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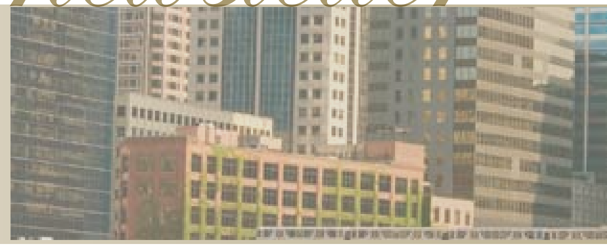

TAX UPDATES AND OPPORTUNITIES IN THE CURRENT ECONOMY

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Recent changes in U.S. estate and gift tax law may affect many existing estate plans. The current downtrodden economy also presents unique opportunities for minimizing one's estate tax liability through various gifting techniques, some of which may soon be curtailed by legislative action.

I. Estate and Gift Tax Law Changes

For the taxable year of 2009, the "Applicable Exclusion Amount" (the maximum amount of net assets an individual's estate may contain before becoming subject to estate tax) has increased to $3.5 million dollars from $2 million dollars in 2008. Although the estate tax is technically scheduled for repeal in 2010, all indications from the new administration and Democrat-controlled Congress suggest that the $3.5 million dollar Applicable Exclusion Amount and the 45% estate tax rate will be made permanent, with possible upward adjustments for inflation. However, the "Gift Tax Exclusion" (the maximum amount of "Taxable Gifts" individuals may make during their lifetimes before becoming subject to gift tax) will remain at $1 million dollars. The exclusions are interrelated because to the extent one utilizes his or her Gift Tax Exclusion with lifetime transfers, such person's Applicable Exclusion Amount will be reduced by a corresponding amount. For example, if an individual died in 2009 having made $500,000 of Taxable Gifts during life, his or her estate would only be shielded by an Applicable Exclusion Amount of $3 million dollars.

A Taxable Gift occurs when during any taxable year an individual transfers to any one person property with value in excess of the "Annual Exclusion Amount". The Annual Exclusion Amount for 2009 is $13,000, which was increased upward for inflation from $12,000 in 2008. The Annual Exclusion Amount allows individuals to gift to their children, their children's spouses, their grandchildren or any other individual up to $13,000 per year without exhausting any of their $1 million dollar Gift Tax Exclusion. For example, if a couple wanted to assist their child and their child's spouse with a down payment on a house, the husband and wife may collectively give $26,000 dollars to their child and an additional $26,000 to their child's spouse, for a total tax-free transfer of $52,000. Please note, certain gifts are excluded from the Annual Exclusion Amount calculation such as gifts between spouses and direct payments of the tuition or medical expenses of another. If during any calendar year, one individual gifts to another person an amount exceeding $13,000 dollars, a Taxable Gift occurs and requires the filing of a gift tax return. The Annual Exclusion Amount is calculated on an annual basis and is inclusive of all transfers of property including ordinary gifts and contributions to irrevocable life insurance trusts for premium payments.

II. What These Changes Mean To You

With the increased Applicable Exclusion Amount, simple estate planning utilizing basic trust techniques allows married couples with a combined net worth of $7 million dollars to avoid any estate tax liability. Likewise, a single individual owning net assets valued at $3.5 million at death will not incur any estate taxes. Both of the aforementioned are assuming no Taxable Gifts were made during life.

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TAX UPDATES continued...

A. Persons with Non-Taxable Estates

For those persons whose financial positions will not subject them to estate taxation, the increase in the Applicable Exclusion Amount still could have significant impacts on your current estate plan. The Applicable Exclusion Amount has increased progressively upward over recent years from $675,000 in 2001 to the present level of $3,500,000. Many revocable trusts and wills utilized common drafting techniques that allocated portions of your estate in reference to the Applicable Exclusion Amount. The recent increases may have the undesirable effect of apportioning your estate assets in an unintended manner. The most common problem would be an unnecessarily large allocation of estate assets to a so-called "Credit Shelter Trust" or "Bypass Trust" where the surviving spouse's access to the funds is somewhat restricted. Also, if your economic portfolio has diminished due to the recent market conditions, bequests under your current estate plan may need to be revised to ensure your estate is distributed equitably and as you desire. If you have not had your estate planning documents reviewed in recent years, prudence suggests having them examined to ensure they still accomplish your desired goals. In most cases, a simple amendment to your revocable trust will rectify any such problems.

