Agent and Advisor Guide to
Advanced Markets Concepts

AVIVA

Estate Planning

Estate planning consists of:

- Accumulating information on client's current/ future assets;
- Projecting the asset value based on (1) client's current planning and (2) assumed growth rate to a future date – assumed date of death;
- Applying assumed estate tax law to determine client's potential estate tax liability;
- Suggesting appropriate planning techniques that potentially reduce future client estate tax liability; and
- Re-projecting client's potential estate tax liability based on alternative planning.

  Gifting is a major part of estate planning for (1) reducing the size of the estate; and (2) funding the irrevocable trust (ILIT) so life insurance premiums can be paid

- Clients can each gift $13,000 in 2009 (annual exclusion indexed for inflation) to an unlimited number of individuals. Gifting removes the asset from client's estate and also removes the appreciation associated with the asset. Gifting techniques include: outright gift of cash; gifting business units at a discount for "lack of marketability" and "lack of control"; grantor retained annuity trusts (GRATs); (sale to intentionally defective grantor trust (IDITs); etc.
- Gifts to an ILIT are considered a gift of a future interest because the ILIT beneficiary cannot currently use the gift. The annual exclusion does not cover a future interest gift. Therefore, the ILIT trustee must give the beneficiary a right to withdraw the gifted funds for a period of time (usually 30 days) – a "Crummey Notice." Once the period for withdrawal has lapsed, the trustee can use the funds to pay premiums.
- If the premium is larger than the available annual exclusions, or if the annual exclusions are being used with other planning, then the client should consider implementing a premium sharing arrangement (endorsement split-dollar, employer loans, private loans) or a premium financing arrangement. Premium sharing arrangements are essentially a process of "renting" the death benefit (endorsement arrangements) or borrowing to pay premiums (loan arrangements). The effect is to reduce the annual gift tax cost from the entire premium cost for the year to either: (1) the "economic benefit" (endorsement arrangement) or (2) the "interest" (loan arrangement) cost of the arrangement. It is important to have a take-out strategy for any premium sharing arrangement. Such strategies can include: using policy values; GRAT; IDIT; charitable remainder trust; etc.
- If the required annual premium is $100,000, the ILIT trustee could borrow the funds from the lender (private or commercial) with the result being the annual gift for transfer tax purposes is reduced from the $100,000 to the interest on the outstanding balance.
- Transfers of a certain total value are allowed free of any estate and/or gift taxes. These tax-free transfers are in addition to those made under the gift tax annual exclusion, those made to a spouse, or those made to charity. This tax benefit is commonly expressed in terms of the value of the transfer (during life and at death) that it shields from tax (this is known as the application exclusion amount (or unified credit) - $2,000,000 in 2008). Individuals may use up to $1 million of their applicable exclusion amount during life and the remainder of the applicable exclusion is available at death. This amount will be increased at death pursuant to The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) through 2009, there is no estate tax in 2010, and then the tax goes back to pre-EGTRRA rates in 2011 and beyond.

Continued

The preceding summary is intended to be a general discussion of the topic presented, and is based on our current understanding of applicable tax laws, regulations and rulings. In actual practice, the transaction discussed may be more complex and will require the attention and expertise of professional advisors. In no way should this summary be construed to constitute tax or legal advice. **For agent use only.**

- Proper estate planning ensures use of each spouse's applicable exclusion amount. This is typically accomplished by setting up bypass trusts (aka family trust) or by outright transfers to someone other than the surviving spouse. If all assets are transferred to the surviving spouse, the decedent's applicable exclusion amount is lost which may subsequently increase the amount of estate tax due at the surviving spouse's death.

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