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## Approaching deadline puts bigger emphasis on giving



AARON HOUSTON

Richard Jon Contant, of Archer & Greiner, tells his clients not to expect lawmakers 'will do what you believe makes economic and tax sense.'

**BY BETH FITZGERALD**

An unprecedented estate and gift tax window closes Dec. 31, when the record \$5.12 million exemption will plummet to \$1 million if Congress does nothing. Tax experts are working with business owners who want to give all or part of their company to their children before the window closes, and affluent individuals making generous gifts before the new year.

Attorney **Richard Jon Contant**, of Hackensack's **Archer & Greiner**, said individuals who can't quite afford to part with \$5.12 million — \$10.24 million for married couples — can set up trusts that allow them to receive income from the trust's assets and still take advantage of the record estate and gift tax exemption. Or they can put their home in a trust, continue to live there, and get the tax exemption while removing the future appreciation in the value of the house from their estate.

Contant said the impending Dec. 31 deadline is inspiring clients to take action.

"They are thinking, 'What happens if 2013 comes and we go back to \$1 million?'" he said.

This flurry of year-end beneficence could prove needless, should Congress decide not to slash the exemption to \$1 million — some Beltway watchers predict a compromise will be struck at around \$3 million. Contant, though, is

warning his clients to expect the worst: "Don't assume that (Washington) will do what you believe makes economic and tax sense."

Florham Park-based **Gregory Khost**, a managing director of U.S. Trust — the wealth management unit of **Bank of America** — said the volume of conversations he's having with high-net-worth clients has turned up significantly, and the firm's New Jersey-based wealth strategists are explaining options that include a half-dozen kinds of trusts.

"Tax law changes are never a certainty, and to plan for something that you don't know is truly going to happen or not is difficult," Khost said. It's tough developing a general strategy for clients: Some are determined to minimize their taxes; others are less tax-averse; others don't think their children are ready for a large gift, regardless of the tax advantages. "This goes hand in hand with next-generation education — there is logic and emotion, and issues of control, taxes and family dynamics," he said.

**McCarter & English** attorney **David Ludgin** said about 100 of his clients are considering asset transfers prior to the end of the year.

"The problem is that this type of planning flies in the face of many families' efforts to think for the long term," he said.

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AARON HOUSTON

Contant advises his clients to have a plan, but Congress could compromise on a more generous cut to the gift exemption.

## GIFTS

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Owners of private businesses may want to take advantage of the tax exemption, but they don't want to lose control of their business. "Many business owners have come to realize that they should take advantage of this gift-giving opportunity, but at the same time, they are reluctant to give up voting control — whether it is to their children or other shareholders," Ludgin said.

So the planning strategy often involves rearranging the business structure.

"For example, a company issues non-voting stock, and then the business owners give away some of the non-voting stock," he said. "The real key is to keep control, and the control is in the voting stock."

A valuation of the business usually must be done prior to the transfer. **Mark E. Lingerfield** is senior vice president of Princeton-based **Management Planning Inc.**, a national valuation firm. Lingerfield said his firm's activity was up 25 percent in August compared to last year — and September was up 80 percent.

When valuing a company so the owner can give away stock, "we get financial information, spend time with the client, learn about the business and crunch the numbers," Lingerfield said. "And then we write an appraisal, a detailed report that

may be 60 or 70 pages in length with 20 or 30 tables, that could ultimately wind up on the desk of the IRS. A lot of these gift trans-

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Gregory Khost  
U.S. Trust

actions are subject to review by the IRS."

Lingerfield said the company's valuation professionals are working 12-hour days and weekends to get the reports done. "If the work flows at this unbelievable rate through the end of the year, at some point we may have to reel it in — but at this point, we are confident we can get these transactions done by the end of the year," he said.

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