

ESTATE PLANNING AND TAX

YEAR-END TAX SAVING “TO-DO” LIST

As the year’s end approaches, there are a number of tax strategies that may be implemented in order to reduce income, gift and estate taxes. In addition, unusually low interest rates have created an environment in which certain gift and estate tax savings strategies have become even more attractive. Following is a brief discussion of several such strategies. Please contact your BWM&S attorney to discuss these and other strategies in further detail.

Year-End Income, Gift and Estate Tax Saving Strategies

Defer Income/Accelerate Deductions

By deferring taxable income into 2003 or accelerating deductions into 2002, you can reduce your income tax liability for 2002. While you will eventually have to pay the tax in a later year, you can invest the savings in the interim. One of the more common methods for accelerating deductions for those taxpayers who make estimated tax payments is to pay their 4th quarter estimated state tax installment prior to year-end (the payment is not due until January 15, 2003). By making the payment early, you can claim a deduction on your 2002 federal return for state taxes paid.

Put Capital Losses to Work

Determine where you stand with regard to capital gains and losses. Given the performance of the stock market over the past few years, many taxpayers have investments that, if sold, would generate a capital loss. If you have sold assets and recognized capital gains during the year,

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*November 21, 2002, Springfield, IL **Richard W. Burke** argues on behalf of the Chicago Park District, the City of Chicago, the Illinois Sports Facilities Authority (ISFA), and the Chicago Bears before the Illinois Supreme Court in support of the Burnham Park Redevelopment and Soldier Field Renovation. The proceedings mark the culmination of a multi-year effort in which BWM&S attorneys participated in all phases of the project including negotiating the permit agreement with the Chicago Bears and the financing agreements with the ISFA, the Bears, and the NFL, as well as drafting the legislation that structured the financing of the construction contracts. The firm also participated in the issuance of \$400 million of ISFA bonds and defended the litigation challenges to the project and the funding legislation. **B***

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BWM&S’s online harassment training, Mold and commercial development, Class actions regarding overtime pay requirements, and more.

“FLOWERS BEFORE BREAD”—LITTLE BROTHERS’ UNIQUE MISSION

BWM&S

No one plans to grow old alone — sometimes it just happens. For nearly 43 years, Little Brothers-Friends of the Elderly, has reached out in friendship to the elderly of Chicago. Many of these elders come to Little Brothers without family or friends, fearful, and physically and emotionally frail. These individuals, in many cases, have literally “fallen through the cracks” in a social system that is not always kind to the elderly.



Little Brothers provides a personal touch when caring for the nearly 1000



men and women they serve in the Chicago area. The elders served average 83 years of age and represent the ethnic diversity of the Chicago community. For Little Brothers, “Flowers Before Bread” is not simply a motto, but their unique way of caring for the elderly.

Little Brothers’ core programs and activities focus on friendship and love. The Visiting and Nursing Home Programs match elders with volunteers or staff members who visit on a regular basis. The Holiday and Social Activities Program, which includes hosting festive parties and celebrations for Thanksgiving and other holidays, is Little Brothers’ most popular. For those homebound elders who cannot attend, a volunteer takes the celebration home to them with a personal visit.

During this holiday season, Little Brothers is buzzing with activity — hosting nearly 800 people for festive holiday dinners in five locations. Personalized gifts are delivered to most of the elders, anything from a much-needed microwave to Shirley Temple videos. Little Brothers is always working to fill its food pantry to ensure food deliveries to the elders throughout the winter. For more information about Little Brothers, please contact executive director Tina Stretch at 312/455-1000.

Gerry Ring and Martin Ryan of BWM&S assist Little Brothers and other charitable organizations in structuring charitable contributions and ensuring that a donor’s charitable intent is honored. **B**

Little Brothers - Friends of the Elderly • 355 N. Ashland Avenue • Chicago, Illinois 60607 • 312/455-1000

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consider selling assets with losses to offset those gains.

