

In this issue

*2010 Tax Changes Affecting Estate Taxes and Carryover Basis*

Page 1

*Steeler Nation Represented at Firm*  
Page 2

*Firm Holds Its Third Annual Toy Drive*  
Page 2

*Rothman Gordon a Sponsor of the Association for Corporate Growth's Annual Conference*  
Page 3

*In the News...*  
Page 3

*New Faces*  
Page 4



Rothman Gordon, P.C.  
Attorneys At Law  
310 Grant Street  
Third Floor, Grant Building  
Pittsburgh, PA 15219  
(phone) 412.338.1100  
(fax) 412.281.7304  
www.rothmangordon.com

© 2011 Rothman Gordon, P.C.  
The contents of this newsletter are intended for general information purposes only, and should not be relied upon as a substitute for obtaining legal advice applicable to your situation.

## 2010 Tax Changes Affecting Estate Taxes and Carryover Basis

By R. Douglas DeNardo, Esq.

With the enactment of the "Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010" (TRA 2010) on December 17, 2010, we wanted to bring to your attention some aspects of this law which may affect the estate of someone dying in 2010.

Through the end of 2009, if a person died with assets totaling more than \$3.5 million, the executor of the estate was required to file a federal estate tax return and pay estate tax at a rate of 45% on the net value of the estate (i.e. gross estate less allowable deductions) in excess of \$3.5 million. Also through the end of 2009, all assets that passed by reason of a decedent's death received a step-up in the basis of the assets to the full fair market value as of the date of death. In other words, the basis in an asset became the date of death value, not the basis the asset carried when the decedent was alive.

As you are aware, in 2010 the federal estate tax was repealed in its entirety. No estates, regardless of size, were required to file a federal estate tax return. Unfortunately, the benefits of the full step-up in basis were also repealed. An executor, however, could file a "modified carryover basis report" (currently draft Form 8939) with the decedent's final income tax return and receive a partial step-up in basis.

The modified carryover basis rules allowed for assets passing directly to a surviving spouse or into a "QTIP" trust for the benefit of the surviving spouse to be increased by up to \$3,000,000 (but not more than the date of death fair market value of the property). For assets passing to non-spousal beneficiaries, the increase was limited to an aggregate of \$1.3 million (but again, not more than date of death fair market value).

TRA 2010, however, retroactively reinstates the federal estate tax for any decedent dying in 2010. The tax is applied with an increase in the applicable credit amount to \$5 million and a reduced maximum tax rate of 35% on the net value of the estate in excess

*Continued on page 2*

of \$5 million. In addition, the full step-up in basis rules are reinstated.

Because there is a conflict between the prior law and the reinstatement under TRA 2010, the executor of an estate of a decedent dying in 2010 is given the option to elect out of the federal estate tax (applied at the aforementioned \$5 million credit amount and 35% maximum rate with full step up in basis) and choose to have no federal estate tax apply and use the modified carryover basis rules.

Therefore, the personal representative must decide whether it is more advantageous for the estate and its beneficiaries to proceed under the old rules or under TRA 2010. Many factors will enter into this decision, including the value of the estate, the relative basis of estate assets before a decedent's death, and the amount of federal estate tax that would be paid.

From a timing perspective, the federal estate tax return is normally due nine calendar months after the date of death. The executor of the estate of a decedent dying between January 1, 2010 and December 17, 2010 has until September 19, 2011 to make these decisions. In other words, Congress has given the personal representative nine months from the date of passage of TRA 2010 (December 17, 2010), to determine the appropriate course of action.

This is a complicated topic and we believe it would be appropriate to review the administration of the estate to determine if any action should be taken. Please contact me or your Rothman Gordon attorney for more information.



*Douglas DeNardo is the Chairman of the Estates, Trusts & Taxation Department. He represents individuals and businesses, working with them to develop strategies to meet their wealth transfer goals.*

We are required by Treasury Regulations to advise that this writing is not intended as a reliance opinion and cannot be used for purposes of avoiding IRS penalties.