B. Persons with Taxable Estates

For those persons who continue to face possible estate taxation, the estate tax seems to be here to stay. For married persons, if one spouse holds title to a majority of the assets, then making tax free marital gifts or re-titling assets to create tenants in common ownership may be advantageous to allow the less wealthy spouse to utilize his or her full $3.5 million dollar Applicable Exclusion Amount. If minimizing estate tax liability and maximizing the amount of wealth that will pass to younger generations is important to you then, as discussed below, the present market conditions are ideal for reducing taxable estates through various gifting techniques.

III. Estate Planning Opportunities in the Current Recession

The current depressed market conditions, with low interest rates and diminished asset values, provide tremendous opportunities for estate planning oriented gifts in conjunction with traditional techniques such as family limited partnerships, grantor retained annuity trusts and sales to defective grantor trusts. If one has a taxable estate, then a goal of gifting should be to transfer quickly appreciating assets to your loved ones sooner rather than later so that subsequent appreciation will escape inclusion in your estate. This philosophy is applicable in the context of both gifts under the $13,000 Annual Exclusion Amount and for Taxable Gifts.

Gifting techniques which take advantage of diminished asset values simply involve gifting those assets which may justifiably be appraised at low values in the present market but will likely appreciate quickly once the economy recovers. Gifting methods that take advantages of low interest rates revolve around gifting assets that will outperform the "Applicable Federal Rate" ("AFR") and structuring the gifts in manners which incur only minimal transfer tax consequences. The AFR is a rate of interest prescribed by the IRS representing the minimum rate of interest one must charge another on a loan to avoid gift tax implications. For the month of February, the mid-term AFR is at a near historic low of 1.65%. Many of the techniques discussed below take advantage of both diminished asset values and low interest rates.

A. Family Loans

Under the Internal Revenue Code family members are permitted to loan money to each other without incurring any gift tax consequences as long as the note bears an interest rate equal to the AFR. The AFR rate varies depending on the term of the note. For instance a three year note made in February of this year must charge a minimum rate of 1.65% interest. These types of transactions allow older, wealthier family members to provide younger generations with an opportunity to earn greater returns in the market in their business affairs or to pay down indebtedness with higher interest rates. Reducing these loans to a formally written note is extremely important so that the terms may be verified if challenged by the IRS.

B. GRAT

Grantor Retained Annuity Trusts ("GRAT") are popular techniques for individuals to use in conjunction with either marketable securities or family business interests that generate cash flow. Often, under these depressed market conditions such assets have values far below their potential for appreciation after the recession subsides. A GRAT is established whereby an individual ("Grantor") transfers assets to a trust in exchange for the right to receive fixed annuity payments from the trust at specified times in the future. The trust is established for a term of at least two years and children or grandchildren are typically designated as the remainder beneficiaries. Once the trust terminates, all the assets remaining in the trust will pass to the remainder beneficiaries.

GRATs may be structured in a manner where no gift tax consequences arise by setting the fixed annuity payment at the appropriate amount. This technique is called a zeroed-out GRAT (a method effectively utilized by the founding family of Wal-Mart). For a zeroed-out GRAT to be successful, the contributed assets

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must appreciate at a rate exceeding the AFR ("Hurdle Rate") and such excess appreciation passes to the remainder beneficiaries free of any transfer taxes.

In this economy, the difficulty lies in choosing which assets can outperform the Hurdle Rate and over what term. However, the downside to an unsuccessful GRAT is minimal as the gifted assets simply return to the Grantor and the remainder beneficiaries receive nothing at the GRAT's termination. A common technique to increase the chance of trapping the appreciation outside of one's estate is to use a series of rolling GRATs where the property that does return to Grantor at the GRAT's termination is immediately re-contributed to a trust with similar terms.

