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LIFE TIME TRANSFER STRATEGIES

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Non-charitable gifting provisions allow an individual to transfer $11,000 per donee to as many donees per calendar year as that individual is willing and financially able to make. This article explores some of the pros and cons of these lifetime transfers as well as some strategies for your consideration.

To begin, let's deal with two major potential drawbacks of gifting:

> The first potentially negative feature has to be the forfeiture of income and control. An important objective and goal for many people is to assure adequate income whether they live to 85 or 135.
>
> Second, the determination of basis between gifted property and property passed via an estate is another important consideration. The donee's basis in gifted property is the same as the donor's basis; while an heir's basis of property is the value reported in the calculation of the descendant's gross estate (generally, the fair market value at date of death). This difference in the recipient's income tax basis can result in substantial difference of income tax liability should the recipient sell the property.

Now, for the benefits of gifting:

> First, gifting is a tremendously powerful tool for reducing one's estate. Gifts up to the $11,000 annual exclusion amount are not considered taxable gifts and therefore, not included in the calculation of your taxable

estate. Thus, if you and your spouse have 3 married children, you could annually gift $132,000 to your children and their spouses without incurring any gift tax liability.

Second, gifting can be used as a means of facilitating the transfer of a family business to the next generation.

Third, gifting during life allows the donor the opportunity of witnessing the donee's use and enjoyment of the gifted property.

Given the substantial benefits of gifting and the potential disadvantages, the following strategies might be appropriate:

1. Never give away property you can't afford to do without.

2. Careful consideration should be given to what property is to be gifted.
   * Gift property least likely to be sold by donees.
   * Gift property with the greatest potential for appreciation.
   * Gift property with a high basis relative to its fair market value.

3. If taxable gifts are made in an attempt to freeze the value of gifted assets and utilize the unified tax credit - consider transferring the life interest to the children with the remainder interest to the grandchildren - thus, preventing the property from being taxed in your children's estate - yet giving them the right to the property's income for their lives. Be aware that the value assigned to the remainder interest gifted to the grandchildren is a gift of a future interest and will be subject to gift tax which can be offset by the unified tax credit.

Estate planning offers the opportunity for tremendous tax savings and the ability to draft a customized plan to meet your goals and objectives. However, to minimize the potential of costly litigation and disputes among the heirs, a professional estate planner should be involved in the drafting or at least a review of your plan.