Minnesota Legislature Imposes Gift Tax
By Kevin Lanigan, Carlson Estate Planning

In the last hours of the 2013 legislative session, the Minnesota legislature quietly passed legislation imposing a gift tax of 10% on all gifts made in excess of the federal gift tax annual exclusion amount (currently $14,000). The new law also provides an exclusion from the gift tax on the first $1 million of taxable gifts.

The new law goes into effect for gifts made after June 30, 2013.

The new law also requires that taxable gifts made within three years of the gift-maker's date of death must be added back to the estate and will be treated as if the gifts were never made for estate tax purposes. This provision effectively ends the use of death bed gifts that existed under prior law for limiting or avoiding the Minnesota estate taxes.

The new law also changes how real property or tangible personal property, located in Minnesota in a pass-through entity (LLC, Partnership, or S-Corporation), are taxed.

While non-resident tax payers could previously escape Minnesota estate tax on such property if held by an entity, the new law will now disregard the entity for tax purposes and the property will be subject to a Minnesota estate tax.

Nonresident individuals, who have presently set up such entities to avoid the Minnesota estate taxes, may want to review whether such arrangements are still appropriate.