The "Daily Plan-It™"

ESTATE & BUSINESS LAW GROUP, P.C.

Volume 12, Issue 7 **4/8/2010**

Clients Still 'Thinking About' a GRAT? Tell 'Em Act Now Before Congress Does

I wanted to alert you to an important item in the news recently that could affect many of your clients and their families.

A jobs and small business tax relief bill before the House contains new restrictions on a popular estate planning strategy that allows families to pass on wealth while cutting estate and gift tax bills.

If your client has been mulling over the idea of establishing a Grantor Retained Annuity Trust, or GRAT, now is the time to act on it.

What is a GRAT?

A GRAT is an Irrevocable Trust. A Trustmaker puts assets into the GRAT and takes back an annuity payout for a term of years, sometimes as little as two to three years. Anything left at the end of the expiration of the Trust goes to the beneficiaries. The value of the annuity is calculated based on a government set rate of interest – currently a very low 3.2%.

If the value of the assets grows at more than 3.2% per year, the beneficiaries get that excess appreciation, free of estate and gift tax. But this technique isn't a sure thing. If the grantor dies during the term of the trust, the assets that are in the GRAT, plus any appreciation, are included in his or her estate.

Presidential Call to Restrict GRATS

In his 2010 and 2011 budget proposals, President Obama suggested reigning in GRATS. But estate planners didn't take it too seriously. Now, they're sounding the alarm and urging wealthy clients to set up GRATs before the restrictions can become law.

The restrictions would likely be effective when the bill is signed, which means there is still a window of opportunity to set up GRATs under the old rules.

The House bill requires a GRAT to last a minimum of 10 years, making this technique less attractive for older folks.

A second restriction essentially bars zeroed-out GRATs, requiring the Trustmaker to set the annuity so that the remainder gift is greater than zero. If a minimum gift is required, the Trustmaker would have to use up some of his or her $1 million lifetime gift tax exemption.

Assuming the bill passes the House, it still must go to the Senate. But even if the GRAT restrictions don't end up as part of the current legislation, planners now believe that Democrats will use the GRAT crackdown as a "revenue raiser" to fund some other spending or tax break this year.

Short-Term GRATs

In the meantime, planners are recommending setting up multiple short-term GRATs, each with different asset classes. The GRAT assets that go up enough save the family estate taxes; the ones that don't exceed a 3.2% return collapse back into the estate, and no harm is done – except for lawyer's fees.

I hope this article has helped you and your clients. As always, if you have a specific case or concern, please contact our office.

Registration: *Contact Mary Lang at (847) 367-4460*
http://eblawgroup.com

ESTATE & BUSINESS LAW GROUP, P.C.
Howard M. Lang, J.D. & Marguerite A. Kopke, J.D.
847-367-4460