GIFT TAX PLANNING IN 2010

A continual challenge for estate planners is persuading clients to make lifetime gifts of their property. No matter how powerful the math, or how logical the tax savings, clients naturally resist surrendering control of their property. Nevertheless, taxpayers who are interested in transferring their wealth in a tax advantaged manner to the natural objects of their bounty should seriously consider the benefits of making *inter vivos* gifts in 2010. This is a golden opportunity. Don't waste it. We will not see anything like it again in our planning careers.

2010 offers a rare opportunity to transfer wealth to grandchildren in a tax efficient manner. 2010 has the lowest federal gift tax rate (35%) since 1934. The gift tax rate is scheduled to increase to 55% on January 1, 2011. That is a 20% spread in tax rates that will occur overnight. The top estate tax rate will also be at 55% in 2011, as will the generation-skipping transfer tax (GSTT).

The net benefit of taxable gifts in 2010 can be substantial, and becomes even greater when the gifted assets increase in value between the time of the gift and the date of the donor's death. These transfer tax savings are magnified when the gifts are made to "skip persons," that is, grandchildren or younger persons. For example, a donor who makes a taxable gift of $100,000 in 2010 rather than in 2011 will save approximately $20,000 in gift taxes. If the donor dies in 2011 without making a gift in 2010, the "lost savings" will be approximately $40,000. These savings become even more dramatic if one assumes that the asset gifted will increase in value between the date of the gift and the date of the donor's death.

An outright gift to a grandchild or other "skip person" in 2010 rather than 2011 increases this taxable benefit by a factor of three. The GSTT, like the estate tax, has been suspended in 2010. The effect of this suspension is that the donor pays a gift tax only on transfers to skip persons, rather than a gift *and* a GSTT. The consequence is that these transfers can be leveraged substantially more than in prior years (or that may be available in future years).

So there is one month left in 2010 to plan for these gifts. Give us a call to discuss your situation and the advantages of completing a gift before the end of the year.