

Trust Services & Estate Settlement Minute



Estate Planning Solutions

The Asset Management and Trust Services Group is now issuing this bi-weekly newsletter to highlight estate planning techniques that can benefit BBVA's clients.

If you have any questions about these CARES Act items, please contact:

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Turning Lemons into Lemonade: Family Wealth Transfer In Times of Low Valuation and Low Interest Rates

During the COVID-19 pandemic and resulting stay-at-home orders, many families have taken this opportunity to revisit important documents like health care directives, powers of attorney and even wills or trusts. For most individuals and families, progress can be found in addressing the very basics of estate and disability planning before the pace of daily living returns to its frenetic pace. However, there is another distinct and historic opportunity for wealthy clients and family business owners to leverage the recent economic conditions for efficient transfer of family assets to the next generation at lower gift and estate tax cost.

The trifecta of efficient intra-family gifts and installment sales are comprised of the following factors: (1) historically high gift tax and generation-skipping tax exemptions for taxpayers, (2) potentially lower asset valuations during and following the health crisis, and (3) low interest rates.

The Tax Cuts and Jobs Act of 2017 increased the federal estate, gift and generation-skipping trust exemption amount to an all-time high. The annual inflation-adjusted exemption for 2020 was increased to \$11.58 million person or \$23.16 for spouses. These exemption limits are in effect until December 2025, with the possibility of changes before then depending on Congressional action and the outcome of the upcoming presidential election. While gift tax exemptions have historically never retreated, these are volatile times politically with mounting federal obligations. It is difficult to predict the near-term future or long-term future of tax policy. For those who can afford to transfer assets between and among family members, many may choose to do so during times when the tax laws are favorable.

Irrevocable gifts during lifetime are an efficient vehicle for leveraging gift and estate tax exemptions. By transferring closely-held business interests or marketable securities during period of low valuation,

individuals can use up less of their gift tax exemption amounts and avoid compounding their future estate tax liability caused by holding on to the future growth of assets in their taxable estates

Now is a good time to review hard-hit assets, especially those expected to rebound significantly when the market recovers. If clients complete their gifting during this time, any increase in valuation will occur outside of the donor's taxable estate and inure to the benefit of future generations. Some clients may also prefer the structure of family limited liability companies amounts and avoid compounding their future estate tax liability caused by holding on to the future growth of assets in their taxable estates. (LLCs) or family limited partnerships (FLPs) to bifurcate control of assets from ownership of the same assets and potentially further reduce the value of the gift. Such structures should be carefully reviewed by experienced estate planning attorneys and tax advisors.

Clients may be inclined to transfer family assets on an installment sale rather than make outright gifts of assets to family members. Or in some cases, transfer wealth efficiently through a combination of gifts and sales. For those situations in which an installment sale of assets might make sense, these are times of historically low interest rates for intra-family sales. The applicable federal rate (AFR) is the monthly published interest rate that is frequently used to determine the lowest interest rate that a family member can charge another family member without the transaction being considered as part gift. The AFR rate for May, 2020, has been published and shows a long-term interest rate of 1.15% and a mid-term interest rate of 0.58%. For a wealth business owner who desires to transfer some business ownership to the next generation while giving the next generation the most flexibility for future success, these low interest rates are helpful for creating an efficient sale structure for family members.

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