Keep the Gold in Your Golden Years

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As many of you know, we recently lost our Mom, Concetta Cipressi Gregg Roccato. Mom was a remarkable woman. Widowed twice with 5 young children, she relied on her strong faith and "can do" attitude to make a great life for herself and her family.

Though she quit school during the depression to help support her family, she was determined that her kids would receive the best education possible. By necessity, she became a fiercely independent woman and instilled the same values in us. Her work ethic was legend. In our family, work is not a learned habit, it's in our DNA.

We will mostly remember her zest for life. She treasured her family and friends, loved to dance and enjoyed her Italian heritage. We miss Mom and thank her for making us into the men we are today.

Thank you for allowing us to serve you, John and Dan.

Spring 2014

Awareness
There was a recent article about a local attorney who was arrested and charged with stealing more than $2 million from 10 elderly clients. To add insult to injury the attorney marketed herself as an " **elder care expert"** in an apparent effort to gain the trust of her victims and access to their bank accounts.

There was another story about a local thug who swindled the life savings of an 89 year old retired widower. In this case, the perpetrator was a neighbor who befriended the elderly man and coaxed him to turn over his money under the pretense that the funds were benefitting the victim's family.

Sadly, these types of crimes are not rare. Older Americans lose $2.9 billion a year to fraud, according to a study conducted by the National Committee for the Prevention of Elder Abuse and the Center for Gerontology at Virginia Tech. Most victims are women between 80 and 89 years old. **Often, the perpetrators are family members, friends and advisors** who use their position of trust to gain access to bank accounts, investments, real estate.

Tips
How can you protect yourself? Here are a few basic tips to help identify potential fraud or prevent a crook from draining your life savings:

1. **Ask your children to review your bank statements** and other financial documents. Even if you don't give them signing authority, allowing your children to monitor your savings and investments is a very simple and effective way to reduce the chances for fraud.

2. **Be careful with your personal financial information** especially your social security number. Never send personal information over the internet or share it with an unknown caller.

3. Affluent senior citizens are a favorite target of scam artists who claim to know " **secret methods"** for shielding your assets from nursing homes. Bull, there are no such secrets.

4. **Don't let anyone put your money in their name** as a way to shield your assets from a nursing home.

5. **Be wary of financial advisors offering you something "exclusive".** Make it a practice to stay away from "free" lunch seminars where you will be treated to "little known" investment strategies. Good financial advisors don't need to buy free lunches to attract clients.

6. **Be careful of the word "guarantee"** when it comes to your investments. Who is providing the guarantee? I have seen a lot of so-called "guarantees" throughout the years but the only one that means anything to me is "FDIC-insured".

7. Beware of anyone who promises you **extraordinary returns.**

8. **All brokerage accounts should have SIPC insurance.** SIPC does not insure against market-related losses, but does provide insurance against theft, fraud and bankruptcy of your investment firm subject to certain limits.

9. Most importantly, **use common sense .** If something does not feel right, just walk away or call the police.

Aging Issues
While caring for Mom during the last few years, we gained firsthand experience in dealing with many issues associated with aging. We also have the privilege of serving many "seasoned" (and soon to be seasoned) clients.

In this edition, we discuss a few of the topics that are important to these clients - protecting assets, gifting, trusts and long term care. Please call us know how we can help you with your unique needs.

Thank you for allowing us to serve you and we hope you have a joyous Spring.
John and Dan.

Gift Tax Strategies That Can Benefit Your Family

Now may be a great time to make gifts that take advantage of the current large gift tax applicable exclusion amount, low gift tax rates, depressed property values, and low interest rates.

Be aware, however, that if you make a gift to a person who is two or more generations younger than you, such as a grandchild, generation-skipping transfer (GST) tax may also apply. In general, annual exclusions, qualified transfers, and an exemption equal to the applicable exclusion amount are also available for GST tax purposes and the same 40% tax rate applies.

Today's large gift tax applicable exclusion amount, low gift tax rates, depressed property values, and low interest rates create a favorable environment for making certain gifts.

Federal gift tax basics

Annual exclusion. Each year, you can give a certain amount ($14,000 in 2013 and 2014) to as many individuals as you like gift tax free.

Qualified transfers exclusion. You can give an unlimited amount on behalf of any individuals for tuition or medical expenses gift tax free. You must pay the amount directly to the educational or medical care provider.