Max-out Your 401(k)

Consider contributing the maximum amount allowed to your 401(k) plan. The contribution limit was increased to \$11,000 in 2002.

Enhance Your Savings for Education

Recent changes in the law provide significant tax benefits to those saving for education. The annual contribution limit for contributions to Education IRAs increased in 2002 from \$500 to \$2,000. Tax-free distributions are permitted from Education IRAs not only for qualified post-secondary school expenses, but also

for qualified elementary and secondary school expenses. Distributions from a Section 529 qualified tuition plan maintained by a state may be made free of federal tax (and possibly state tax) if the distribution is used to pay qualified higher education expenses. Illinois also permits a state income tax deduction for contributions to the Illinois Section 529 plan (i.e., the Bright Start plan). Gifts to Section 529 plans must be coordinated with your annual exclusion gift program or they may be subject to gift tax.

Annual Exclusion Gifts

You may make an Annual Exclusion Gift of up to \$11,000 to any individual and certain trusts without any tax

consequences. Married individuals may make gifts of up to \$22,000. Gifts may be made outright or in trust and may be in the form of cash, securities, real estate, artwork, jewelry or other property. Making a gift of property that you expect to appreciate in the future is an excellent way of utilizing your annual exclusion gifts because any post-gift appreciation is no longer subject to gift tax or estate tax. To take advantage of your opportunity to make annual exclusion gifts for 2002, gifts must be made by December 31st of this year. Gifts in excess of \$11,000 or gifts that will be “split” between spouses must be reported on a gift tax return, which must be filed with the IRS by April 2003.

COOK COUNTY'S OLDEST TO MOVE IN WINNETKA

BWM&S pro bono efforts help landmark find permanent home

PRO BONO

The oldest surviving building in Cook County will soon be moving to a new location.

The Schmidt-Burnham log house which dates back to the first decades of the nineteenth century — a time when the Potawatomi Indians ruled the area — will be mounted onto a flatbed truck in May 2003 for transport to the Winnetka Park District's Crow Island Woods Park. The Winnetka Historical Society will operate the house as a history museum.

In 1917, the house was purchased by the Burnham family and moved from its original location on the grounds of what

became the Indian Hill Club golf course to the 1400 block of Tower Road in Winnetka. The Burnham family, recognizing the importance of the historic log house, invited



generations of Winnetka schoolchildren into the house to learn about the history of the area.

Ann Burnham Smith's donation of the home to the Winnetka Historical Society will ensure that the family's dream will continue. The Winnetka Park District graciously donated a site in Crow

Island Woods Park as the future site for the house.

BWM&S's Brett Smith worked extensively with the Burnham family estate and the Winnetka Historical Society to arrange logistics for the relocation of the house and prepared a ground lease with the Winnetka Park District. For more information, please

contact the Winnetka Historical Society at winnetkahistory.org or Mr. Smith at 312/840-7064. **B**

Pay the Tuition and Medical Expenses of Others

You may pay tuition and medical expenses for the benefit of another person without incurring any gift or generation skipping transfer (GST) tax or using any of your estate tax or GST tax exemption. Such payments may be made in addition to your \$11,000 annual exclusion gifts. These payments must be made directly to the educational institution or medical facility. There is no limit for these types of payments and you are not required to file a gift tax return to reflect the payments.

Gifts to Charities

Making charitable gifts is another way of transferring assets out of your estate while also benefiting a favorite charity. By making your charitable contributions before the end of the year, you should receive a charitable contribution deduction

on your 2002 income tax return. Investors may enjoy additional tax savings by contributing appreciated stock instead of cash. By contributing publicly traded stock to a charity, you will avoid tax on the stock's appreciation; however, you will be allowed a deduction for the full value of the stock. Regardless of the type of contribution, you must maintain a proper record of your gifts. For cash donations over \$250, obtain a written receipt from the charity. If you give a non-cash gift, ask for a letter estimating the value of your gift. Keep in mind that gifts over \$5,000 that are not cash or publicly traded stock require an appraisal.

