminal,  
Evergreen America.

**Sealand Achiever,**  
USA, PMT, Maersk  
(Norton Lilly).

During the Republican control of Washington, estate planning attorneys generally thought that, before the sunset in 2011, legislation would be adopted to create permanently higher federal estate tax exemptions and lower estate tax rates. Now, with Democrats taking control of Congress, lawmakers and the president may be unable to come to agreement on permanent provisions given key House Democrats have shown no desire to enact permanent estate tax legislation.

Moreover, the Democrats' "pay as you go" budget plan means that changes in the estate tax will require countervailing reductions in expenditures or increases in other taxes. This could bring about a \$1 million individual estate exemption and higher estate tax rates.

There has been an explosion of wealth in the nation and the two wealthiest generations that have ever lived will, at death, pass trillions of dollars to their heirs.

Congress may look upon this passage of wealth as an available source of federal revenue. This is because the estate tax has a limited impact on the general population, and potential permanent tax relief for the middle class could be for broader-based tax reform, such as an overdue reform of the alternative minimum tax and retention of the reduction of the marriage penalty. Because these provisions affect more Americans, their enactment will have broader support than will a permanent reduction of the estate tax.

In short, estate planning attorneys and their clients should start planning for the possible return of a lower estate tax exclusion amount.

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