## Steeler Nation Represented at Firm

Rothman Gordon showed its true colors - black and gold - the Friday before the Super Bowl. Attorneys and staff sported Steeler colors and enjoyed a true Pittsburgh lunch with Primanti sandwiches, pierogies from Pierogies Plus, Klondikes and Clark Bars. The firm also gave a two hour delay for Monday to accommodate parents and parties alike. Although the Steelers lost, we are proud of our team and our city and are already looking forward to next year. GO STEELERS!



The Workers' Compensation Department gets Steeler fever.

## Firm Holds Its Third Annual Toy Drive

Rothman Gordon held its annual toy drive in December, benefiting The Bradley Center. The Bradley Center is an accredited, regional behavioral healthcare and child welfare system that provides hope to young girls and boys. Bradley is committed to advocacy for children and dedicated to the restoration of productive relationships among children, their families and the community whenever possible.

The children provided a tree tag with their "wish list" which was placed on the Christmas tree in the firm's reception area. Any employee who wanted to participate took a tag and placed the gift under the tree. We are proud to report nearly 40 gifts were secured and delivered to brighten the holidays for these children.

# ACG Pittsburgh

## Rothman Gordon a Sponsor of the Association for Corporate Growth's Annual Conference

On March 30-31, 2011, executives from across the region will gather at PNC Park for an extraordinary two-day conference designed to promote deal flow, encourage new connections and reveal the latest developments in the world of corporate growth and finance.

The ACG Pittsburgh Chapter Corporate Growth Conference is among the region's foremost destinations for senior-level executives and prominent players in the fields of mergers, acquisitions, joint ventures, business and finance. A collaborative effort of ACG Pittsburgh and over two dozen influential organizations, this two-day event features exceptional networking opportunities, informative panels, renowned speakers and high-profile awards, designed to get the anticipated audience of more than 300 up-to-date on the dynamics that are impacting the business growth climate here in Western Pennsylvania and across the country, including a look at investment and finance trends, up-and-coming industries and today's most promising corporate expansion and exit strategies. This is a must-see conference for anyone interested in discovering potential new opportunities, facilitating deal flow, establishing valuable connections with other movers and shakers and getting a 360° view of the ever-changing corporate growth landscape.

For more information, visit [www.acg.org/pittsburgh](http://www.acg.org/pittsburgh) or check out their Facebook page. A link is also provided from the Rothman Gordon website.

## In the News...

### Bernie Puzzuole Elected Chair of the Pittsburgh Airport Area Chamber

Bernadette Puzzuole was elected Chair of the Board of Directors of the Pittsburgh Airport Area Chamber of Commerce (PAACC), the first woman to serve in that position. She assumes the position from Sean Henderson of Kelly Services, who will become Chair Emeritus. PAACC has over 1000 members, representing 31 municipalities in western Pennsylvania, eastern Ohio and northern West Virginia.



Sean Henderson of Kelly Services, Bernie Puzzuole and Sally Haas, President of the Pittsburgh Airport Area Chamber of Commerce at the Annual Celebration of Excellence.

### Rothman Gordon Attorneys Collaborate with the Pennsylvania Bar Institute for 2011

The Pennsylvania Bar Institute has released its 2011 schedule and Rothman Gordon is participating in a variety of seminars.

Ron Backer will present on landlord-tenant issues at *A Day on Real Estate* on March 23.

Louis Kushner is a member of the Institute Planning Team for the *17th Annual Employment Law Institute* held in Philadelphia on April 27-28.

Sam Douglass is presenting at the *3rd Annual Oil and Gas Law Colloquium* on September 21.

For more information, visit [www.pbi.org](http://www.pbi.org).

# New Faces



Linda Hieber joined the firm as a Legal Assistant. She will be assisting our attorneys in all practice areas of law. Linda has 21 years of experience in the legal field including litigation, corporate, bankruptcy, and real estate.

Linda resides in the North Hills. In her free time, her hobbies include music, art, calligraphy, and architectural renderings.



Missy Carr-Dudas is our new receptionist. She lives in Munhall with her husband Keith and her 2 girls, Anna who is 5 and Danica who is 21 months. Missy loves to play golf and enjoys being with her girls.

ROTHMAN GORDON: JUST RIGHT

Rothman Gordon P.C.  
310 Grant Street  
Third Floor, Grant Building  
Pittsburgh, PA 15219

