SCHLOSSBERG LLC

35 BRAINTREE HILL OFFICE PARK, SUITE 204
BRAINTREE, MA 02184
PHONE: (781) 848-5028

SNIPPETS

AN ESTATE PLANNING AND FINANCIAL PLANNING NEWSLETTER

SPECIAL EDITION - ESTATE TAX ALERT

DON'T LET THE 2012 GIFTING EXCLUSION OF $5.12 MILLION PASS YOU BY!!!

As many of you know, 2011 and 2012 have been historic years in terms of generational wealth transfers. Many of our clients have already taken the unprecedented opportunity to utilize their $5.12 million Federal estate and gift tax exemption ($10.24 million for married couples) to transfer considerable wealth to the next generation. It has never been this high. But time is running out. Under current law, if Congress does not act by the end of this year, the estate and gift tax exemption will decrease to $1 million on January 1, 2013. With the election looming, few believe that Congress will take any action prior to the new year. Further, most experts contend that even when Congress does address the estate and gift tax, they are likely to keep the ***gift*** tax exemption at $1 million and eliminate some very favorable estate planning techniques, meaning lifetime gifting opportunities will be substantially curtailed for the foreseeable future.

Consider the impact on estate planning for the rest of this year:

- Every American has a $5.12 million exemption in 2012, so a married couple can transfer up to $10.24 million out of their estates.

- You don’t have to die in 2012 to use this exemption. It can be used to make gifts and transfers now, while you are living.

- Transfers do not have to be made in cash or liquid assets. Illiquid assets, like a business, home or other real estate can be transferred to a trust. If you transfer your home, you can continue to live there and take the tax deductions. If you transfer your business, you can do it in such a way that you can keep control and receive the income. Future appreciation of these assets will not be subject to estate tax, and current depressed values will result in favorable valuations.

- The full $5.12 million exemption does not have to be used in order to benefit. Those with $1 million to $5 million in assets can save substantial amounts. And those with less than $1 million should consider some planning to prevent future tax liability.

In light of the opportunities available for the rest of 2012, we are implementing creative strategies to provide flexibility in meeting clients' objectives. There are proven estate planning techniques available now that may soon be eliminated as Congress looks for more ways to raise revenues. Here are a few popular strategies that several of our clients are now implementing:

Spousal Lifetime Access Trust (SLAT)

Many individuals may not be comfortable giving away such large amounts of wealth. A "Spousal Lifetime Access Trust" (SLAT) may provide an acceptable middle ground. A SLAT allows an individual to treat his or her spouse as an outside beneficiary so that assets can be removed from one's estate, and grow outside of one's estate, with a spouse retaining the right to access the trust (income or principal) if needed without causing a taxable event. SLATs can be structured to provide asset protection from lawsuits and creditor problems that may arise from you, your spouse and/or children. If appropriate, we recommend that each spouse create a separate SLAT for the benefit of the other spouse, so each spouse is protected.

Intentionally Defective Grantor Trust (IDGT)

An IDGT is yet another tool used to reduce one's estate for tax purposes. Again, it is created as a trust with an intentional flaw that guarantees that you will continue to pay income taxes on the income generated in the trust which allows you to further reduce your taxable estate. Income tax laws do not recognize that assets have been transferred away from the individual but for estate tax purposes the assets have been removed from the estate. This is a loophole in the current tax law that may soon be closing.

Family Limited Partnerships (FLP)

This solution allows senior family members to begin the generational transfer of assets using a limited partnership. This effectively shelters such assets from the federal estate tax, while still retaining control by the senior partners over the distributions of the investments during their lifetimes. Transfers of limited partnership interests to the heirs are eligible for the annual gift tax exclusion, which reduces the income, gift and estate tax impact. In addition, the senior family members can usually amend the agreement as family circumstances change, providing a desirable level of flexibility.

Generation-Skipping Trust (GST) for Grandchildren

The primary benefit of GSTs is the fact that the assets are not subject to two estate tax assessments; one when the grandparents die, and again when the parents die. In cases where the children are financially secure or need to be financially protected (i.e. divorce), it can make sense to establish a GST for the grandchildren. An important benefit of the GST is the creditor protection it affords to the heirs. Even if the first generation children are given access to the income generated (and limited principal) from the GST, since they do not own the assets directly, they therefore cannot lose them in a legal action. This allows families to securely pass on wealth to the grandchildren while avoiding double-tax penalties.

There is still time left! The clock is ticking. Appraisers are in demand. Planning needs to take place now, so it is important to start the process immediately. Those who do not take advantage may regret it in the years to come. If you have not yet contemplated the opportunities available to you, please call us to set up a time to discuss.