

## Tax Alert: Grantor Retained Annuity Trust (the "GRAT") - *Trusts & Estates and Elder Law Newsletter*

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### *Planning Opportunities*

We hope that all of you and your families are safe and healthy through the COVID-19 pandemic that is affecting every aspect of our lives. We look forward to a quick resolution of the current health crisis.

At this time, we wish to point out trust and estate planning and gift planning opportunities that deserve your attention in light of the significantly reduced values of many assets and the historically low interest rate environment we are now experiencing.

One well-known estate planning technique you should consider now is the Grantor Retained Annuity Trust (the "GRAT"). The GRAT is designed to enable you to transfer significant wealth to your beneficiaries with minimal gift and estate tax consequences. It also provides privacy on the transfer and creditor protection for the assets transferred.

Consider the following aspects of a GRAT:

- A GRAT is created by a Grantor transferring one or more income-producing assets (such as a stock portfolio) to an irrevocable trust. No additions may be made to the GRAT after the initial transfer.
- The Grantor retains an annuity interest (either a fixed amount or a percentage of the initial value of the trust) for a term of years.
- At the end of the GRAT term, the remaining GRAT assets are distributed to one or more beneficiaries (the remaindermen) designated by the Grantor together with income and appreciation in excess of the total annuity payments.
- The initial funding of the trust is a gift. The value of the taxable gift is calculated by deducting the value of the retained interest (the

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“annuity”) from the value of the assets transferred. The greater the annuity, the smaller the gift. Similarly, the greater the GRAT term, the smaller the gift. However, for the GRAT to succeed, the Grantor must survive the GRAT term. If not, the GRAT is included in the Grantor’s estate.

- It is even possible to “zero out” a GRAT. This strategy is essentially a “freeze,” as the value of the Grantor’s initial transfer (plus an additional amount equal to the IRS Section 7520 rate) will be returned to the Grantor and the appreciation will pass out of the Grantor’s estate to the remaindermen free of estate tax or any additional gift tax.
- The lower the (IRS Section 7520) interest rate, the greater the chance that assets will pass to the remainder beneficiaries.

As with many planning techniques, the GRAT is rarely “plain vanilla.” Numerous provisions can be included to tailor the GRAT to your individual needs.

Over the next weeks, we intend to e-mail you other estate and trust planning and gifting suggestions you may wish to implement in the current environment. In the meantime, if you would like to speak to us about GRATs or any other trust and estate planning matter, explore the significant tax benefits of the GRAT, please do not hesitate to contact us.

Stay safe.