Tax Changes in 2013 Spark More Concise Business Succession Planning

By Frank L. Brunetti on April 30th, 2012

Uncertainty surrounding possible changes to estate and gift tax law in 2013 is prompting many business owners to reevaluate their succession strategies. Essentially, business owners are considering trying to maximize the value of their gifting now, rather than run the risk that taxes on such transfers will be higher in 2013.

The current $5.12 million gift tax exemption will expire at the end of the year and revert to $1 million in 2013, giving business owners a small time frame in which to pass on assets that are expected to appreciate in value before the changes go into effect. In addition, the 35 percent tax rate attached to federal estate, gift and generation-skipping taxes is expected to rise to the top rate of 55 percent.

One of the most common actions business owners are taking is making the lifetime gift of $5.12 million – or $10.24 million for married couples – to reduce their estates by the gifted amount and the appreciation of the gift over time. Lifetime gifts can be made in the form of business interests, real estate, assets and securities.

However, business owners are also taking advantage of trust options to transfer wealth to successors as a strategy for avoiding estate and gift taxes. Grantor retained annuity trusts are emerging as a popular option in that they allow business owners to retain control of business assets and income for a specific number of years before transferring the company over to heirs.

Longtime business owners are employing dynasty trusts to allow the assets in the trust to pass from generation to generation indefinitely free of estate taxes. The trust is an appealing estate planning option for businesses that undergo a great deal of change frequently, in that future generations are free from GST and estate taxes, but still enabled to make changes to the terms of the trust.