Applicable exclusion amount. Gifts can also be sheltered by the applicable exclusion amount, which can protect gifts of up to $5,340,000 (in 2014, $5,250,000 in 2013). The dollar limit applies to all taxable gifts you make during your lifetime and to your estate at your death for federal estate tax purposes.

Basic planning

Generally, the first gifts you should consider making are annual exclusion and qualified transfer gifts. You can make annual exclusion gifts to anyone for any purpose. The annual exclusion is lost in any year in which you do not use it. While you can make unlimited gifts using the exclusion for qualified transfers, the gifts must be for educational and medical purposes.

You and your spouse can split gifts that either of you make. Doing so allows you and your spouse to effectively use each other's annual exclusions and applicable exclusion amount. For example, if you have 2 children, you and your spouse could make annual exclusion gifts totaling $56,000 to your children (2 spouses x 2 children x $14,000). If you make gifts of $56,000 for 10 years, you will have transferred $560,000 to your children free from gift tax.

Next, consider gifts that are sheltered by the applicable exclusion amount. But, remember that use of the applicable exclusion amount during life reduces the amount available for estate tax purposes at your death.

If you are likely to have a very large taxable estate at your death that could not be sheltered by the applicable exclusion amount, it might even make sense to make gifts that cause you to pay gift tax. For example, let's assume any additional transfer you make would be subject to the current top gift or estate tax rate of 40% and you make a taxable gift of $1 million to your child on which you pay $400,000 of gift tax. If you instead retained the $1,400,000 until death, $560,000 of estate tax would be due ($1,400,000 x 40%), and only $840,000 of the $1,400,000 would remain for your child. By making the taxable gift and paying gift taxes that reduced your taxable estate, you reduced taxes by $160,000 while increasing the amount transferred to your child by the same $160,000.

Gift considerations

If you have property whose value is depressed, now may be a good time to make a gift of it. The gift tax value of a gift is its fair market value, and a lower value means a smaller gift for gift tax purposes. However, you generally should not make gifts of property that would produce an income tax loss if sold (basis in excess of sales price). The person receiving the property would have a carryover basis and would not be able to claim the loss. In these cases, instead consider selling the property, claiming the loss, and making a gift of the sales proceeds.

Future appreciation on gifted property is removed from your gross estate for federal estate tax purposes. However, while property included in your estate generally receives a basis stepped up (or stepped down) to fair market value when you die, lifetime gifts do not. Therefore, you may wish to balance the gift tax advantage of a gift with carryover basis and income tax on gain if the property is sold against the income tax advantage of a stepped-up basis and estate tax (if any) if you retain the property until your death.

In the current low interest rate environment, you may wish to consider a grantor retained annuity trust (GRAT). In a GRAT, you transfer property to a trust, but retain a right to annuity payments for a term of years. After the trust term ends, the remaining trust property passes to your beneficiaries, such as family members. The value of the gift of a remainder interest is discounted for gift tax purposes to reflect that it will be received in the future. Also, if you survive the trust term, the trust property is not included in your gross estate for estate tax purposes. Any appreciation in the trust property that is greater than the IRS interest rate used to value the gift escapes gift and estate taxation. The lower the IRS interest rate, the more effective this technique generally is.

In the current low interest rate environment, you may also wish to consider a low-interest loan to family members. You are generally required to provide for adequate interest on the loan, or interest will be deemed for gift tax purposes. However, with the current low interest rates, you can provide loans at a very low rate and family members can effectively keep any earnings in excess of the interest they are required to pay you.

Two Popular Charitable Trusts for You to Consider

Trusts with both charitable and noncharitable beneficiaries must follow special rules if you wish to receive income, gift, and estate tax charitable deductions for the amounts going to charity. Consult a tax or estate planning attorney familiar with charitable trusts.

A couple of charitable trusts are very popular with people making significant gifts to charity: the charitable lead annuity trust (CLAT) and the charitable remainder unitrust (CRUT). They each allow income, gift, and estate tax charitable deductions for a trust with both charitable and noncharitable beneficiaries. A CLAT leads off with a stream of annuity payments for the charity, while the CRUT provides a remainder interest for the charity when the trust ends.

Charitable lead annuity trust (CLAT)

With a charitable lead annuity trust, the charity generally receives the right to a fixed annuity amount each year (or at more frequent intervals). The annuity payments are generally made for a fixed term of years, or for one or more lives. After the specified term, the remaining trust property passes to you or another noncharitable beneficiary you designate.

