Abbott, Stringham & Lynch
Certified Public Accountants and Business Advisors

FOR IMMEDIATE RELEASE

Contact
Colette Gonsalves
Marketing Coordinator
Abbott, Stringham & Lynch
cgonsalves@aslcpa.com
408-377-8700

Using Trusts to Take Advantage of Expiring Estate & Gift Tax Rates

San Jose, Calif. – November 1, 2012 – According to CPA Bill Melton of Abbott, Stringham & Lynch, a Silicon Valley accounting firm, the most generous estate and gift tax provisions we have ever seen are set to expire at the end of December. Melton explains that, while transferring assets directly to the recipient without restrictions may be the quickest and least costly in terms of legal or accounting fees and appropriate for some circumstances, "in the case of very large sums, gifts to minor children, or adults with special needs, transferring your assets into trusts may be the best tax strategy as well as a more appropriate alternative to direct gifting."

Melton says that the estate and gift tax exemption is currently $5.12 million—if you have taxable gifts and inheritances in excess of this amount, you will likely be taxed at the current marginal rate of 35%. Without new legislation, on January 1, 2013, the exemption will drop down to $1 million and you will likely be taxed at a rate of 55%. "Though only time will tell, with elections, budget deficits and other economic uncertainty in play, it seems unlikely that the current exemption and tax rate will be extended," says Melton.

Melton explains some of the options:

Consider gifting to minor children now. Rather than let this historic planning opportunity pass you by because the children are minors, consider setting up a trust for them now. A trust for minor children can be structured to distribute assets to the child outright upon reaching a pre-determined age or to retain assets in trust throughout the child's lifetime and beyond.

Consider dynasty trusts for very large gifts. In California, the duration of a trust is limited to the lifespan of someone who is living at the time the trust is created, plus 21 years. However, in some states a trust may remain in existence essentially forever, benefitting many future generations. Such trusts are known as "Dynasty" trusts, and require appointing a trustee in the applicable state of jurisdiction. Approximately twenty-nine states currently permit perpetual or very long-term trusts. You do not need to reside in one of these states to set up a trust there. Because of the costs involved, Dynasty trusts make the most sense for very large gifts.

Consider a special-needs trust for gifting to a disabled person. A special-needs trust is established to preserve assets without disqualifying the beneficiary from eligibility for public benefits, such as Supplemental Security Income (SSI) and Medicaid (Medi-Cal in California). Some community services may be accessed only by persons eligible for Medicaid; therefore, preserving eligibility is important even when the person's family otherwise has ample means to pay for services.

"If you can envision an asset transfer scenario, there is probably a trust for it," says Melton. "A good estate planning attorney can reflect your intentions in a carefully-drafted trust agreement." If you do not currently have an estate planning attorney, Melton suggests consulting with your CPA, who can refer you to one.

About Abbott, Stringham & Lynch (ASL)

Abbott, Stringham & Lynch (ASL), founded in 1977, is one of the leading local CPA firms in the Silicon Valley. ASL provides emerging and mid-market private companies and their executives with accounting and audit, tax, estate and wealth planning, and consulting services. ASL's clients include construction, technology, and real estate businesses among others. ASL is a member of PKF North America, a network of independent CPA firms.

###