From the desk of Jeanne M. Kerkstra, Esq., CPA

Viewpoint

Giving More to the Family but Not to Uncle Sam

We live in a financially turbulent period. Hopefully, the economy will take an upward turn but that is unlikely before the beginning of 2009. Also, in 2010, the federal estate taxes are set to be repealed *for one year*. It certainly makes planning challenging. However, don't use this as an excuse to not move ahead with proper planning.

A wonderful colleague of mine, Natalie Oh of JMB Insurance, was recently discussing with me how she is able to help her clients hedge their bets with their gift and estate tax planning. We discussed how Irrevocable Life Insurance Trusts (ILIT's) assist our clients in minimizing the blow dealt by estate taxes. If an insurance policy is "borne" in an ILIT, then it is not includible in your estate. If an insurance policy is transferred into an ILIT, then there is a 3 year look-back window, hi other words, if you were to die within 3 years of the transfer, then the insurance policy would be includible in your estate.

Many of our clients are seeking ways to maximize the transfer of their wealth to younger generations. It does not take much in terms of financial size before you have a tax problem. Natalie and I were discussing ways that our clients could maximize what is transferred to the younger generations at a time when the parents have already fully utilized their estate and gift tax lifetime exclusions.

One simple way involves ILIT's and simply thinking outside the box. If you have already fully utilized your gift tax lifetime exclusion, then, depending on your specific facts and circumstances, it might be beneficial to you to consider entering into a "restricted" private split-dollar loan arrangement which is between the estate owner (holding a note receivable) and the ILIT (holding a note payable), which is secured by a collateral assignment on the policy. In other words, the estate owners are prohibited from making *any* withdrawals or loans on the policy.[1]

You could also enter into a lump-sum private split-dollar loan to remove the risk that interest rates on annual premium loans go considerably higher in the future. However, there are important tax issues at work here. For life insurance policies considered "modified endowment contracts," an assignment could create a taxable event. Consequently, before entering into any private split-dollar arrangements, it is important to talk to the professionals.

Let us help you maximize the enjoyment of your wealth now as well as what is passed to the younger generations. Call me today to discuss planning options. It will be the start of a wise investment.

[1] Rev. Rul. 82-145; IRC Sec. 72(e)(10)(A); IRC Sec. 72(e)(4)(A).

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