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Trusts & Estates Newsletter

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Trusts & Estates

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# Year-End Planning Reminders

Most of 2010 has passed, and Congress has not addressed the federal estate tax uncertainty that we wrote to you about at the beginning of the year. Despite this lack of guidance, 2010 planning opportunities exist. Below is a brief summary of some of the ideas you may wish to consider implementing prior to the end of the year:

### *1. Make Gifts*

Making gifts in the amount of the annual exclusion ($13,000 in 2010) is often a good estate planning strategy. However, the present state of federal gift tax law provides a potential opportunity to make larger gifts at a reduced gift tax cost in 2010. Currently, a maximum 35% gift tax rate applies to taxable gifts (those in excess of your lifetime $1 million gift tax exemption). In contrast, the maximum gift tax rate is scheduled to increase to 55% next year. If you are in a position to make gifts of this magnitude, you should consider doing so prior to year-end.

In addition, making gifts to grandchildren in 2010 in amounts in excess of the $13,000 annual exclusion may provide an even greater opportunity for leveraging the tax benefits of these gifts. Presently, the generation-skipping transfer tax (GST tax), which would otherwise apply to a gift to a grandchild or more remote descendant, does not apply to outright gifts made to such individuals in 2010. This means that you may be able to make a gift to a grandchild before year-end without use of any GST tax exemption or payment of GST tax.

### *2. Create a Grantor Retained Annuity Trust (“GRAT”)*

Grantor retained annuity trusts (known as “GRATS”) are a method of transferring assets to your beneficiaries with little or no gift tax cost. GRATS are a particularly effective method of transferring assets that you expect to increase significantly in value in the future.

Congress and the Obama administration have proposed changing the rules for GRATS to make them less beneficial from a transfer tax planning perspective. Therefore, if you are contemplating creating a GRAT or would like to review this technique further, we encourage you to do so prior to the end of the year.

### *3. Consider a Roth IRA Conversion*

Unlike a traditional IRA, a Roth IRA is funded with post-tax, rather than pre-tax, dollars. The benefit of a Roth IRA is that withdrawals from the Roth are income tax-free. In addition, withdrawals do not have to be taken at a particular time, so the Roth IRA may grow income tax-free for your beneficiaries throughout your life.


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Prior to 2010, income ceilings meant that Roth conversions were not available for many of our clients. However, beginning in 2010, these income limitations have been eliminated, allowing more individuals the opportunity to convert a traditional IRA to a Roth IRA and allow for future tax-free distributions from the converted IRA. The catch is that income taxes will be paid on conversion. However, a Roth conversion may make sense in certain situations and should be considered in the context of your unique income tax circumstances.

### *4. Contemplate Charitable Gifts*

Current tax laws and the present low interest rate environment provide unique opportunities for planned charitable gifts in 2010. Certain techniques, such as charitable lead trusts, may be particularly effective from a tax perspective in 2010. In some cases, however, it may be more beneficial to postpone charitable gifts until the new year. Therefore, we encourage you to contact your Shipman & Goodwin Trusts & Estates attorney to discuss any charitable gifts you are contemplating.

## *Federal Gift Tax Annual Exclusion 2011*

The Federal Gift Tax annual exclusion remains at $13,000 for 2011.

As with all estate and financial planning concepts, these reminders should be reviewed in light of your particular family and tax circumstances. If you have any questions or would like to discuss 2010 year-end planning further, please contact any member of the Trusts & Estates Department listed below.

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