

## TAX AND WEALTH ADVISOR ALERT: ESTATE AND TAX PLANNING DURING MARKET TUMULT

The worldwide equity market tumult is creating some unique and unprecedented challenges. However, plunging asset values are presenting some rare opportunities in wealth planning that are often only seen once in a generation. Below are some strategies you may wish to incorporate into your estate and tax planning during this time.

**Basic Estate Planning:** Now, more so than ever, it is important to make sure your family is provided for in your estate plan. This means reviewing your current estate planning documents to ensure the principal documents are in order. Wills, revocable trusts, powers of attorney, beneficiary designations and health care directives should all be reviewed to ensure that these documents reflect your current wishes.

**Make an Annual Gift Exclusion:** You can make an annual tax-free gift of \$16,000 per person (for married couples, a combined \$32,000) that does not count against your lifetime gift tax exclusion (currently \$12.06 million per person). Using marketable securities as the gifted asset when volatility is so high, and valuations are down, can offer you some extra stretch on gifts made now before valuations rise in the future.

**Place Assets into Existing Irrevocable Trusts or Fund a New Irrevocable Trust:** Like making an annual gift, funding an irrevocable trust with securities while valuations are low allows for more assets to be placed in the trust (when measured against the lifetime exclusion) and allows you to transfer more of your wealth tax-free.

**Make Roth IRA Rollovers:** The “cost” of converting a traditional IRA into a Roth IRA is paying taxes now on the current value of the IRA, therefore, it is best to make these conversions when the market is down.

**Tax-Loss Harvesting:** Some may consider lowering their tax liability by selling a security now at a loss to offset gains from earlier this year or in the future. However, you should be aware of the wash-sale rules. The wash-sale rule states that when you harvest losses, you cannot repurchase substantially identical investments for 30 days. Even though you may have separate accounts with different advisors, the rule considers all accounts to be the same. Therefore, it is important to make sure that all your advisors are aware of the securities you are buying and selling.

**Intra-Family Transactions:** When asset values are low, wealth transfer planning techniques involving intra-family transactions, such as selling assets to your children or grandchildren, are very effective if the sold assets appreciate at a rate greater than the interest rate charged. When asset values recover, all the asset appreciation will be outside of your taxable estate and will be held by or for the benefit of your children or grandchildren transfer tax free.

**GRATs:** A grantor retained annuity trust (GRAT) is an estate planning vehicle that allows you to freeze the value of your estate while transferring any future appreciation to the next generation free of tax. With a GRAT, you transfer certain assets to a trust and retain the right to receive annuity payments for a term of years. The transfer of property to a GRAT constitutes a gift for gift tax purposes, but the value of that gift is only the value of the trust assets on the date of the transfer plus an assumed rate of return. Any appreciation of the assets more than the hurdle rate passes to the beneficiaries free of gift tax. GRATs are most effective when interest rates and market values are low. While the economy isn't currently experiencing low interest rates, it is experiencing low market values, which still makes it beneficial to set up a GRAT. For clients who have existing GRAT terms that are ending, it is probably beneficial to keep them going. Those without GRATs should strongly consider funding them in this current market climate.

**CLATs:** Those with charitable inclinations should consider a charitable lead annuity trust (CLAT). A CLAT works like a GRAT, however, a CLAT is designed for a charity to receive the annuity payments for a term of years, rather than an individual. At the end of the term, the balance of the assets remaining in the trust passes to the beneficiaries you indicate in the trust agreement. As with all the strategies discussed above, low equity values result in more assets passing to your intended beneficiaries free of transfer tax.

If you are interested in learning more about estate and tax planning during these unprecedented times, please contact Attorney [Britany E. Morrison](#) at O'Neil Cannon