Lifetime Gifts Using Gift Tax Exemption

You may currently make gifts of up to \$1 million during your lifetime without incurring a gift tax. Although the amount that may be exempt from estate tax upon

your death will be reduced by the amount of such lifetime gifts, any future appreciation on the gifted property will be removed from your taxable estate. If you want to take advantage of the lifetime exemption, a family limited partnership could be an ideal vehicle. As a result of the recent increases to the exemption from GST tax granted to taxpayers, greater amounts may also be transferred to multigenerational or "dynasty" trusts.

Low Interest Rates Provide Estate Planning Opportunities

Grantor Retained Annuity Trusts

You might also consider taking advantage of the current low interest rates by creating a Grantor Retained Annuity Trust (GRAT). A GRAT is an irrevocable trust to which a donor transfers property

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BULLETIN

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The Bulletin is written by the firm of Burke, Warren, MacKay & Serritella, P.C. to keep clients and friends current on developments in the law and the firm that might affect their business or personal lives. This publication is intended as a general discussion and should not be construed as legal advice or legal opinion on any specific facts or circumstances. It is meant as general information only. Consult an attorney with any specific questions. This is a promotional publication. ©2002 editor: Cy H. Griffith, director of marketing; legal editor; Jay Dobrutzky, Esq.

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AROUND THE FIRM: JOHN G. FOGARTY, JR.



John G. Fogarty Jr., a St. Charles, Illinois native and 1991 Northwestern University graduate, recently joined BWM&S as an associate in its litigation group. Mr. Fogarty previously worked as a policy analyst for the Illinois General Assembly. While a student at Chicago-Kent College of Law, Mr.

Fogarty externed for The Honorable Arlander Keys, Chief Magistrate for the United States District Court for the Northern District of Illinois.

Since being admitted to the Illinois bar in 1999, Mr. Fogarty has focused his practice on civil litigation before the Illinois Circuit and Appellate Courts, Illinois federal

courts and the Illinois State Board of Elections. He also has been involved with legislative and regulatory issues. He recently delivered a series of lectures on the effects of the Gramm-Leach Bliley Act.

“I’ve always been interested in the legal process as a means to help individuals and organizations as well as in advocating policies to be considered by the legislature,” says Mr. Fogarty.

Mr. Fogarty serves on the board of directors of the Chicago-Kent Alumni Association and has served on the board of the West Lakeview Neighbors Association and as associate general counsel for the Illinois Republican Party.

Mr. Fogarty notes the professionalism and the warmth of the atmosphere at BWM&S. “BWM&S offers complex, challenging work and an incredible breadth of expertise. There is a real sense of teamwork here.” **B**

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and retains the right to receive a fixed annuity for a specified term. At the expiration of the term, the property usually passes outright or in trust for the benefit of descendants or other named beneficiaries. The amount of the gift that results when you transfer the property to the GRAT is the present value of the remainder interest that passes to the beneficiaries at the end of the term. Under the valuation methods adopted by the IRS, the lower the interest rates at the time of the gift, the

lower the present value of the remainder interest and the smaller the amount of the gift that must be reported to the IRS. Interests in closely-held family businesses are often ideal properties to transfer to a GRAT.

Charitable Lead Annuity Trusts

A Charitable Lead Annuity Trust (CLT) is also more attractive as a result of the current low interest rates. A CLT is an irrevocable trust from which an annuity is paid to one or more charitable organizations for a specified term with

the remainder interest in the trust passing outright or in trust for the benefit of descendants or other named beneficiaries. The amount of the charitable gift tax deduction is equal to the present value of the annuity interest payable to the charity during the specified term. Under the valuation methods adopted by the IRS, the lower the interest rates at the time of the initial gift to the CLT, the greater the amount of the charitable gift tax deduction that may be claimed by the donor and the smaller the gift to descendants. **B**