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Estate Planning in a Down Economy

There are still ways to ensure your assets will pass on and retain their value.

During an economic recession, many people tighten their belts and look for ways to save money. Often, one of the first things they remove from their “to do” list is estate planning. There are, however, a couple of estate planning techniques that work particularly well during a recession and in an era of low interest rates. Spending money on these estate planning techniques now can be an excellent way to transfer assets from an individual’s estate, saving estate and gift taxes. Those interested in passing wealth to younger generations or charitable organizations have a couple of options.

One is a **GRANTOR RETAINED ANNUITY TRUST (GRAT)**, an estate planning technique that allows an individual to transfer appreciated assets with minimal or no gift tax. The creator of the GRAT transfers assets to the trust for a set term of years. During the term of the trust, the transferor receives an annual annuity payment of a fixed dollar amount or percentage of the fair market value of the trust assets. If the individual creating the GRAT survives

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the trust term, the remaining trust assets (if any) are distributed to the remainder beneficiaries of the trust (typically the grantor’s children).

The goal of a GRAT is to transfer assets that have the potential for appreciation at a rate greater than the rate the Internal Revenue Service establishes for the purpose of valuing the annuity paid to the grantor. If the assets appreciate at a greater rate, then, at the end of the GRAT, there will be assets remaining in the trust that can be paid over to the trust beneficiaries.

The individual creating the GRAT is deemed to make a taxable gift equal to the fair market value of the property transferred to the GRAT, less the value of the annuity payments paid during the trust term. The GRAT can be structured so that the gift is very small,

by making the annuity payments roughly equal to the value of the property transferred to the GRAT.

Because the Internal Revenue Service rate for GRATs is low and the value of many assets held by individuals is also relatively low, a GRAT can be a useful technique to transfer potential appreciation in an asset at a very low gift tax cost.

A **CHARITABLE LEAD ANNUITY TRUST (CLAT)** is another estate planning technique that works well in a low interest rate environment. A CLAT is a trust that provides for a payment of a fixed dollar amount to one or more charitable beneficiaries for a specific period of time. Upon termination of the trust term, the remaining trust assets (if any) are distributed to the remainder beneficiaries of the trust (typically the grantor’s children).

A CLAT can be created for a term of up to 20 years or can be based on a specific individual’s lifetime. A CLAT requires that an annuity payment be made to the charitable beneficiary/-ies at least annually, regardless of the income generated by the CLAT. The individual creating the CLAT receives a charitable deduction based on the present value of the annuity payments. The value of the taxable gift made by the individual creating the CLAT to the remainder beneficiaries is equal to the fair market value of the assets transferred to the CLAT, less the present value of the annuity payments.

With both a GRAT and a CLAT, the individual creating the trust wants to create a rate of return on the assets that exceeds the interest rate set by the Internal Revenue Service. Subject to market considerations, there is a greater chance that the rate of return on investments in a low interest rate environment will exceed the interest rate set by the Internal Revenue Service, which increases the likelihood that there will be additional assets at the end of the GRAT or CLAT period that will pass to the remainder beneficiaries of the trust with little or no gift tax.

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