

End of Year Planning Options

Vaughn W. Henry



With the stock market's hiccups, many people have seen their investment portfolios, land values, and business interests wildly gyrate in value. Despite recent stock market losses, many investors still have major unrealized gains. Why is this a problem? Creeping inflation is a subtle process. Don't think so? Remember your first house? Did it cost less than your last car? For most of you, it did, and this is one cause of the problem. As a result, more and more of the middle class are coming under the scrutiny of the IRS estate tax auditors, and families may be forced to pay taxes at rates in excess of 75% because of poor planning. So what are some of the available solutions? Besides sophisticated tax planning, there are some simple tools to squeeze, freeze, and pass an estate to heirs, if you move forward now. Why now? The problems generally get worse by

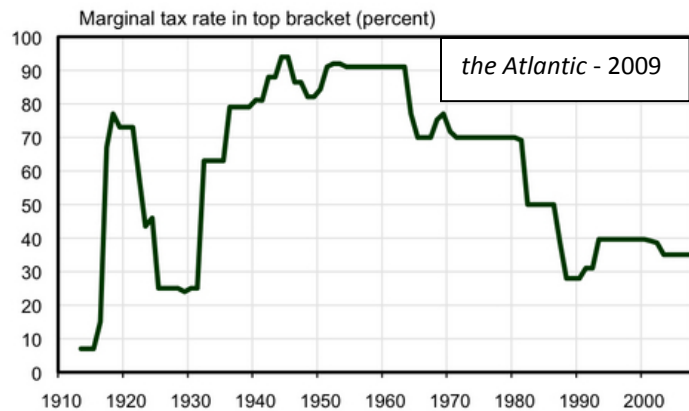
waiting and options more limited, so almost everyone with an estate, and for sure those in excess of \$1,000,000 should look at the available tools and be familiar enough with them to react if the estate gets much above \$1,500,000. Also, there is a planning window that may close if a fickle Congress and cash-strapped state legislatures feel that too much revenue is slipping through the cracks. So complete your plan while the rules are favorable.

Gifts to Charities

A simple planning process is to just sweep everything in excess of the estate tax exclusions to charity. If done properly, you can even give charities your income tax problems at death by naming them to receive retirement plan proceeds, since your heirs would have a significant income tax if they received those instead. Highly appreciated assets are often given to charities as a way to be more tax efficient since the capital gains are never realized and the charities can convert the gift to cash without paying tax. If a donor sells the asset and gives the cash, then there is an unnecessary tax paid to be charitable. Transfer old insurance policies directly to charity if there's no estate liquidity needs. Charitable remainder and lead trusts, gift annuities, and life estates are legal and ethical tools to meet financial security needs and benefit charity while still providing estate tax relief. With tax efficient wealth replacement vehicles, the family will not be short-changed if giving away wealth is a concern. Some of these tools require expert guidance, and few advisors understand them well, so it makes sense to use a team approach to solve planning problems.

Gifts to Heirs

Your estate can limit growth by making gifts to heirs now. Gifts to heirs are still limited to \$13,000 per donor per recipient, but married couples can agree to join and make a tax-free gifts of \$26,000 of value. Where a lot of family members go off the approved IRS track is that they believe there is an exception to this rule when providing gifts at Christmas, Hanukkah, weddings, graduations, and birthdays. There isn't. Also, if you write a check to your child for college tuition and expenses, you may have given your child a taxable gift. For most families, expensive gifts are not likely to produce estate and gift tax problems because they are counted against what used to be called the "Unified Credit", now called the Applicable Exclusion Amount. From 1987 - 1997 that exempt value was limited to \$600,000, but under the present law, in 2009 the estate exemption jumped up to a heady \$3.5 million while the gift tax stabilized at a flat \$1 million. While most American families would not transfer that total amount of wealth either while alive, as outright gifts, or at death as an inheritance, middle class families with increasing portfolio values in family businesses, farms, expected inheritances and large insurance or retirement plans will more frequently slide into a federal and state tax traps once reserved for the ultra wealthy if the exclusion drops back to \$1 million in 2011.



As 2010 approaches, there are some windows of opportunity to consider. If taxpayers believe tax rates will rise, the potential for expanded Roth conversions has appeal. Review long term care coverage options. Additionally, there is a limited opportunity to make gifts to charity directly from IRAs for qualified donors prior to 12/31/2009, even though there is a suspension of required minimum distributions in 2009.

As the end of the year rolls closer, take a look, and see if this brief checklist of

estate planning actions makes sense:

1. Review your current will and trusts. With recent tax law changes, almost all tax planning wills and trusts are now out of date. If estate tax planning isn't a factor, make sure your beneficiary, trustee and successor trustee designations are still accurate.
2. Is your Durable Power of Attorney current? Is there an updated living will on file with family members and health care providers? Have funeral arrangements and decisions on anatomical gifts been discussed with family?
3. Inventory and make a record of contents for any safe deposit box with a trusted family member. Wills and codicils, trust instruments, insurance policies on your life, burial instructions, cemetery plot deeds and information on any property which does not belong to you need to be filed safely so those documents can be found when needed.
4. Review and update your life insurance policy and retirement plan beneficiary and contingent (back-up) designations and settlement provisions.
5. Have you gone down to your bank or brokerage and named designated heirs to receive account proceeds at your death? Generally, naming them as "joint owners", is too risky and it doesn't solve tax problems; instead, consider using a "Payable on Death" (POD) designation to redirect the account without unnecessary probate problems. This still doesn't solve tax problems, but at least it is uncomplicated and a functional way to see that the account is not tied up needlessly.
6. Review, and if necessary, revise existing business buy-sell agreements; prepare agreements if there are none; re-value purchase price under those agreements that require periodic review. Buy-sell agreements are critical to preserve the value of a family business and provide liquidity at a time when family members are often too distracted to make sound business judgments. Do you have the liquidity?
7. Should annual exclusion gifts be made to your heirs? Remember, gifts of assets pass at your tax basis, so there may be an income tax due if the asset is eventually sold by heirs.
8. If there are family medical or educational expenses to be paid, make checks payable directly to the institution, not to the individual. This action allows you to make gifts above and beyond the annual exclusion limits of \$13,000 without creating an unnecessary tax.

Tax planning is a complex process, and you should seek qualified advice to make the best choices about the control of your estate. Craft a plan, review it annually and exercise your own options. For more information, check the our web site for free articles and software - <http://gift-estate.com>

Henry & Associates

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 22 Hyde Park Place, Springfield, Illinois 62703-5314
 217.529.1958 - fax 217.529.1959 - toll-free 800.879.2098
 E-mail at VWHenry@aol.com