



National Madison

340 Madison Avenue / 21st Floor / New York, NY 10173
T 800.774.2995 | F 212.687.2990 | www.nationalmadison.com

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Leaders in
Knowledge-Based
Wealth Preservation

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New Opportunities in Charitable Planning

by Sam Radin, JD and
Stuart Youngentob, JD, CPA

Advisors can use creative gift structures to help donors and non-profit organizations balance their needs.

- Donors are afraid to part with liquid assets in today's volatile economy
- A good gift structure addresses the needs of the non-profit organization and the donor
- Professional advisors, non-profit organizations and donors have to work together to create effective planning



Individual donors have historically been the main source of donations for non-profit organizations. In better economic times, non-profit organizations solicited and received immediate and deferred gifts with relative ease. In the past few years, however, non-profit organizations have had to be creative in the ways they approach and engage donors, including understanding their donors' broader financial pictures, collaborating with their professional advisors and working around and within the new psyche of wealth preservation that has threatened to derail fundraising efforts. To ensure continued immediate cash gifts and deferred planned gifts to support their missions, non-profit organizations have been working with donors to create gifts that address both the donors' concerns about reducing their current liquid assets or future estates as well as the non-profit organizations' need for capital.

Wealth Replacement Trusts

One of the simplest ways for a donor to make an immediate gift to a non-profit organization while keeping their estate intact is to couple the gift with a wealth replacement trust. By utilizing a wealth replacement trust, the donor can make gifts to the trust to fund a life insurance policy whose death benefit will replace the value of the assets donated. At the donor's death, his or her heirs and beneficiaries will receive the full value of the estate. It's as if the charitable gift never had been made.

While a wealth replacement trust certainly is not new, the growing concern about keeping an estate intact to benefit heirs reflects current fears about the economy. One of those fears, that a wealth replacement trust does not completely address, is the loss of liquidity and use of assets during the life of the donor. Donors are having a more difficult

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time parting with assets for charitable purposes because they are concerned that they may need them for personal use before their deaths.

Beyond Wealth Replacement Trusts

There are several gift structures that can address these concerns. One is a structure that couples an immediate gift to charity with a wealth replacement trust and a single premium immediate annuity. The concept encourages an immediate gift of cash, appreciated securities or retirement accounts such as an IRA, to the non-profit organization. The annuity is owned by the donor – not the non-profit organization – and makes fixed payments in the amount of the interest income that would have been generated by the donated asset. This strategy preserves the donor's access to income during his or her lifetime and removes the fear of parting with a large asset. The wealth replacement trust functions to replace the value of the donated asset to the donor's heirs at the donor's death. The donor receives an extra advantage when donating appreciated securities or retirement account assets by using the pre-tax value of the asset. This type of gift structure is becoming increasingly more prevalent as non-profit organizations strive to increase current major gifts while allaying donors' fears of parting with valuable assets.

Conclusion

Understanding a donor's overall financial profile is integral to today's planning process. Charitable gifts are not separate from financial planning and are not immune from financial concerns. As wealthy potential donors work on new financial planning to account for the past few years' economic volatility, the non-profit organization and the donor's advisors must be willing and able to look beyond traditional planning structures to address all of the donor's personal planning goals.

Savvy Year End Strategies

by Lena Rizkallah, JD

Six planning options you should consider before the end of the year.

While some investors may adhere to the adage "the early bird gets the worm," others prefer to follow the wisdom of "save the best for last." This maxim can also be applied to financial planning, as many people opt to wait until the last quarter of the year to conduct a final financial review with their adviser, and act on strategies that may maximize tax, retirement and other benefits.

During the last quarter of the year, many financial advisers will be discussing various end-of-year tax strategies that might be worth considering. In particular, laws in effect this year may offer planning opportunities that may not be available next year or in years to come, as many provisions set forth by the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Tax Act) are scheduled to expire at the end of 2011 and 2012. Furthermore, after this dramatic year in Congress, it's safe to assume that deficit reduction and entitlement reform will continue to be major issues in the years to come, and will likely cause tax rates to increase and/or current deductions to be limited or eliminated in the near future.

There is still time to take advantage of the low-tax environment and benefits that 2011 has to offer. As you review your financial and estate plan, consider these planning tips:

Sell the losers

Consider selling losing stocks to take advantage of capital losses. If an individual sells stocks with long-term capital gains, he/she can use up to \$3000 per year in capital losses to offset gains in order to minimize the tax liability. However, beware of the 'wash-sale rule', which prohibits individuals from selling a losing stock and buying the same or similar stock within 30 days in order to take advantage of the losses.

