



Estate Planning Update

In this season of giving, we would like to take the time to provide an Estate Planning update for things you may want to consider as year-end approaches. First, let's review some basics. Every individual is currently given a Federal Estate & Gift Tax exclusion in the amount of \$11,400,000 for 2019 (rising to \$11,580,000 for 2020). Every donor is given an annual Gift Tax exclusion amount of \$15,000 per donee. This amount will not change for 2020. As with many provisions in the Tax Cuts and Jobs Act of 2017, the basic exclusion amount will "sunset" back to \$5,000,000 (adjusted for inflation) after 2025.

Many clients believe if their total net worth is below the exclusion amount there is no need for Estate Planning. To the contrary, saving Estate Tax is only one reason for Estate Planning. There are more important non-tax-related reasons to review your family situation.

Simply putting together a list of your assets and liabilities in a spreadsheet is a great start. Just estimate the values for discussion purposes. Then, create a hypothetical death scenario. Based on how your assets are titled and the operations of law that follow, who gets what?

Generally, doing some basic planning can prevent things like:

- leaving assets to children who are not ready to take on the responsibility;
- failing to provide for a special needs child;
- finding out you never designated a beneficiary for your 401(k) or IRA or that your former spouse is still designated or discovering you never added your second child to the list;
- finding out that you don't have enough life insurance or liquidity to replace your lost wages if you are the dearly departed;
- failing to provide asset protection against creditors;
- failing to fund future college savings programs;
- and most common and sometimes most difficult, failing to determine who will raise your minor children if you and your spouse are no longer present.

All of these talking points generally float to the top and get addressed but have absolutely no tax purposes whatsoever.

As number crunchers, we generally work with a team of advisors depending on the situation. These include your financial advisor, an Estate Tax attorney, and a life insurance advisor, to name the most common.

If your wealth is at a level around or exceeding the exclusion amount, your planning may also be tax driven. While there is no one-size-fits-all approach, planning may yield immediate estate tax savings or provide ways for your future Gross Estate to be reduced over time.

If a donor has a charitable intent, there are ways to provide current or future assets to a charity which not only reduces your future Gross Estate but can also provide an immediate income tax deduction. Depending on the level of the gift, structured contributions directly to a charity are most efficient. Donor Advised Funds can be created and funded now, with assets deployed over time to charities of your direction. Charitable Remainder Trusts can provide an income stream from assets contributed now for your lifetime but provide the charitable organization with the remainder at your passing. Establishing a Private Foundation is not for the faint of heart. While these can be very powerful giving avenues, they are high maintenance and more costly to form and operate.

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If a donor has highly appreciated assets (e.g. stock or real estate), consider a transition plan that includes gifting some interests over time to your next-generation heirs. Remember, gifting not only removes the current value from your Gross Estate, but often, more importantly, the future growth of the asset. This provides compounded estate-tax savings over time. Because Estate Tax is computed by adding back previous taxable gifts (those exceeding the annual \$15K limit), valuation of the asset gifted is very critical. Competent Valuation advisors (see our website) can literally pay for themselves by knowing the rules and IRS requirements and discount allowances for a proper valuation. Discounting can be very powerful when dealing with gifts of non-marketable securities with a lack of control to the donee.

On November 22, 2019, the IRS released IR-2019-189 allowing individuals who make gifts in 2018-2025 to not lose the tax benefit of the higher exclusion amount when it decreases after 2025. This was big news and should relieve the stress of giving now and not knowing if there will be Estate Tax impact later.

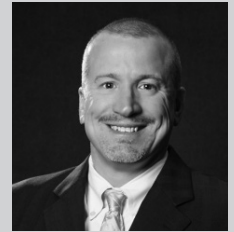
Use of Grantor Trusts, when planned properly, can provide not only estate tax reductions, but also move assets to the heirs where you ultimately want them to go. Grantor Retained Annuity Trusts (GRATs), Intentionally Defective Grantor Trusts (IDGTs), Qualified Personal Residence Trusts (QPRTs), and other similar types can provide mechanisms to transfer wealth without immediate gift consequences. The key is the IRS Section 7520 rate. The 7520 rate is 120% of the monthly mid-term applicable federal rate (AFR) produced by the IRS for discounting the value of annuities, life estates, etc. In English, this means it is the rate the IRS says a transfer must generate back to a donor to avoid a gift. Thus, the transfer of an asset to a GRAT growing at 8% requires the GRAT payment to yield 2% (December 2019 §7520 Rate) back to the donor. The 6% delta transfers to beneficiaries of the Trust without gift consequence.

Leaving a legacy is something we all strive for. Whether for a tax or non-tax reason, estate planning completed properly and strategically can not just provide for future tax savings, but, more importantly, ensure that your hard-earned assets end up in the hands you ultimately want them to. Rivero, Gordimer & Company, P.A. can help this dream become a reality. We have professionals who regularly review estate planning rules and techniques along with Valuation and Advisory specialists who help maximize gift and planning strategies. It's not too late to complete transfers for 2019 and double up on exclusions for 2020 as well.

Please contact our office for an appointment soon. Happy Holidays!

About the Author:

Michael E. Helton is a shareholder and joined Rivero, Gordimer & Company in 1999. He has considerable experience in tax preparation, planning, and consultation for individuals and businesses, estates and trusts including estate planning, mergers and acquisitions of closely held businesses, and other tax-related topics. Alongside extensive experience with the construction industry, medical practitioners, rent-to-own businesses, and trucking, he also practices in business owner succession planning, general financial and operational consulting, and representation of clients before the Internal Revenue Service.



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