

2010 Year-End Estate Planning Opportunities

As 2010 draws to a close, we want to highlight several planning opportunities that might have a very short shelf life remaining and that should be of interest to many of our clients. While we have discussed many of these ideas in prior client communications, now may be the final opportunity to consider these strategies. Below are estate planning strategies you should implement now to save your family considerable wealth transfer taxes. To hear a replay of our webinar on these strategies, please click [here](#).

Taxable Gifts

As we highlighted in our Fall 2010 Newsletter, as a result of Congress' failure to address the federal estate and generation-skipping transfer tax prior to January 1, 2010, the federal gift tax rate for 2010 is 35%, a significant reduction from the 45% rate that was in effect in 2009 and from the 55% rate that is slated to apply beginning in 2011 in the absence of further legislation. The significantly reduced gift tax rate, coupled with the 2010 repeal of the generation-skipping transfer tax (also slated to be reinstated at a rate of fifty-five (55%) percent beginning in 2011), makes gifting to grandchildren and more remote descendants prior to year-end even more attractive and should be given proper consideration (click [here](#) to read more about the benefits of making taxable gifts).

Trust Distributions

In the event that you are a trustee of a trust that is not exempt from generation-skipping transfer tax and that includes grandchildren and more remote descendants of the trust creator as discretionary beneficiaries, a once in a lifetime opportunity may be available before year-end that can ultimately save a significant amount of tax. In particular, trustees of these trusts should consider making outright distributions before year-end to take full advantage of the current generation-skipping transfer tax repeal. Of course, such distributions may not be appropriate if the grandchildren are minors. In addition, since there still exists a possibility of retroactive legislation, such distributions should only be effected after proper consultation with your estate planning attorney.

GRATs

As discussed in our June 2010 Client Alert, the usefulness of GRATs as a method of transferring significant wealth to the next generation at a reduced transfer tax cost may be coming to an end. Both the Obama administration and the House of Representatives have targeted this estate planning technique for virtual extinction by proposing significant changes to the law which would adversely affect their utility. Although there is no certainty that the proposed changes will be enacted, those who have an interest in creating these trusts should act quickly to ensure their effectiveness (click [here](#) to read more about the usefulness of GRATs and the potential changes that may negate their utility).

Roth IRA Conversions

For the remainder of the year, all traditional IRA holders, regardless of their adjusted gross income, may convert their traditional IRAs into Roth IRAs, and thereby benefit from the tax-free growth of the IRA after the conversion, as well as the absence of mandatory distribution requirements after age 70. In addition, a special rule allows you to elect to defer paying federal income tax on the conversion income until 2011

and 2012 (at the income tax rates that are in effect at such time). Given, however, that many expect tax rates to rise in the coming years now may be an ideal time to consider whether to convert to a Roth IRA.

Low Interest Rate Family Loans

Given the historical low IRS promulgated Applicable Federal Rates, taxpayers can make loans to family members (or preferably trusts) and shift considerable wealth to the younger generations. For example, a client can lend a trust for his children's benefit \$10 million dollars at .35% for up to three years or 1.59% for up to 9 years (these rates get adjusted monthly). If the proceeds of the loan get invested and earn 6% per year, the excess over the loan interest rate will escape transfer taxation entirely. Best of all, this technique does not require complicated legal structuring to implement.

As always, we encourage you to contact any one of the attorneys listed below to discuss one or more of the opportunities outlined above.

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Gideon Rothschild
Co-Chair
212.554.7806
grothschild@mosessinger.com

Irving Sitnick
Co-Chair
212.554.7821
isitnick@mosessinger.com

Lori Anne Douglass
212.554.7803
ldouglass@mosessinger.com

Daniel S. Rubin
212.554.7899
drubin@mosessinger.com

Arthur M. Schneck
212.554.7825
aschneck@mosessinger.com

Alvin H. Schulman
212.554.7888
aschulman@mosessinger.com

Ira W. Zlotnick
212.554.7870
izlotnick@mosessinger.com

Kerrie C. Horrocks
212.554.7827
khorrocks@mosessinger.com

Vanessa L. Kanaga
212.554.7859
vkanaga@mosessinger.com

Alan H. Kupferberg
212.554.7805
akupferberg@mosessinger.com

Jenna R. Millman
212.554.7877
jmillman@mosessinger.com

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The Chrysler Building
405 Lexington Avenue
New York, NY 10174-1299
Tel: 212.554.7800 Fax: 212.554.7700

2200 Fletcher Avenue
Fort Lee, NJ 07024
Tel: 201.363.1210 Fax: 201.363.9210
Abraham Y. Skoff, Esq.
Managing Attorney for New Jersey



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