

Partner Joshua Rubenstein Appears in Media Discussing Estate Tax

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Joshua Rubenstein, National Chair of the firm's Trusts and Estates Practice, appeared on several television news programs and was quoted in the *Wall Street Journal* and dozens of other newspapers and periodicals around the globe discussing the end of the federal estate tax on December 31, 2009. Congress allowed the former estate tax, a rate of 45% on estates of more than $3.5 million, to expire at the end of the year, which raised some difficult questions for the families of wealthy individuals on or considering life support.

In an interview with WPIX-New York television, Mr. Rubenstein says, “It puts us in an awful position, a very complicated position. Because on the one hand, as lawyers, we have to give them the legal advice. And the legal advice is that there's a financial difference from Thursday to Friday. But on the other hand, I think as counselors, advisors, you have to tell them that taxes aren't everything, that taxes can't be the tail that wags the dog.” (December 30, 2009)

“I have two clients on life support, and the families are struggling with whether to continue heroic measures for a few more days,” Mr. Rubenstein says in the Wall Street Journal. “Do they want to live for the rest of their lives having made serious medical decisions based on estate-tax law?” (“Rich Cling to Life to Beat Tax Man,” December 30, 2009)

In a Fox Business interview, Mr. Rubenstein goes on to say, “It's foolish and macabre, and I hope nobody actually made a health care decision based on taxes, but yes, it's absolutely happening.” He says that while there is no federal estate tax now, there are still state-level estate taxes, and that those who have $3.5 million or less will for the first time have to pay capital gains taxes after someone's death. However, the estate tax is set to return in 2011. “If Congress sits on its hands this year the way they did the last eight years, in 2011, the 55% estate tax comes back, but the $3.5 million exemption drops back down to $1 million. Congress just has to act,” he says. (January 4, 2010)

Assuming the estate tax does return in 2011, families will face a new set of questions. As Mr. Rubenstein explains in a television interview with Bloomberg, “Congress has left us with a bizarre incentive to consider euthanizing people, which, on the one hand I think you'd be remiss if you didn't point out the tax benefits, but on the other hand I think that taxes can't drive this sort of personal decision.” (December 31, 2009)

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