

PUBLICATION

Unprecedented Transfer Tax Planning Opportunity

March 19, 2012

The current gift tax law, coupled with historically low interest rates, creates a unique opportunity to shift substantial wealth to younger generations. This opportunity is unprecedented and presents compelling reasons to engage in transfer tax planning before the end of 2012.

Estate and Gift Tax Law

Under current law every person has available an exemption from the gift tax of \$5,120,000 for 2012 (assuming no prior taxable gifts have been made). Unless Congress and the President take remedial legislative action, on January 1, 2013 the gift tax exemption will decrease to \$1,000,000 and the tax rate will increase. To compound matters, future legislation on the Obama Administration's wish list could remove several of the most efficient tax planning techniques. Thus, 2012 represents an unprecedented possible "last chance" opportunity to engage in estate planning techniques or make outright gifts with the \$5,120,000 exemption. Utilization of the current gift exemption can shift substantial wealth to younger generations, thereby ultimately reducing the estate tax burden on the transferees. Because we cannot predict the future of the tax law, it is advisable that clients concerned with their estate tax exposure consider discussing planning options with an estate planning advisor. Many options are available for utilization of the exemption.

Interest Rates

The IRS announces monthly interest rates that are utilized for various purposes. Currently, these interest rates are at historical lows. Lower interest rates make several planning techniques more favorable. Such rates are used in the estate planning context with popular techniques such as intra-family loans, installment sales to grantor trusts, Grantor Retained Annuity Trusts, and Charitable Lead Annuity Trusts. The low interest rates make these techniques particularly attractive as a means to transfer substantial assets with minimal or zero gift tax consequences.

Conclusion

The combination of the gift tax law in 2012, the low interest rates, and an economic environment where the values of many assets are depressed, create what may be the perfect storm to engage in techniques that will ease the transfer tax burden on one's heirs. For many clients, proper planning now may address all of the transfer tax planning they will ever need. With possible legislative changes on the horizon and interest rates eventually increasing, now may be the last opportunity to transfer substantial wealth with little or no tax cost. Should you have any questions or wish to discuss your particular estate planning needs, please contact any of the attorneys in the Firm's Tax Department for more information.