



## THE RACK LAW FIRM, P.C.

A PROFESSIONAL LAW CORPORATION

### MARKET SLUMP OPENS WINDOW OF OPPORTUNITY FOR TAX BENEFITS

If there is a silver lining around the roiling, black clouds over Wall Street these days, it is the opportunity presented by the loss of value in appreciating assets that is being lamented by owners of larger portfolios. In order to appreciate the true allure of this silver lining, a brief review of the underlying estate planning concepts is in order.

For those whose estates are subject to the estate tax at death, good planning often involves a strategy of making current gifts to children and grandchildren, either outright or in trust. Of course, there are two limits to the amount of gifts to be made before a gift tax becomes due: the annual exclusion amount of \$12,000 per year per donee, and the lifetime gift tax exemption amount of \$1 million. But giving highly appreciated stock means using up those exemptions with no leverage. The grantor retained annuity trust provides an extraordinary solution, especially under roiling, black clouds.

There are two concurrent conditions that have created a rare chance to make leveraged gifts. First, the depressed value of assets enables owners of stock to gift a larger number of shares before the market recovers. Next, the recent and remarkable reductions in long-term interest rates has caused the IRS to slash the rate used to value gifts for tax purposes (the Section 7520 rate) to 3.6 percent, the lowest in years.

If the time is not right to part with a substantial portion of your portfolio for an outright gift, then the “zeroed-out” grantor retained annuity trust represents the key to unlocking this window of opportunity. It works like this: You create the trust with terms that allow you to retain a fixed income interest from the trust for a period of years, after which the assets pass to your beneficiaries. The stock is then transferred to the trust and the gift is valued as of that date, using: (1) the depressed stock prices, (2) the reduced Section 7520 rate, (3) the income percentage payable to you, and (4) the term of years for the trust. When structured properly, the gift tax value of the transfer to trust is zero, the discount resulting in the *tax value* of the gift is significant, you are able to retain the income payments you desire until the trust terminates, and any appreciation is transferred to your beneficiaries tax-free upon completion of the trust term.

For example, assume a 60-year old grandfather transfers \$500,000 of marketable securities to a 10-year grantor retained annuity trust and pays no gift tax. In exchange for the transfer, he receives a 12.1 percent annuity interest paying out \$60,425 per year for 10

years. At the end of the 10-year trust term, the trust terminates and pays all remaining assets to his three grandchildren. Assuming the assets in the trust appreciate at an average rate of 8 percent per year, the grandchildren will receive securities with a value of \$208,800 tax-free when the trust terminates after 10 years even though the gift was valued at zero at inception.

While the technical aspects of these trusts may seem complex (and there are other issues to consider), the concept is clear: the factors used to value gifts to grantor retained annuity trusts create significant tax and financial benefits. And the current market conditions create opportunities for leverage that will not last for long, for when the black clouds clear over Wall Street, the silver linings go with them.

An illustration of the income and tax calculations under your specific circumstances tends to clarify that the time is right for the grantor retained annuity trust. We are pleased to arrange an office consultation to discuss the details with you if you believe this strategy may benefit you and your family.