

## **“Happy Holidays From Your Atlanta Estate Plan Lawyers!” – How’s Your Estate Plan?**

The end of the year is always a good time to reassess where we are financially...

Plan for the future...

Correct past mistakes...

And, most importantly, change course if needed.

This year, a review of your estate plan is more vital than ever.

The resurrection of the federal estate tax and generation-skipping transfer tax (GST) in 2011, the increase in the estate and gift tax rates, and the lowering of the estate exemption to \$1 million make a review of your current estate plan more important than ever.

There are planning options available to adjust for these changes. Here are a few examples:

### **1. Gifts**

In 2010, you can give up to \$13,000 to any one person without paying gift tax and without touching your \$1 million lifetime gift exemption. Gifts that exceed those amounts will incur the gift tax at a rate of 35%. In 2011, that tax rate will increase to 55%.

An added bonus is that if you live more than three years from the date of the gift, the amount of the gift tax paid will not be included in your taxable estate. That makes lifetime gifting less expensive from a tax perspective than if you leave the same gifts to your beneficiaries in your will.

If that seems confusing, talk to your estate planning or tax attorney and ask them to clarify your options. The changes in the estate plan tax rates in 2011 can cost your beneficiaries a substantial portion of your estate. Not asking for advice is an unnecessary risk when knowing your options can protect you.

### **2. Intra-Family Loans**

Making formal loans to your family members may be a good planning option for you. We say formal loans because we’re not talking about just loaning money to your kids without a written, binding loan agreement. In order to benefit from the tax benefits of making intra-family loans, you need to have the right paperwork in

place. And that paperwork needs to include interest rates in keeping with the Applicable Federal Rates.

Your loan documents can provide for a balloon payment at the end of the loan term rather than requiring monthly or quarterly repayment. And if the loaned amount actually earns more interest than the amount of interest owed at the end of the term, the borrower will receive a tax free gift of the excess amount. You will, however, have to pay income tax on the amount of interest you receive.

### **3. Grantor Retained Annuity Trust (GRAT)**

The simplest way to explain the GRAT is that it involves making a gift to a trust in exchange for an annuity. If you survive the term of the annuity, any funds left in the GRAT after the annuity is paid can be distributed to your beneficiaries or you can have them held in the trust for their benefit.

The value of the remainder interest of the GRAT is a gift to the beneficiaries. The good news is that value of the remainder interest (for purposes of report to the IRS) can be set close to zero. That way no meaningful taxable gift is made. One way to do that is to use a short term GRAT. However, take note that there is currently legislation in Congress that would prevent a GRAT from having a term of less than ten years. So if you're going to go the GRAT route, now is the time to do it.

Even if your estate doesn't exceed \$1 million and you can't afford to make gifts to your beneficiaries that would be subject to the tax increases, now is still the time to review your estate plan. So many changes are pending that will affect tax and estate planning that you need to know your options, regardless of the current value of your estate.

And, more importantly, if you've gone online and found forms to draft your own will or just copied documents that a friend or relative may have used, there may be language in there that does your beneficiaries more harm than good. Especially in today's economic climate.

Call us, your Atlanta estate plan lawyers, at 770-425-6060 to schedule your Georgia Family Treasures Planning Session today. As part of our Planning Session, we will sit down with you, assess where you are now and where you need to be and, more importantly, how to plan to get the most benefit (or suffer the least damage) from the pending changes in the estate tax. Our Georgia Family Treasures Planning Session is normally \$750, but this month I've made space for the next two people who mention this article to have a complete planning session with me at no charge. Call today and mention this article.