An income tax charitable deduction is available to you at the time you create and fund the CLAT if the trust is structured so that you (as the grantor or creator of the trust) will be taxed on trust income each year. The up-front charitable deduction can be especially useful if you have a large amount of taxable income in the year the trust is created. If you take the up-front charitable deduction and cease to be taxed on trust income during the trust term (e.g., you die before the trust term ends), you may have to recapture part of the charitable deduction by adding the recaptured amount to your taxable income. For years in which you are not taxable on trust income, the trust may generally take charitable deductions against trust taxable income for distributions to charity.

The value of the up-front charitable deduction is based on the amount of the annuity going to the charity each year, how long the payments will be made to charity, and the appropriate interest rate used by the IRS to value the future payments.

A gift or estate tax charitable deduction is also available for the present value of the annuity interest the charity receives. Any remainder interest passing to a noncharitable beneficiary will be subject to gift or estate tax when the CLAT is created and will not qualify for the annual gift tax exclusion. The value of the remainder interest will be discounted to reflect that it will be received in the future. If the remainder interest passes to a person two or more generations younger than you, the generation-skipping transfer (GST) tax may apply.

Charitable remainder unitrust (CRUT)

With a charitable remainder unitrust, the noncharitable beneficiary receives a payment (the unitrust amount) from the trust property every year (or at more frequent intervals), which is based on the value of the trust assets each year. The unitrust payments are generally made for a fixed term of years, or for one or more lives. At the end of the trust term, the remaining property passes to the charity.

One CRUT variation permits payment of the lower of the unitrust amount or trust income for a period of years. Another CRUT variation then allows makeup distributions of the forgone unitrust payments at a later time. These variations may allow payments to be delayed until a later time, when the trust has income or the noncharitable beneficiary is in a lower income tax bracket.

An income tax, and gift or estate tax, charitable deduction is available to you at the time you fund the CRUT. The value of the up-front charitable deduction is based on the unitrust payout rate, how long the charity will have to wait to receive the remainder interest, and the appropriate interest rate used by the IRS to value the future interest. Any unitrust interest passing to a noncharitable beneficiary may be subject to gift or estate tax, as well as GST tax, when the CRUT is funded. The unitrust interest may qualify for the annual exclusion for purposes of the gift tax, but not for GST tax.

A CRUT is generally not subject to income tax. Instead, CRUT beneficiaries are taxable on unitrust payments as received. Distributions are treated as drawing out taxable income, capital gain, tax-exempt income, and trust corpus from the trust, in that order. In other words, distributions are generally treated as drawing out amounts taxable worst first. However, one advantage of a CRUT is that a CRUT can sell property and the beneficiary will not be taxed on capital gain from the sale until the beneficiary receives a distribution that is treated as capital gain.

Charitable deduction limits

The amount of your income tax charitable deductions are generally limited to 50% (or 30% or 20%) of your adjusted gross income (AGI), depending on the type of charity and the property transferred to the charity or charitable trust. Charitable deductions disallowed because of the percentage of AGI limits may be carried over and taken during the next five years, subject to the percentage of AGI limits in those years. Gift and estate tax charitable deductions are not subject to any percentage of AGI limit.

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My parents can't manage alone anymore. What should I do?

Are one or both of your parents having health problems, suffering mental lapses, or just slowing down with age? Do you find they can't manage on their own anymore? If so, you'll want to consider the various living arrangements that are available to older individuals. Before you begin, however, you'll want to talk to your parents and siblings.

Sometimes the best option is to have your parents move in with (or closer to) you. That way, you avoid having to use your parents' assets (or your own) to pay for a nursing home or other facility. You won't have to worry about your parents potentially receiving inadequate care from strangers. And your parents will probably appreciate the gesture of love and self-sacrifice on your part. However, the cost of feeding, clothing, and caring for your parents can be high, especially if you're forced to give up a job to be home with your parents. And don't underestimate the emotional and psychological impact.

What if your parents' care is more than you can handle? You may then wish to consider some type of assisted-living arrangement. The broad term "assisted living" encompasses a range of facilities and services designed to help seniors who can't live independently. The assistance provided may be short- or long-term and may focus on social services, medical care, or some combination of the two. Depending on your parents' conditions and needs, one or more of the following assisted-living arrangements may be worth considering:

- Nursing homes
- Assisted-living communities
- Continuing care retirement communities
- Alzheimer's/dementia care specialty facilities
- Retirement communities
- Active senior communities
- Home health care
- Hospice care
- Adult day-care services

And don't be afraid to talk to a social worker, your parents' physicians, or other professionals. They can offer you support, and recommend solutions that best meet your parents' needs.