Estate Planning:
Consider gifting to minimize taxes

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Estate planning is an important facet of retirement planning, no matter what your net worth. Many people do not wish for their life's earnings and investments to be lost to taxes or to create a financial burden on their loved ones. Proper planning does take time and expertise, however it can greatly minimize tax consequences and liabilities when your assets are transferred after your death.

But what about before you pass away? It is possible – and possibly smart – to begin to "gift" or transfer your assets to your family or other beneficiaries and reap the rewards now. The ultimate goal is to minimize your estate taxes and any other taxes paid to Uncle Sam.

Current tax laws allow for great gifting opportunities until December 2012. If you're considering changing the size of your estate by taking advantage of this law, it makes sense to consider your options to reduce tax exposure.

Gifting your personal assets.

The IRS allows for the giving of gifts up to $13,000 annually ($26,000 if you give jointly with your spouse) in the form of cash, stocks, investment securities, and/or property. You may have already set up a savings, trust or account in your (underage) child's name, with you or your spouse named as custodian. Consider giving gifts to adults as well, keeping in mind the IRS considers the value of the gift as the fair market value of the property at time of transfer. The gift is valued when it's given, and the recipient of your gift receives your "cost basis" to determine gain (if any) in the future should they sell or redeem their gift at a profit (incurring capital gains taxes). The IRS also allows you to pay college tuition or medical expenses on a gift tax-exempt basis as long as the check is written directly to the institution.

Gifts of cash, investments or other can offer benefits to you as well as the recipients. First, you can witness your family or beneficiaries enjoying the things you gift to them, such as a downpayment for a home, ownership in the family business, or even a rare stamp collection. With the values of assets being lower after the past two years of economic and market downturn, now is a good time to move your assets from one generation to the next. For example, your family home may have depreciated in value. Calculate your home's basis to determine the capital gain or loss. The basis should include settlement or closing costs and any debt you assumed when you bought or built it, as well as any home improvements and insurance claims paid. The lower the basis, the higher the tax bill. It's a good time to transfer or shift the low-value property that's going to be retained and expected to appreciate into the next generation's hands. A general rule is to sell high basis property but let low basis property transfer/be inherited at death.

There is also a lifetime exclusion for federal estate tax purposes, used to offset either gift taxes or inheritance taxes or a combination of both. If you give more than $13,000 as a gift in a given year, the first $13,000 will have no tax consequence but the amount over that will be considered a taxable gift. This extra amount will be applied toward your lifetime exclusion. In 2012, the exemption is $5,120,000 with a top gift tax rate of 35%. In 2013, the exemption is scheduled to decrease back down to $1,000,000 and the top gift tax rate will jump to 55%.

Gifting business interests.

If you are planning to transfer or sell your business to your children or other family members, now may be a good time for this. It's important to obtain counsel from a professional trained in exit planning, because there are various estate planning tax deferral strategies to employ for gifting depending on if your company is experiencing increased profitability, whether or not you wish to retain ownership and control of the business during your lifetime, or your surviving spouse retains interests or appoints a trustee. Shareholder restriction and buy-sell agreements as well as life insurance are important aspects of business ownership succession planning, particularly where continued family ownership of the business is desired.

This information is not intended to be a substitute for specific individualized tax advice. We suggest that you discuss your specific tax issues with a qualified tax advisor. The opinions voiced in this material are for general information only and are not intended to provide specific advice or recommendations for any individual. To determine which investment(s) may be appropriate for you, consult your financial advisor prior to investing.