Title:
Family Business Tax Reduction.

Word Count:
782

Summary:
The Federal Estate Tax is one of the most burdensome of all taxes. After applying the "credit equivalent amount" that is exempt from tax, the initial marginal tax rate is 37%! With "phase-outs," the marginal tax rate may be as high as 60%! (For each additional $1 transferred, your estate must pay up to 60 cents in tax.)
The good news is that, with proper planning, a significant portion of the estate tax may be deferred or avoided.

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Article Body:
The Benefits of Lifetime Giving.
A number of techniques are available, but it is significant to point out most of them are based on lifetime gift programs, often including using trusts created during your lifetime! After a person is deceased, the planning opportunities are much more limited. Significantly, gift taxes paid during your lifetime are generally not included in your gross estate, but the gift tax is not a deduction in determining the estate tax after your death. In other words, you receive an estate tax reduction of up to 60% of the gift taxes you pay for transfers during your lifetime.
Caution!
If you need to keep your assets in order to maintain your standard of living and to provide for contingencies such as long-term car, you probably shouldn't pursue an aggressive lifetime giving "wealth preservation" program.
In some cases, receiving significant gifts can corrupt the beneficiaries, eliminating their motivation to work. Don't let the "tax tail" wag the dog! Maybe a charitable giving program makes sense in this situation. (Outright bequests to charities are not subject to estate or gift taxes.)
Family Wealth Planning Using The Family Business.
In the situation where the beneficiaries are compatible and have an interest in maintaining the assets of the family, particularly real estate or a family business, significant estate (and, in some cases, income) tax benefits may be secured using a family business structure. The most popular structures right now

are the family limited partnership and the family limited liability company, principally because the permit the donor(s) to retain management control of the assets that are given during his, her, or their life and have significant operational flexibility compared to a corporate structure.

The principle on which the estate tax reduction is based is that a minority interest has a disproportionately lower value than a majority interest in the whole. For example, suppose a partnership's business could be sold as a whole for $1,000,000. An investor might only be willing to pay about $150,000 for a 25% interest in the partnership, because he or she would be unable to control the partnership or easily sell the partnership interest. We call the difference between the amount a buyer would pay for a fractional interest (in the example, $150,000) and the proportionate value of the interest based on the whole (in the example, $250,000) a valuation adjustment. Valuation adjustments (reductions) of 35% and up have been defended for partnership interests where there was a lack of control and a lack of marketability.

A donor may make annual fractional gifts to use his or her annual gift exclusion ($10,000 per donor, per donee, per year) and lifetime credit exclusion ($600,000 for 1997, increasing to $1 million in 2006), thus securing the valuation adjustments for the gifts. If the donor retains less than a 50% interest at his or her death, that interest should also qualify for a valuation adjustment.

Using Entity Fractionalization For Investment Assets.

Should a family limited partnership or limited liability company be used to hold liquid investments, such as securities, cash and life insurance policies? Such entities may be defended if a legitimate purpose can be established for them, but expect an especially vigorous attack by the IRS. This strategy has been targeted as vulnerable.

What The IRS Doesn't Want You To Know.

The IRS hates these programs, and has attacked them vigorously. They have mostly failed in their efforts, except in the case where the transfers were made shortly before death. When the plan is done properly, the IRS will almost always capitulate or make a significant concession in settling the issue.

Properly Implementing A Family Wealth Plan Is A Worthwhile Investment.

When you are seeking significant tax benefits from this type of plan, it doesn't make sense to "cut corners." A competent attorney should prepare the documents. Valuations should be prepared by a qualified appraiser who is educated in this area. You should use a qualified tax advisor, such as a CPA, to assist in assuring the entity is operated properly, including setting up a separate bank account, setting up sparate books and records, properly paying proportionate benefits to partners/members, and preparing income tax returns. The up-front investment will pay dividends to your beneficiaries in tax benefits and avoided litigation costs.

When Does Entity Fractionalization Make Sense?

As you can see from the above discussion, the entity fractionalization strategy can require a significant investment in professional fees and potential litigation costs. There are three situations where the strategy makes sense. 1) There are assets of significant value to be transferred. ($1 million is worth thinking about. $2 million requires more serious consideration.) 2) The business has a potential for significant growth in value. (Such as a high technology start up.) 3) The business is generating significant income.