Karen Telleen-Lawton: Making the Most of Your Estate

There are ways to take advantage of this year's tax breaks

By Karen Telleen-Lawton, Noozhawk Columnist | Published on 08.09.2010

You may have heard that 2010 is a good time to die. Not so good for you, of course, but good for your heirs if your estate is larger than $1 million. In Santa Barbara, that mostly means you have lived long enough to own your own house.

What you may not have realized, however, is that you don't have to die this year to shuttle some funds to your family at substantially less cost than at any time in the past few decades or the foreseeable future. Transfer taxes, such as gift and estate taxes — taxes on transferring money to others — are on an unsustainable roller-coaster, to your immediate benefit.

Let's back up a bit. The current year has been a topic of conjecture for financial planners, accountants and lawyers since 2001, when EGTRRA, the Economic Growth and Tax Relief Reconciliation Act, was passed.

EGTTRA is sweeping legislation that set in motion an annual growth in the dollar limit you could will to heirs before the estate tax kicked in. In 2003, the limit was $1 million, then $1.5 million in 2004 and 2005, followed by $2 million in 2006-08 and $3.5 million in 2009.

The culmination is 2010, when there is no estate tax for the first time since the late 19th century. In 2011, the tax on net estates returns to the 2003 limit of $1 million. This tax-free year is causing some well-to-do elderly folk to worry about untimely death, although as articles warn, the rules could conceivably change retroactively.

There are other planning opportunities that have the professional managers working multiple shifts and shifting multiple funds for their clients in the area of GSTT. The generation-skipping transfer tax, which has been around since 1976, is a third, separate transfer tax system (besides gift tax and estate tax) that is imposed on a transfer of property to someone two or more generations younger than the donor.

The generation-skipping tax is also abolished for 2010 only, returning next year as the highest gift and estate tax rate — 55 percent. If you make a gift next year to a grand- or great-grandchild, a great-niece or nephew or even to a friend who is 37½ years younger, and the gift is larger than the annual limit, you will pay a GSTT tax of 55 percent in 2011. This tax will be added to your gift before computing the gift tax (up to 55 percent). Double ouch! But this year, only one ouch — the gift tax.

There are actually quite a few tax-free ways to gift to your grandchildren's well-being during your lifetime. You can pay medical costs for anyone (related or not) as long as you directly pay the institution. These are called qualified transfers. You can do the same with the tuition portion of education costs. And there's the annual exempt gift amount, which is $13,000 in 2010. The number has not yet been determined for 2011.

If your planning horizon and financial wherewithal extends past those generous gifts, there is the 2010 GSTT anomaly. A $500,000 gift to your grandchildren in 2010 will cost you an additional $175,000 in gift tax. Next year, unless Congress decides otherwise, that same half a million gift will set you back $701,250 in GSTT and gift tax.

Or maybe you want to gift it tax-free to your favorite charity.

— Karen Telleen-Lawton's column is a mélange of observations supporting sustainability. Graze her writing and excerpts from Canyon Voices: The Nature of Rattlesnake Canyon *at www.CanyonVoices.com*.