

ESTATE PLANNING – SOME SIMPLE STEPS

Most executives and professionals who have worked hard to build their financial fortunes would probably agree that the tax on their wealth they find most offensive is the estate tax. Though recently reformed and scheduled to be phased out, the estate tax may very well spring back to life if Congress cannot agree on making the present temporary repeal a permanent one.

Notwithstanding that this tax is widely regarded as confiscatory, as financial advisors we hear many excuses as to why even the simplest steps to reduce one's estate tax liability have not been implemented. Concerns about complexity, administration, the need for attorneys and trustees, have all proven impediments to taking prudent steps that will substantially reduce tax liability and provide for more assets to pass to one's heirs.

The simplest form of estate planning is to make a gift to your desired beneficiary. The gift may be made outright or in trust.

An individual may make a gift of \$13,000 per annum to any donee (\$26,000 if the donor is married and the spouse elects to join in the gift) without incurring gift tax or utilizing the donor's lifetime gift exemption. This annual amount will increase over time. In addition to this annual exclusion amount, each individual may make lifetime gifts in the amount of \$1 million.

An approach to gifting which has many advantages involves the creation of a trust for the benefit of one's heirs. A donor's spouse may or may not be a beneficiary of the trust. The purpose of this trust is to allow assets transferred to it to appreciate and ultimately pass (free of estate tax on all such appreciation) to future generations. The trust may be structured so that the grantor will continue to be deemed the owner of the assets for income tax purposes (though not for estate and gift tax purposes). Consequently if there should be income tax consequence relating to trust assets, the liability will be that of the grantor and will be paid by the grantor. This payment of tax, albeit related to trust assets, is not treated as an additional gift by the grantor. As such, trust assets may grow in a tax-free environment, thereby accelerating the effect of financial compounding.

A simple example will illustrate the substantial benefits of such a strategy. Assume \$1 million is contributed to a trust for the benefit of spouse and heirs; is invested in equities and appreciates at an 8% rate; and the donor survives for thirty years after making the gift. In such a case, approximately \$9 million of appreciation would escape estate tax, resulting in an additional approximately \$4.5 million passing to one's heirs.

In addition, the trust need not vest (and be taxed) in the generation immediately below that of the grantor. Instead the trust may vest in the grantor's grandchildren or even a later generation subject to the requirements of state laws. Such a "Dynasty Trust" adds substantial value by providing the flexibility to defer yet further into the future the date at which appreciated assets will be subject to taxation.

Finally, while not the principal topic of this piece, it should be noted that there are significant asset protection benefits that may accrue as a result of the use of this kind of trust planning. Structured correctly, assets may be effectively insulated, and heirs protected, from the future claims of creditors, divorced spouses and others.

There is no doubt that a gift program is a powerful tool in planning and protecting one's estate, and need not involve so much complexity as to become a daunting task. For those who have not considered these simple steps, and who have the means to prudently make such gifts, it is time to begin.

KLS Professional Advisors Group is a firm of wealth management experts committed to building effective long-term relationships based upon trust. We offer advice and counsel on every aspect of each client's financial affairs in pursuit of strategies designed to preserve and build their family's wealth. For further information about KLS, please contact Carlton B. Klapper, Managing Director, at (212) 355-0346, or e-mail us at gpangle@klsadvisors.com.