Mapping Out The Future

Advanced estate planning strategies for high net worth individuals and families

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Recently, a window of potentially unprecedented opportunity opened for individuals and families strategizing to transfer significant wealth to the next generation. On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, creating arguably the most generous estate and gift tax rates since 1931.

The potential advantages for many clients with The Private Client Reserve are substantial, and because many of the provisions, including those affecting estate, gift, and generation-skipping transfer taxes, are effective for only two years, it’s important to revisit your plans in the near future. There may never be a better time to potentially maximize the amount of wealth that a family can retain when passing assets from one generation to another.

For 2011 and 2012 only, the gift-tax exemption—the amount an investor can give away without paying taxes—jumps from $1 million to $5 million per individual and from $2 million to $10 million per couple. At the same time, the tax rate on gifts above the exempt amount fell from a scheduled 55 percent to 35 percent.

Additionally, estate, gift, and generation-skipping taxes are now aligned. For families with assets in the $5 to $10 million range, that means making large, tax-free gifts now may present the added advantage of shielding future appreciation from taxes.

Opportunity notwithstanding, the needs of families managing significant wealth are still complex enough to require the assistance of The Private Client Reserve’s multidisciplinary teams of advisors. For example, there are still many strategic decisions to be made upon establishment of a trust.

The high thresholds could make it a great time to fund long-term irrevocable trusts for children and grandchildren, or, state law permitting, to establish dynasty trusts. Families interested in these vehicles, which may protect assets for multiple generations, need to move quickly; Congress is considering a measure that would limit the tax-free term of a dynasty trust to 90 years.

Creation of long-term trusts can be a good strategy for sheltering securities and other assets that are expected to appreciate, but in many instances this advantage must be weighed against the trust creator’s loss of the use of the assets in question. Advisors in The Private Client Reserve working with investors’ tax and legal advisors can help those who want to continue to receive income from assets put in trust or who need to reclaim the asset when the trust terminates.

Similarly, in the past, many married couples have taken advantage of credit trusts, which allow one spouse to transfer wealth to beneficiaries, typically his or her children, while allowing the other spouse to enjoy access to assets and the income they generate for the rest of their life. This type of trust has been particularly helpful in the past because tax laws have not allowed couples to “pool” their gift and estate tax exemptions. However, because the temporary new tax law allows “portability”—couples can combine their exemptions—there may be some instances when a credit trust no longer offers the best advantages.

Other strategies ultra high net worth individuals or families may want to consider include establishing grantor or grantor-retained annuity trusts, (which pay donors a preset interest payment, charitable lead annuity trusts), and qualified personal residence trusts. Each of these can offer meaningful advantages to donors who wish to retain some income from or leverage assets put in trust.

A residence trust allows the owner of a first residence or vacation home to use a property rent-free for a set number of years. After the term has lapsed, ownership transfers to the trust’s beneficiaries. The advantage is that the gift tax value of the transfer is less than the property value because the value of the investor’s continued interest in the property is subtracted from the property value.

In many families, the transfer of a parent’s or grandparent’s vacation home can be a source of friction among heirs: Who is responsible for maintenance or for property taxes? Who can use the property and when? These issues also can be addressed.
as part of an investor’s estate plan. Finally, the higher thresholds on tax-free wealth transfers may make the next year and a half a particularly good time to accelerate the transfer of ownership of a family business. Many private businesses have not fully recovered from the recent economic downturn and may appraise at lower-than-normal values, shielding more of the transfer. Wealth Management Advisors can help design transfer strategies that allow investors to retain an interest in the business even as the transfer is underway.

Whatever the assets you envision transferring to loved ones or to a philanthropic concern that reflects your values, time is of the essence. The current window of opportunity may be temporary, but The Private Client Reserve’s approach remains unchanged. Our advisors will leverage U.S. Bank’s deep talent roster when formulating a wealth management plan that addresses a family’s unique goals and circumstances.

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