
News and Analysis from the Field of Estate Planning

BENEFITS OF A SLOW ECONOMY

While our struggling economy creates difficult challenges for investment planning, there are estate planning strategies that are highly effective now, due to decreases in prevailing interest rates and decreases in asset values. The weak economy actually creates estate planning opportunities that are helpful to many people.

As interest rates drop, planning strategies that are interest rate-dependent are attractive. For example, a low interest environment is favorable for making loans to family members. When you loan money to a family member you must charge a minimum rate of interest, known as the Applicable Federal Rate ("AFR"), otherwise gift and income tax issues arise. The AFR is currently very low, which allows you to help a family member with a loan to make a large purchase, such as a home or car, without income or gift tax problems, provided the loan is documented properly. An intra-family loan keeps monies within the family and helps family members afford a purchase that may be difficult at market rates - without consuming valuable gift tax exclusions.

Low interest rates and asset values also present opportunities for estate reduction techniques.

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For example, you can give assets that are currently low in value to a specialized trust for one or more family members in order to remove the asset, and all future appreciation on and earnings from those assets, from your taxable estate. This be accomplished either by retaining an income stream from the transferred assets, or by gifting the assets away completely. Each option can be a helpful way to reduce Estate Taxes. Sale strategies can also "freeze" the value of assets while removing value from your taxable estate to save Estate Taxes.

Our estate planning attorneys can help identify strategies helpful in your situation.

CHANGES IN MINIMUM REQUIRED DISTRIBUTION RULES

If you are currently required to take minimum required distributions from a retirement account that you own, you should take note of an important new law. The Worker, Retiree and Employer Recovery Act of 2008 provides that the provisions pertaining to minimum required distributions will not apply for the 2009 calendar year. Thus, you can forego distributions in 2009 without penalty. If you are not dependent on the distributions, foregoing the distribution and further deferring income tax on the benefits may allow you to make up some of the losses you may have incurred due to the economy. This rule does not apply to distributions in future years.

You should speak with the administrator of your retirement plan if you want to take advantage of this new law.

AWARD WINNERS

We are pleased to announce that two of our attorneys have earned awards for outstanding work in the financial field. Mark J. Temkin was named on the 2008 "Five Star Best in Client Satisfaction Wealth Manager" list published by St. Louis Magazine. Fewer than 7% of wealth managers make this list. Robert G. Oesch received the Professional Advisors 2008 Legacy Award for "demonstrating skill, knowledge, imagination and insight to meet the specific needs of his clients while benefiting a non-profit organization."

These latest awards confirm the high reputation of Riezman Berger attorneys in our community. If you are considering making a gift during your life or at death to charity, please contact us so that we can guide you to make the most impact with your money while achieving tax benefits to which you are entitled.

INHERITING INTELLIGENTLY

Our estate planning attorneys often discuss with clients the benefits of setting up lifetime trusts for the client's descendants, rather than leaving the descendants' inheritance to them outright. But have you considered the best way to receive the future inheritance that you expect to receive from your parents or others? Your estate plan should consider not only what you wish to leave to others, but also how to plan for what you may receive by inheritance yourself.

Advantages of receiving inherited monies in a lifetime trust for your benefit, instead of receiving assets in a simple "outright" manner, include the following:

- Protection from creditors you may have, now or in the future
- Avoiding spousal claims on your inherited assets in the unfortunate event of divorce
- Estate Tax and Generation-Skipping Tax savings
- Potential Income Tax savings
- Avoiding probate for inherited assets.

The advantages of receiving your inheritance in a trust are usually increased by you being named (in that parent's or other person's estate plan) as the trustee of the trust that is created for your benefit. In that case, you can retain significant control over the assets you inherit, while enjoying the protections available by inheriting in trust.

We recommend that your estate plan consider both what you are leaving to your children or other beneficiaries, and what you may be receiving from your parents or other persons, in order to receive all the benefits that the trust laws allow.

IMPORTANT REMINDERS FOR YOU

We generally recommend that you review your estate plan at least every three years. However, some circumstances make it advisable to revise your plan more frequently. Some factors that make revision of your estate plan necessary are:

- *The value of your estate decreases.* If the value of your estate has decreased due to the economy, you may want to consider whether gifts of specific property or amounts are still sufficient to achieve your desired objective.
- *The value of your estate increases.* The Estate Tax rates are even higher than income tax rates, so if the Estate Tax applies to your estate the result can be catastrophic. You should know what your Estate Tax exemptions are, and whether your estate plan is designed to maximize use of your exemptions. Furthermore, as your estate grows, so does the burden of managing it. A certain trustee may have been sufficient when you created your Will or Trust, but the tax and investment considerations of a larger estate may mean you should name a trustee with more expertise.
- *Changes in your family.* Births, deaths or divorces among your family or the persons you wish to name as a beneficiary, personal representative or trustee under your documents usually make revision of your documents necessary.
- *Changes in tax laws.* There may be new alternatives for holding or transferring your wealth during your life or at death, due to changes in the tax laws.
- *Changes in the types or ownership of assets.* Certain assets may not be fully integrated with your estate plan. For example, it is common for people to forget to coordinate the payout of life insurance and retirement plans with their estate plans, or for business owners to forget the effect of shareholders agreements on their estate plans.

2009 GIFT AND ESTATE TAX CHANGES

With the new year come new Gift and Estate Tax exemption amounts. The 2009 exemptions are as follows:

- The annual Gift Tax exclusion amount is \$13,000 (up from \$12,000) per donee. The lifetime Gift Tax exemption amount remains \$1,000,000.
- The Estate Tax exemption amount increased to \$3,500,000 (up from \$2,000,000).
- The Generation-Skipping Transfer exemption increased to \$3,500,000 (up from \$2,000,000).
- The top Gift Tax, Estate Tax and Generation-Skipping Transfer Tax rate is 45%.
- The Gift Tax exclusion for gifts to a non-citizen spouse increases to \$133,000.

PLEASE NOTE: Actual resolution of legal issues depends on many factors, including your particular circumstances and variations of facts and state and federal laws. This newsletter is not intended to provide, and must not be relied upon for, legal advice on specific subjects or for any person's specific circumstance. The reader should consult with legal counsel before taking action on matters covered by this newsletter.

To comply with certain U.S. Treasury Regulations, we inform you that, unless expressly stated otherwise, any U.S. Federal tax advice contained in this newsletter is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

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The RB Report

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is a newsletter provided by Riezman Berger, P.C. to inform our clients, friends and the community of recent events in the field of law and within the firm.

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Riezman Berger PC is an “AV” rated law firm, the highest quality rating given by the independent law firm rating service at Martindale-Hubbell, Inc. “AV” connotes “Very High to Preeminent” Legal Ability and “Very High” Ethical Standards and recognizes the emphasis on quality representation which the firm has embraced since it was formed in 1974.

The firm is known for its aggressive and innovative approach to client representation, and the superior quality of the services it provides. Riezman Berger PC is a full-service firm with a practice ranging from the representation of multinational organizations in all aspects of their enterprises, to assisting individuals and small companies with their personal, tax and family matters.

We are pleased to bring you this edition of the RB Report, and hope you find it a helpful resource.