

### **Opportunities might be closing soon – or be greatly reduced – for certain wealth transfer strategies**

*Improving market conditions and pending legislation could reduce effectiveness of existing strategies*

Asset valuations, low interest rates, and income tax law have created an ideal time for many people to transfer assets to lineal descendants and other younger loved ones. However, arguably the two most effective wealth transfer strategies, sales of assets to irrevocable grantor trusts (IGTs) and grantor retained annuity trusts (GRATs), might soon lose some of their appeal.

In essence, these two strategies freeze the value of, and return on, selected assets at today's prices and rates. More specifically, under current scenarios and conditions, the following can all accrue to the benefit of an individual's designated beneficiaries and escape estate taxation upon one's death:

- > The appreciation from today's value,
- > The future yield on the investment over today's interest rate,
- > The possible valuation adjustment on certain assets, and
- > Income taxes in the future resulting from ownership of the investment.

#### **What could change?**

- > **Asset valuations** – Many believe that asset values, in general, have hit bottom and are starting to rise. Additionally, the fear of a double-dip recession is greatly reduced. Last week, the National Bureau of Economic Research announced that the recession, which started in December 2007, officially ended in June 2009. Contrary to traditional business strategy of trying to “sell high,” you will instead want to “sell low” to loved ones if your goal is to minimize taxes and transfer wealth.
- > **Low interest rates** – Similarly, interest rates should rise with increased business activity, which should occur if the recession has ended. The rates that the Internal Revenue Service requires to be used on transactions such as sales to IGTs and GRATs are known as the “applicable federal rate” and the “7520 rate.” For October 2010, the required rate that must be charged for a note up to nine years is 1.71% and the 7520 rate is 2%. These rates are at historic lows. If your goal is to transfer wealth, it is advantageous to use a low interest rate.
- > **Income tax law** – Legislation could reduce the benefit of these types of transactions. Many intra-family transfers involve the use of assets with values that can be adjusted due to lack of marketability and control. GRATs can be structured without making an upfront gift (known as a zeroed out GRAT) and can be for durations of as little as two years. Recently, legislation has been introduced that might prevent or reduce valuation adjustments for intra-family sales or transfers of business or non-business assets, require GRATs to have a minimum term of ten years, and prevent the use of zeroed out GRATs.

Most professionals also expect change with estate and gift tax law. Almost no one thought we would have no estate tax in 2010, which is the case unless there is new legislation with a retroactive effective date. Knowing that change is likely coming to estate and gift tax rates, exemption amounts, and to the generation skipping rules, it is wise to begin thinking about alternative strategies.

If you desire to maximize the transfer of your accumulated wealth to loved ones, this might be an extremely opportune time to take action. If the economy strengthens and asset values and interest rates rise, the cost of transferring assets in the future could have a much higher tax cost, thereby reducing what goes to your designated beneficiaries.

**For more information or any questions you might have on this topic, we encourage you to contact your Baker Tilly tax advisor or send an e-mail to [tax@bakertilly.com](mailto:tax@bakertilly.com).**