Be a 'do-gooder'

Don't forget to make your annual charitable contributions. Individuals who make charitable contributions may be able to deduct the value of that cash or property contribution against their income



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liability subject to certain limitations. In addition, it might be a good idea to consider making donations in 2011 because the tax deduction may change in coming years. One of the proposed changes in President Obama's Jobs Bill is to reduce the tax benefits of charitable donations. If this proposal becomes law, charitable contributions may be limited to 28% (or whatever rate is determined), and individuals in higher tax brackets may not receive a full tax deduction on their contribution.

Max out retirement contributions

This year, individuals may contribute up to \$16,500 to most employer defined contribution plans (401k, etc.). Employees who are 50 years or older may contribute an additional \$5500. Many employers have resumed their matching programs again, which may offer employees more retirement bang for their buck this way. IRA owners may contribute up to \$5000 this year and an additional \$1000 if aged 50 and over. For SIMPLE plans, the contribution limit is \$11,500 or \$14,000 for people 50 and over.

It's not too late for a Roth conversion

In 2010, the rules for income limitations on Roth IRA conversions changed and now anyone who wants to convert a traditional IRA to a Roth IRA may do so regardless of income. The benefits of Roth IRAs are unique, especially in a rising tax environment. Individuals may make qualified tax-free distributions from their account as long as the account has been open for five years and they are over 59 1/2. In addition, there is no RMD requirement with a Roth so an account holder never has to take a distribution; the Roth distributions may potentially be passed on to beneficiaries tax-free. The best part is that people who convert from a traditional to a Roth may change their mind. If you convert to a Roth and want to revert back to a Traditional IRA, you have until October 15 of the year following the year of conversion to make the recharacterization.

Donate RMDs to Charity

The 2010 Tax Bill extended a provision that allows an IRA holder who is 70 1/2 (and therefore must start withdrawing RMDs from his IRA) to contribute up to \$100,000 in IRA assets to a charitable organization without paying taxes on the distribution. The transfer must be made directly from the IRA sponsor to the charity, and the organization will send a letter to the donor to confirm the gift.

While the donor doesn't get a deduction for the gift made to charity as he would with other gifts, he could receive tax benefits since the RMD goes directly from the IRA to the charity and the donor never has to report the RMD as income.

Gift it or Trust?

Along with extending the Bush tax cuts, the Tax Bill also increased and unified the estate, GST and gift exemption to \$5 million and lowered the estate, gift and GST tax to 35%. With the higher gift exemption and a low interest rate environment, now may be a great time to establish trusts and family limited partnerships to preserve asset values and pass assets along to children. Individuals may gift up to \$13,000 per person (or \$26,000 per married couple), which can also be used to make gifts to trusts or to fund a 529-college savings plan.

As the holidays draw near and the year comes to a close it's important to take time to work with a financial advisor to utilize smart strategies available now--before they are gone forever!

Find Us:

Web:

http://www.nationalmadison.com

E-Mail:

inquiry@nationalmadison.com

Of Note

• **Should You Buy An Immediate Annuity?**

When it comes to planning for retirement, people tend to spend a lot of time thinking about how to save and invest. But what about how to eventually turn that nest egg into income and ensure that it lasts as long as you live? One possible solution that's gaining more interest is purchasing an **immediate annuity**, in which you give up a lump sum of money to an insurance company in exchange for a guaranteed monthly income for as long as you live. It's like buying your own pension.

• **IRS Issues Procedures for Protective Estate Tax Refund Claims**

The IRS issued guidance for executors on how to file a **protective** refund claim for estate tax under Internal Revenue Code Section 2503. This allows estates to deduct expenses that have not yet been finalized when the estate tax return is filed.

• **Donating IRA Distributions to Charity**

You can avoid a tax bill on required IRA withdrawals if you use the money to make charitable contributions. IRA owners who are 70 1/2 and older can direct up to **\$100,000** of their IRA distributions to charity in 2011. The money given to the charity will count toward your required minimum distributions, but it won't increase your adjusted gross income or generate a tax bill.

• **Family Limited Partnerships Require Good Planning and Execution**

Forbes recently published an article that discusses why taxpayers lose **family limited partnership** (FLP) cases. The article analyzes Estate of Paul H. Liljestrand v. Commissioner, TC Memo 2011-259 (Nov. 2011) to pinpoint actions during the creation and executive of an FLP that can cause a taxpayer to later lose his or her case.

• **Supreme Court Takes On Obamacare Challenge**

The **U.S. Supreme Court** agreed to decide the constitutionality of President Obama's health care reform law. The justices have warned the parties to prepare for arguments on all of the major issues. The case is scheduled to be argued next spring.

About Us

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