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Estate Planning Strategies in Low Interest Rate Environments

There is welcome change coming in the estate tax arena under the stewardship of President-elect Barack Obama's plan. This, coupled with the low interest rate environment, presents an exceptional opportunity for transmitting wealth to younger and even future generations with minimal transfer tax. Of course, with the rough economic markets, we recognize that transferring property at this time entails charging into the emotional headwind of current market conditions. However, if you persevere through this headwind, the rewards for future generations of your family will be great.

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President-Elect Barack Obama's Plan for the Federal Estate Tax

Obama has proposed a portable federal exemption between spouses. This means that less sophisticated tax planning is available in order for married couples to utilize both of their federal exemptions upon the death of the first to die. President-elect Obama also favors retaining the step-up in cost basis upon death feature of the estate tax system. While this feature is slated to expire under current estate tax law, President-elect Obama should enact his plan before the step-up law expires. President-elect Obama would like to freeze the 2009 estate tax scheme, that is giving every individual a $3.5 million exemption and leaving the top estate tax rate at 45%. According to President-elect Obama's campaign, this would eliminate estate tax on 99.7% of decedents.

Two Estate Planning Strategies in Low Interest Rate Environments

1. **Grantor Retained Annuity Trust (GRAT).** A GRAT is an irrevocable trust designed to hold assets for a specific time period. The GRAT makes specified annuity payments to the transferor. When the GRAT terminates, assets are distributed to the remainder beneficiaries designated by the transferor in the GRAT agreement. Annuity payments are valued using 120% of the midterm Applicable Federal Rate - currently at historic lows. The difference between the annuity rate and the rate at which the GRAT assets actually grow, is transferred to beneficiaries (children, family trust)

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free of gift or estate tax.

2. **Sale/Installment Note to Intentionally Defective Grantor Trust (IDGT)**. An IDGT is an irrevocable trust structured to be excluded from the transferor's estate but income taxed to the creator of the trust. Sell assets to the trust, using a note bearing the AFR, at historical lows. An outright sale of the asset to the IDGT is also possible. The trust beneficiaries (children, future generations) ultimately receive the property free of any further transfer tax. The property is outside of the transferor's estate, but yet that same transferor is able to pay the income tax on it, further reducing his or her taxable estate.

If you would like to explore either of these strategies for your family, or discuss other available techniques, we at Reinhart welcome your call.

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