C. Sales to Intentionally Defective Grantor Trusts

In estate planning, sales to Intentionally Defective Grantor Trusts ("IDGT") are often used by the owners of closely held businesses, real estate or other income producing property to transfer their business interests to younger generations with minimal tax consequences. An IDGT is a type of trust where the Grantor can sell an asset to the trustee in exchange for a note from the trust bearing interest at the AFR. The trust language of an IDGT allows for the Grantor to continue paying income taxes attributable to the trust assets, but by virtue of releasing a certain degree of control, the trust principal is not includable in the Grantor's estate at death. At the termination of the trust, the principal passes to the remainder beneficiaries without any transfer tax consequences.

In a typical scenario, the Grantor would make an initial gift to the IDGT of $13,000 for seed money and name a child as the remainder beneficiary. The Grantor would then sell an asset to the trust in exchange for a note from the trust charging interest at the AFR and requiring an annual interest payment with a lump sum principal payment at the end of the note. Under the Internal Revenue Code, sales to grantor trusts are treated as a transaction with oneself for income tax purposes and therefore no tax liability arises either from the sale of the asset or receipt of interest on the note. Ideally, the asset sold to the trust will produce income in excess of the AFR, thus enabling payment of the interest without affecting the trust principal. Further, it is intended that the trust asset will appreciate significantly over the term of the note whereby the end lump sum payment will only represent a small portion of the asset's value. By paying income taxes attributable to the trust assets, the Grantor can effectively make additional gifts to the remainder beneficiaries in the form of tax payments for which the trust would otherwise be liable. As an added bonus, such income tax payments are not counted toward either the Annual Exclusion Amount or the Gift Tax Exclusion. Please note, that if desired, certain language may be added to the trust to terminate or reinstate the Grantor's obligation to pay income taxes attributable to the trust assets.

For those persons with existing IDGTs, there is growing consensus among practitioners (but not binding authority), that new notes at the lower AFR may be substituted for older notes bearing higher rates of interest without any negative tax consequences. By utilizing a lower interest rate, more income may be accumulated to make the lump sum principal payment or be distributed to the trust beneficiaries free of transfer taxes.

D. CLAT

A Charitable Lead Annuity Trusts ("CLAT") is established where a Grantor transfers assets to a trust and the trust makes fixed annuity payments at the Hurdle Rate to a charity for a term of years. At the trust's termination, the remainder passes to a designated beneficiary, typically children or grandchildren. If the trust is established as a grantor trust, then the Grantor will be entitled to a charitable deduction in the year of the contribution for the present value of the scheduled payments. The gift component of a CLAT is equal to the value of the trust assets at the date of contribution less the present value of the scheduled payments to the charity. Like a GRAT, a CLAT may be zeroed out so no transfer taxes will be incurred. Ideally the contributed asset will produce income and appreciate at a rate in excess of the Hurdle Rate allowing the beneficiaries to receive the remainder without transfer tax consequences.

E. Family Limited Partnerships

Family Limited Partnerships have been one of the most frequently used gifting techniques to reduce transfer tax liability. In the typical scenario, parents will form a partnership, transfer certain assets to the entity and then make gifts to their children of non-voting, non-transferable limited partnership interests. Due to the fact that the gifted partnership interests have no voting rights, are non-transferable and constitute a non-controlling ownership interest in the company, the gifts are justifiably valued at substantially less than the proportionate value of the underlying assets owned by the partnership. Discounts of more than 60% of the underlying gifted property have been upheld as accurate valuations. These discounts can be used concurrently with the gifting techniques mentioned previously which, under the current depressed market conditions, can transfer vast amounts of wealth with limited transfer tax liability.

Ideally, assets contributed to the partnership are interests in closely held businesses, real estate or assets other than marketable securities. When readily tradable securities are the partnership assets, the IRS often attempts to attack the transaction on the grounds that no business purpose other than estate tax avoidance exists, thus nullifying the transaction. However, taxpayers have prevailed in court where the principal assets of the family partnership were marketable securities, but these arrangements are much more susceptible to government challenge and legal advice should be obtained prior to structuring any such arrangement.

