ASPEN FAMILY
BUSINESS GROUP, LLC

DEEP RELATIONSHIPS. ENDURING LEGACIES.

An Estate Planning Perfect Storm
By: William E. Roberts, CLU, ChFC

In a companion article, Joe Paul has written about the unique opportunities that have converged this year to make this a very opportune time to consider additional estate planning. The converging elements are:

1. The 5.0m tax free gift opportunity (10m if you are married)
2. Valuations still depressed for many assets vs. 2006 valuations (i.e. real estate, company stock)
3. Interest rates at historic lows
4. Availability of minority discounts on gifted or sold property

All of these elements can be used by family business owners to enhance the tax efficient passage of their assets to heirs.

Many owners wonder if this opportunity applies to them and if so, which strategies should be considered? Many of the strategies, in one form or another, are under attack and may not be available much longer. The Bush tax cuts, for example, will expire Jan 1, 2013, which could severely limit planning opportunities. In our experience, we have identified six (6) characteristics attributable to clients who may be ideal candidates to consider one or more of the strategies available:

1. A strong desire to transfer assets to future generations
2. A willingness to consider strategies to minimize the affect of estate taxes on their assets
3. Enough income that the transfer of assets would have little or no affect on their life style today.
4. Asset value of greater than 10 million 5. Have assets that are likely to significantly appreciate
5. Own assets that are currently undervalued but likely to recover in the future.

The first characteristic is the most important. It addresses the critical objective of preservation of the family assets in the hands of family. Clear objectives should guide the family and advisors throughout the examination of strategies. Tax planning is important but not the most important factor in guiding the family's decisions regarding the implementation of strategies. Objectives and shared values should be the frame that shapes the estate plan for the family.

In addition to the "perfect storm" of forces and elements that have converged this year, the added concern of procrastination for a variety of reasons that Joe addresses in his article. As we mentioned above, several of the strategies that advisors and families have been using to efficiently transfer wealth to future generations are under attack by the IRS and other governmental units. If successful in erasing these strategies, it will become much more difficult for families to pass their businesses, farms and ranches, real estate and other assets within the family.

This is further reason to contact your advisors or members of Aspen Family Business Group to determine if now is the time to evaluate additions to your estate and business succession plan that fit your succession plan.

Some of the strategies that are legislatively going to change or are under scrutiny are:

1. The 5.0m lifetime gift mentioned above.
2. Minority discounts for assets gifted or sold to family members
3. Grantor trust transfers
4. Grantor Retained Annuity Trusts (GRAT's)
5. Capital gains rates increase by 60% as of 1/1/13
6. Estate tax rate increases from 35% to 55%

All of these potential changes directly impact the family business continuation plans. None of them make it easier to pass the business intact to the next generation and at best make it more challenging and expensive to accomplish.
At the very least we strongly encourage you to talk to your estate planning attorney and your accountant to determine if you are a candidate to evaluate "perfect storm" opportunities.