



SPRING 2010 NEWSLETTER

FDIC Extends Its Increased Insurance Coverage Through 2013

The Federal Deposit Insurance Corporation (FDIC) is an independent agency of the federal government that provides insurance coverage for funds held at participating financial institutions.

You may recall that the basic limit on FDIC coverage was previously \$100,000 per depositor and that, based at least in part on the recent financial crisis, the basic limit on FDIC coverage was increased from \$100,000 to \$250,000 per depositor in October of 2008. This increased coverage was set to expire on December 31, 2009.

On May 20, 2009, President Obama signed the Helping Families Save Their Homes Act (HFSTHA), which extends the increased FDIC coverage of \$250,000 per depositor through December 31, 2013. However, even at these increased insurance levels, it is important to know whether your accounts are FDIC insured and to monitor the value of your accounts and the FDIC limits.

For additional information on the FDIC and some detailed examples of the FDIC coverage limits, please refer to the article "The FDIC and Your Estate Plan" in our Spring 2009 Newsletter (available at www.stoverlawcolorado.com).

Jennifer Spitz Selected for National Honor

We are pleased to announce that Jennifer M. Spitz was recently elected to membership in the **American College of Trust and Estate Counsel (ACTEC)**.

There are fewer than 60 ACTEC "Fellows" in Colorado. Tom Stover has been a member of ACTEC since 1998. Stover & Spitz LLC is one of only a handful of Colorado law firms with more than one ACTEC attorney. Tom and Jennifer are the only ACTEC Fellows in Longmont.

Membership in ACTEC is highly selective. Prospective ACTEC Fellows may not apply for membership, but must be nominated by a member (outside their firm). To be selected for membership, the nominee must have an outstanding statewide reputation and demonstrate exceptional skill in probate, trust and estate planning law. Further, the nominee must have made significant contributions to the field of trust and estate law by lecturing, writing, teaching and participating in bar association activities. Jennifer is one of the youngest attorneys ever elected to membership in the State of Colorado, having reached this significant landmark in her career after only 12 years of practice.

ACTEC is a nonprofit association of lawyers and law professors skilled and experienced in the preparation of wills and trusts; estate planning; probate procedure and administration of trusts and estates of decedents, minors and incapacitated persons. Its 2,600 members are called "Fellows" and practice throughout the United States, Canada and other foreign countries. It is their aim to improve and reform probate, trust and tax laws, procedures, and professional responsibility.

Jennifer's election to ACTEC exemplifies our firm's commitment to excellence and the highest standard of achievement in the practice of law and service to our clients.

Five Facts About the Gift Tax:

1. The gift tax remains in effect for the year 2010 and beyond. In contrast, the estate and generation-skipping transfer (GST) tax have been repealed for the year 2010.
2. The annual gift tax exclusion amount for the year 2010 is \$13,000 per donee.
3. The lifetime gift tax exemption amount is \$1,000,000. It has been this amount since 2002 and is not scheduled to change. Gifts in excess of (or that do not qualify for) the annual exclusion utilize some gift tax exemption.
4. The gift tax rate for the year 2010 is 35%.
5. Only certain gifts to trusts qualify for the gift tax annual exclusion.

Status of the Estate Tax

We are several months into the year 2010 and the federal estate tax remains repealed. The federal estate tax is repealed, for one year only, beginning January 1, 2010. If Congress does not take action, the estate tax will return in 2011, at which time the estate tax exemption will be \$1,000,000. This figure is a substantial drop from the \$3,500,000 estate tax exemption that was available in 2009. The greater the exemption, the greater the amount of wealth that can be transferred free of estate tax at death.

Congress could change the estate tax laws sometime in 2010, but they have not done so yet. Therefore, there is a very real possibility that we will see reinstatement of the estate tax on January 1, 2011, with a \$1,000,000 exemption amount. With an exemption amount at this level, many people who did not previously have taxable estates would be subject to estate tax. It is common to reach this \$1,000,000 threshold when a house, retirement plan and life insurance are factored in.

In the meantime, the gift tax remains in effect during 2010 and beyond, with an exemption amount of \$1,000,000. The gift tax exemption is tied to the estate tax exemption, so that any gift tax exemption amount used during life reduces the amount of estate tax exemption available at death.

We discussed the repeal of the estate tax at length in our January 2010 Special Newsletter—"Estate Tax Repeal (for now)." That newsletter is available on our website at:

www.stoverlawcolorado.com

We have been planning in light of the uncertain future of the estate tax for many years. We are available to advise you with regard to your particular planning needs during this continued time of uncertainty.

