

Estate Planning Bulletin

What's New for 2009

Wealth Transfer Opportunities Abound Due to Low Interest Rates and Market Values

Although current economic conditions are not pretty, they provide an exceptional opportunity for estate planning. Now is an ideal time to consider GRATs, intrafamily loans, installment sales and other leveraged estate planning techniques that can take advantage of current low interest rates.

The IRS establishes minimum interest rates that must be used to avoid imputed interest for income and gift tax purposes. Low interest rates plus low equity values make it easier to transfer wealth to younger generations with little or no estate or gift tax. The following table shows how interest rates set by the IRS have dropped since January 2008.

Type of Rate	January 2008	January 2009	February 2009
Short-Term Loans (Term \leq 3 yr)	3.18%	0.81%	0.60%
Mid-Term Loans (Term > 3, \leq 9 yr)	3.58%	2.06%	1.65%
Long-Term Loans (Term > 9 yr)	4.46%	3.57%	2.96%
Section 7520 Rate*	4.40%	2.40%	2.00%

* The section 7520 rate is used for GRATs and certain similar trusts

2009 Brings Expected Tax Law Changes and New Proposals

Several important estate and gift tax changes occur this year.

Federal Estate Tax. Each individual is entitled to a federal estate tax exemption to shelter an amount of property from the federal estate tax, which can be imposed at a rate of up to 45 percent. The estate tax exemption for 2008 was \$2 million. The exemption has increased to \$3.5 million for 2009.

Federal Gift Tax. Gratuitous lifetime transfers that exceed the donor's annual exclusion and lifetime exemption are subject to a 45 percent gift tax. The annual exclusion increased from \$12,000 in 2008 to \$13,000 in 2009. Gifts qualifying for the annual exclusion may be made outright or to UTMA accounts, section 529 plans, section 2503(c) trusts or *Crummey* trusts.

GST Tax. Each individual is also entitled to a GST tax exemption to avoid the tax imposed on certain transfers to younger generations (e.g., grandparent to grandchild). The GST tax is imposed at a flat rate of 45 percent. The GST exemption increased from \$2 million in 2008 to \$3.5 million in 2009. This increased amount may be allocated to new gifts, either outright or in trust, or to previously created trusts.

Tax Legislation. Current reports suggest that the new administration intends to keep estate, gift and GST tax rates and exemptions at their 2009 levels and forgo the one-year estate tax repeal scheduled for 2010. Other significant changes, however, are still possible. For instance, a proposed bill (HR 436) would eliminate many valuation discounts currently applicable to family-owned entities. If enacted, this change could eliminate or reduce the attractiveness of many traditional estate planning techniques and may require reevaluating plans already in place.

New Law Suspends Most Required Minimum Distributions from IRAs, Qualified Plans for 2009

After the owner of an IRA or qualified retirement plan reaches age 70½, annual distributions from the account are required. This “minimum required distribution” (MRD) is a fraction of the account balance based on the owner’s remaining life expectancy. A penalty applies to the extent the owner does not withdraw the MRD. Legislation in 2008 suspended most MRDs for 2009, with the exception that first-time MRDs for owners who turned 70½ in 2008 but deferred their first MRD until 2009 will still be required. This should help accounts regain value after recent stock market declines.

Reviewing and Updating Your Estate Plan

If you have questions about how recent economic and tax law changes impact your estate plan, contact any member of the Vedder Price Estate Planning Group.

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For questions about estate planning opportunities created by the current economic environment, please contact any member of the estate planning group.

About Vedder Price

Vedder Price P.C. is a national, business-oriented law firm with over 260 attorneys in Chicago, New York and Washington, D.C.

The Estate Planning Group

Vedder Price P.C. has long recognized the importance of estate planning and has been in the forefront of this changing area of the law. The firm's practice has both a national and an international scope. Vedder Price attorneys combine technical experience in all aspects of estate and financial planning, with a strong appreciation of personal objectives and concerns in servicing clients in this uniquely personal area.

The firm represents clients with diverse personal objectives and financial interests, including individuals with large estates, individuals with personal situations requiring special planning, owners of closely held businesses, corporate executives and professionals. Vedder Price estate planning attorneys also represent executors, administrators, trustees and guardians. In addition, the firm provides estate and financial planning counsel to businesses and not-for-profit organizations, as well as other professionals who consult Vedder Price with respect to their own clients.

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