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Estate Planning in a Low Interest Rate Environment--GRATs

November 10, 2010. This note follows up on our prior reports on estate planning strategies in a low interest rate environment.

With the temporary one year repeal in 2010, of federal estate taxes, many people with potentially large estates have reexamined their estate plans to capitalize on the tax law changes. Coupled with the remarkable decline in market interest rates, this estate tax hiatus presents valuable opportunities for estate planning. The "Grantor Retained Annuity Trust" (GRAT) is a technique particularly suited for this environment.

Since it appears very likely that Congress will restrict the use of GRATs in 2011, now is an excellent time to consider its use.

The idea of a GRAT is that you give property to your children or other beneficiaries and receive a series of level payments in return, the level payments being called an annuity. The annuity can last for as long as you want (but the benefits of the technique are only achieved if you outlive the annuity term). By giving the property away now, you avoid paying estate tax on it. You do have to calculate the amount of gift tax, using up your $1,000,000 exemption from gift tax and paying tax on the excess gift, if any, but the gift tax is based on the present value of what your children will probably have left after making the annuity payments to you.

Because interest rates are so low, the "present value" of what the children will receive at the end of the annuity term is much less than it would be if interest rates were higher. This allows you to give money or property to your children with a GRAT, keep a stream of income for yourself, and pay much less tax.

If you have questions concerning this report or other estate planning questions, please get in touch with your contact at Morrison Cohen or feel free to direct your questions to the head of our estate and trust department, William Haas at (212) 735-8645 or bhaas@morrisoncohen.com.

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