★ ★ ROLL CALL ★ ★

Tom Stover was the only Longmont attorney selected to be included in the Colorado Super Lawyers 2010 publication. This publication lists the top 5% of Colorado attorneys in over 70 practice areas. This is his fifth year of being selected for the Colorado Super Lawyers list. The list of selected attorneys is published in 5280 Magazine as well as in a Colorado Super Lawyers special publication.

Tom has two teaching engagements through CLE in Colorado, Inc. in April. He will join a panel of tax professionals for a program entitled, "Impact of the Temporary Estate Tax 'Repeal': What Do We Do Now?" and also present a paper entitled "Introduction to the Marital Deduction: Planning to Minimize Estate Taxes" as part of a Basic Estate Planning Program.

Tom is looking forward to a May trip to Tucson for his son's graduation from The University of Arizona. Bobby will graduate summa cum laude with a Bachelor of Science degree in Materials Science Engineering.

Jennifer Spitz continues to be an active member of the Trust and Estate Section of the Colorado Bar Association. She has been nominated to serve as the Section's Vice-Chair for the 2009-2010 year.

David Brantz was recently nominated to the Board of Trustees for The Community Foundation for Boulder County, a charitable organization whose mission is to improve the quality of life in Boulder County by strengthening our culture of giving. David also continues to be a regular participant in the Colorado Bar Association's Trust and Estates Section Subcommittees on Statutory Revisions and Orange Book Forms. David is also an active member of the inaugural Boulder County Leadership Fellows Program.

Homebuyer Tax Credits Extended

On November 6, 2009, President Obama signed the Worker, Homeownership, and Business Assistance Act of 2009 (the "Act") into law.

In general, the Act extends the first-time homebuyer tax credit (of up to \$8,000) and allows some existing homeowners to receive a credit (of up to \$6,500) for the purchase of a new home. Among other requirements, in order for existing homeowners to qualify for the homebuyer tax credit:

- The existing homeowners must have owned and lived in their existing residence for 5 consecutive years out of the last 8 years;
- The existing homeowners' joint modified adjusted gross income must be less than \$225,000 (or \$125,000 for a single taxpayer);
- The new home must be purchased after November 6, 2009, and on or before April 30, 2010 (or have a binding sales contract signed by April 30, 2010, with the purchase completed by June 30, 2010); and
- The new home must be purchased for \$800,000 or less.

Stover & Spitz LLC can assist in buying and selling of all types of Colorado real estate (whether residential, agricultural, or commercial). For buyers, our services can include ensuring that you take clear title to the real property and assisting with the determination of your eligibility for the homebuyer tax credit. For sellers, our services can include a review of draft Listing Agreements and Purchase Contracts to help limit your liability and facilitate an efficient and timely sale. We can be of far greater assistance if we review these documents before they are signed. Please contact our office if you have any questions about the buying and selling of Colorado real estate.

Do It Yourself Legal Work?

America is a nation of self-reliant, hardworking and independent people. Most of us have, or have been tempted to, undertake a complicated job (without much training) to save the expense of hiring a professional. Witness the success of companies like Home Depot and Intuit (maker of TurboTax).

Several new companies have sprung up in recent years offering do it yourself online legal documents. Should you bite? The problem is that we don't know what we don't know. This is a problem even for experienced attorneys and other professionals who undertake representation of clients in areas where they lack experience. A popular radio ad for one of these companies is recommending do it yourself incorporation to protect against potential liabilities for the business owner. This is good advice as far as it goes, but this ad fails to take into account that incorporation is only one option to provide limited liability, and often not the best option. In fact, incorporation of the wrong type of business or failure to make appropriate (and timely) tax elections for the entity may lead to unanticipated tax liabilities down the road.

Homemade Will

In 2007, the U.S. Court of Appeals for the Ninth Circuit finally upheld the allowance of an unlimited marital deduction clause (for estate tax purposes) in a homemade will drafted by the decedent prior to his death in 1995. While the will finally passed muster (avoiding approximately \$1,000,000 in estate taxes and penalties) it took 12 years of litigation by the surviving spouse, including two trips to the Federal Court of Appeals. The drafting "error" was very basic and almost certainly would not have been made by a competent estate planning attorney.

The message, to quote an old saw, may be "Do what you do best, and hire the rest."