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PRACTICAL CONSIDERATIONS IN PROTECTING YOUR FAMILY THROUGH ESTATE PLANNING

BY: SAMUEL A. HANS

Estate planning is often associated with limiting or eliminating as much tax liability as possible but there are greater issues often overlooked because discussing one's death is often difficult. However, the risks associated with avoiding proper estate planning can be great.

Wills and Revocable Trusts

Regardless of the size of your estate, everyone should have an updated will. At your death, there may be issues that only a will can clarify. Who will take care of your minor children? A sibling? Your best friend? Your parents? Who will receive your assets? No one intends for a Judge with no knowledge of you or your family to make these decisions for you. Also, having a so called "Pour Over Will" in place, which transfers all of your assets to your revocable trust upon death, will avoid the cost and time associated with a probate court proceeding.

Health Care Power of Attorney and Power of Attorney for Property

What happens if you are seriously injured or incapacitated? A properly prepared Health Care Power of Attorney can allow you to make decisions about specific medical treatments and when and under what conditions you can be removed from life support. A Health Care Power of Attorney allows you to elect the person to make medical decisions for you when you are incapacitated. A Power of Attorney for Property allows you to appoint an individual to make decisions regarding your property and finances during your incapacitation. Both a Health Care Power of Attorney and Power of Attorney for Property are essential to a proper estate plan.

Special Needs Trusts

If you are a parent of a physically or mentally challenged child or responsible for an elderly family member, we can prepare a Special Needs Trust to make sure the individual is properly cared for after your death. A properly prepared Special Needs Trust ensures the individual is eligible for government benefits while still allowing you to supplement the government benefits. The trust allows for you to select a trustee to not only manage the cash and insurance benefits after your death, but also allows the appointed trustee to select the best care for your family member.

TAX UPDATES continued...

F. Importance of Appraisals

In implementing many of the above techniques, when one makes any sizeable Taxable Gift or contribution to a trust where the valuation may later be questioned, receiving an appraisal is highly advisable for discouraging and persevering against IRS challenges. In the current economy, an appraiser may justifiably assess the value of an asset at far below what the worth may reasonably be expected to return to after the recession subsides. When one makes a Taxable Gift requiring the filing of a gift tax return, attaching a professional appraisal to the return is common and prudent practice, and sometimes is required.

IV. Possibility of Legislative Change (aka Loophole Closings)

Many of the above gifting techniques seem to be too good to be true and Congress may be thinking along the same lines. Speculation exists that Congress may seek to limit the attractiveness of some of these gifting methods in the near future; although at this juncture exactly how is subject for debate. However, many practitioners believe that the Applicable Exclusion Amount will be set at a minimum of $3.5 million dollars for many years into the future. Therefore, if reducing your estate tax liability may be accomplished by employing some of the above techniques, then now, with the current depressed market conditions and the looming possibility of legislative action to curtail the effectiveness of these techniques, is the time to consider implementing such a plan.

If you have any questions pertaining to this article or estate planning in general, please feel free to contact Donna F. Hartl at 312.696.2035, Justin W. Clark at 312.696.2032 or Samuel A. Hans at 312.696.1371.

The federal minimum wage will be raised to $7.25 per hour beginning on July 24, 2009

IRS REDUCES STANDARD MILEAGE RATES FOR 2009

"The IRS rate is often used by employers as a benchmark for reimbursement."
-Laura A. Balson

Beginning on January 1, 2009, the Internal Revenue Service (IRS) reduced the optional standard mileage rates used to calculate the deductible costs of operating a vehicle for business purposes to 55 cents per mile. Ordinarily, the IRS updates the rates once a year in the fall for the following calendar year. In 2008, due to skyrocketing fuel prices, the IRS made a mid-year change from 50.5 cents per mile to 58.5 cents per mile. The 2009 rate factors in the generally higher transportation costs compared to this time last year, but also reflects the reversal of rising fuel prices. Though the IRS rate is optional and businesses are free to determine their own rate for mileage reimbursement, the IRS rate is often used by employers as a benchmark for reimbursement to their employees for mileage on work-related trips.

