



News From Giordani, Swanger, Ripp & Phillips, LLP

2010 Gifting Opportunities

For Clients and Friends of GSRP, LLP

As 2010 draws to a close, now is the time to consider making taxable gifts in light of the favorable tax provisions that are soon to expire. Under the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), (i) the estate tax does not apply to the estates of decedents who die in 2010, (ii) there is no generation-skipping transfer ("GST") tax applicable to generation-skipping transfers made during 2010, and (iii) the top gift tax rate during 2010 is equal to the top individual income tax rate (35%). EGTRRA will sunset, however, on January 1, 2011. Without Congressional action, the maximum estate, GST and gift tax rates will all increase to 55% in 2011, and the estate and gift taxes will apply to transfers in excess of \$1,000,000. Also noteworthy is that the Administration and Congress have made various proposals to significantly reduce the use of valuation discounts and grantor retained annuity trusts ("GRATs").

The good news is that because Congress so far has failed to reinstate the estate tax for 2010, eliminate valuation discount and GRAT planning, or increase the gift tax rate applicable to gifts made during 2010, there are estate planning opportunities available before the end of the year. Many practitioners have been concerned that Congress would make any future changes to these planning techniques retroactive to the beginning of 2010. While it is still possible that changes could be made and applied retroactively, many now believe that it is not likely that Congress will take this approach.

In addition, interest rates and some asset values are currently at historic lows. This provides even more incentive to act quickly. Not only are tax rates currently significantly lower than the scheduled 2011 rates, but hopefully assets with a low value now will appreciate when market conditions improve.

If you have appropriate assets, not only should outright gifts be considered, but also other available gifting techniques such as valuation discount opportunities and GRATs, which can provide substantial gifting opportunities while minimizing the associated tax burden if funded with low valued assets that are expected to appreciate in future years. And, as noted above, it is possible

that either Congress or the Treasury Department will act to restrict GRAT and valuation discount planning in the future.

Every situation is different. If you are contemplating large gifts, the end of 2010 affords a unique opportunity to do so in an attractive tax planning environment. For additional information or assistance with creating a year-end gifting plan, please contact:

Derry Swanger
512.370.2752
dswanger@gsrp.com

Peggy Ugent
512.370.2756
pugent@gsrp.com

