LIFETIME GIFT PLANNING

Considering a lifetime gift?

Five strategies that may work for you and your family

When planning for the transfer of your wealth, you'll likely be faced with an array of options. Whether you are leaving a treasured asset to a loved one or a legacy of trusts that will be used for future generations, specific strategies can be implemented to make the most of your assets.

1) Grantor Retained Annuity Trust (GRAT)

A grantor retained annuity trust (GRAT) is an irrevocable trust in which the grantor makes a gift of property in trust while retaining a right to an annual payment (annuity) from the trust for a specified term of years. GRATs can be used for a variety of assets, including concentrated positions and assets expected to appreciate significantly. Key characteristics of this strategy include:

- The right to the annuity is a retained interest that has a value; this value is subtracted from the full value of the transferred property when determining the taxable amount of the gift.
- If the grantor survives the annuity term, any amount remaining in the trust at the end of the annuity term passes to its beneficiaries without additional gift or estate taxes.
- If the grantor dies during the annuity term, the entire value of the trust generally will be included in the grantor's taxable estate as if the GRAT had never been created.

2) Installment sale to defective grantor trust

The installment sale to grantor trust strategy takes advantage of the significant differences between the income and transfer tax treatment of irrevocable trusts. The goal of this strategy is to transfer anticipated appreciation of assets at a reduced gift tax cost. Key characteristics of this strategy include:

- In return for the transfer of property, the trust gives the grantor a note, which carries a market rate of interest and usually requires a balloon payment of principal at the end of the note's term.
- In most instances, when a trust is a grantor trust, the grantor and the trust are treated as the same taxpayer for income tax purposes but two separate entities for transfer tax purposes.
- Because the grantor and trust are the same taxpayer for income tax purposes, neither the sale nor the note payments trigger income tax.
- When the note is repaid, the grantor has transferred the appreciation with no tax liability.

3) Family limited liability entities

The creation and use of a family limited liability entity is a strategy that can provide income tax, asset protection, and estate planning benefits. These entities can hold business, personal or investment assets. Though they are not for everyone, their flexibility often makes them attractive, as the structure, ownership and documents can be modified to respond to changes in the family over time. Key characteristics of this strategy include:

- Generally, one or more family members set up a limited liability entity and transfer assets to the entity; interests in the entity can then be transferred to other family members or trusts for family members.
- A limited liability entity can help a family consolidate investments, share income with family members in lower tax brackets, protect assets, and implement long-term estate planning.
- They should have a legitimate business purpose, accounts should be managed separately, and entity assets should not be used for personal expenses.

4) Spousal lifetime access trust (SLAT)

A spousal lifetime access trust (SLAT) may be appropriate for people who are hesitant to give away significant assets now but want to take advantage of the increased lifetime exemption amount. Key characteristics of this strategy include:

- Typically, the grantor makes a gift to a trust for the benefit of the grantor's spouse and descendants.
- The grantor and grantor's spouse retain access to the property given to the trust through the spouse's rights as a beneficiary.
- The grantor uses some (or all) of the grantor's lifetime exemption so that no gift tax is payable and the trust assets, as well as any appreciation on those assets, remain outside the grantor's estate and spouse's estate for estate tax purposes.
- The strategy can be enhanced with the allocation of the grantor's generation-skipping transfer (GST) tax exemption.
- Both spouses can create lifetime credit shelter trusts, but they generally should not be identical.

5) Intra-family loans

Under rules set forth in the Internal Revenue Code, an individual can make loans to family members at lower rates than commercial lenders without the loan being deemed a gift. Key characteristics of this strategy include:

- An intra-family loan allows an individual to assist family members financially without incurring additional gift tax.
- A bona fide creditor relationship, including the payment of interest, is established.
- Wealth can be shifted if the loan assets are invested by the borrower and earn a higher return than the required interest rate.
- Interest is paid within the family rather than to a third-party lender.

There are many variations to the strategies outlined above, as well as additional planning opportunities. Since these strategies can be complex, it's critical to work with a qualified professional. **For more information on lifetime gift planning strategies, visit our *Lifetime Gift Planning* resource page.**

CIBC Private Wealth Management includes CIBC National Trust Company (a limited-purpose national trust company), CIBC Delaware Trust Company (a Delaware limited-purpose trust company), CIBC Private Wealth Advisors, Inc. (a registered investment adviser)—all of which are wholly owned subsidiaries of CIBC Private Wealth Group, LLC—and the private wealth division of CIBC Bank USA. All of these entities are wholly owned subsidiaries of Canadian Imperial Bank of Commerce. This document is intended for informational purposes only, and the material presented should not be construed as an offer or recommendation to buy or sell any security. Concepts expressed are current as of the date of this document only and may change without notice. Such concepts are the opinions of our investment professionals, many of whom are Chartered Financial Analyst® (CFA®) charterholders or CERTIFIED FINANCIAL PLANNER™ professionals. Certified Financial Planner Board of Standards Inc. owns the certification marks CFP® and CERTIFIED FINANCIAL PLANNER™ in the U.S. There is no guarantee that these views will come to pass. Past performance does not guarantee future comparable results. The tax information contained herein is general and for informational purposes only. CIBC Private Wealth Management does not provide legal or tax advice, and the information contained herein should only be used in consultation with your legal, accounting and tax advisers. To the extent that information contained herein is derived from third-party sources, although we believe the sources to be reliable, we cannot guarantee their accuracy. The CIBC logo is a registered trademark of CIBC, used under license. Investment Products Offered are Not FDIC-Insured, May Lose Value and are Not Bank Guaranteed.