REVISED FORM I-9 EFFECTIVE DATE POSTPONED UNTIL APRIL 3, 2009

On December 17, 2008, the Department of Homeland Security announced that the types of identity and employment authorization documents that employers may accept in completing the Form I-9 would be changing, thus requiring all employers to use a revised version of the form. The new form was scheduled to become mandatory beginning on February 2, 2009. However, on January 30, 2009, the government postponed that date to April 3, 2009.

The changes in the new Form I-9 include the following:

- employers can no longer accept expired documents, including expired U.S. passports;
- three documents that were previously included in "List A" of the acceptable documents, Form I-688 "Temporary Resident Card" and Forms I-688A and I-688B "Employment Authorization Cards" are no longer being issued and thus have been removed from the list;
- two documents have been added to "List A," foreign passports containing an I-551 printed notation and passports from the Federated States of Micronesia or the Republic of the Marshall Islands with a Form I-94 or I-94A.

In order to comply with the changes, employers must use the new Form I-9 for all newly hired employees or for re-verification of current employees. As with the use of past forms, the key to compliance is following the instructions and the list of acceptable documents to a "T." It is illegal for an employer to specify which documents an employee must present, and any document listed on the Form I-9 must be treated the same. Remember that failure to follow these requirements means very harsh penalties for employers and potentially for the individuals in charge of compliance. If you have any questions about compliance with these important requirements, please contact Laura A. Balson at 312.696.1351 or Margaret A. Gisch at 312.696.2039

NEW MINIMUM WAGE RATES BEGIN IN JULY 2009

"If you operate a business or have employees who work in a state that has its own minimum wage, the higher wage must always be followed."
-Margaret A. Gisch

The federal minimum wage, which is currently $6.65 per hour, will be raised to $7.25 per hour beginning on July 24, 2009. If you operate a business or have employees who work in a state that has its own minimum wage, the higher wage must always be followed. For example, the current minimum wage for Illinois employees is $7.75 per hour, but will go up to $8.00 per hour starting in July 2009 as well. The Illinois minimum wage is then scheduled to go up again, in July 2010, to $8.25 per hour. If you have questions about the minimum wage rate in your state, or if you need help knowing how to determine which rate applies, please contact Laura A. Balson or Margaret A. Gisch.

TO LEARN MORE...

If you would like additional information, please contact:

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GOLAN & CHRISTIE

YOUR SUCCESS. OUR FOCUS.

OUR FOCUS IS YOU

Putting our clients first is not just a slogan for Golan & Christie LLP. Everything we do stems from your needs, goals and objectives.

From the moment we first meet, we are driven by one thing: your ultimate success. And we go the extra mile to achieve it.

We devote as much time as necessary to get to know you. Only then can we make a thorough assessment of your situation and develop solutions that are the most appropriate for you. As our team goes to work for you, we continue to invest time in listening to, observing and advising you.

Ultimately, we measure our success by your success.

PRIOR EDITIONS OF GOLAN & CHRISTIE'S NEWSLETTERS ARE AVAILABLE AT: **http://www.golanchristie.com/news.html**

BIRTH ANNOUNCEMENT

Golan & Christie is pleased to announce a new addition to our extended family: Grace Arabella Balson joined us Sunday, March 15 at 9:45 p.m., weighing 7 pounds, 5 ounces and measuring 19 inches. Grace is the daughter of Golan & Christie attorney Laura Balson and her husband Matt. We wish the Balson family much health and happiness.

OUR PRACTICE

Our practice covers many aspects of law and business, with an emphasis on the following areas:

- Business Law & Governance
- Commercial & Corporate Litigation
- Commercial Real Estate
- Employment Law
- Estate Planning & Taxation
- Finance
- Reorganization & Bankruptcy

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