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An Update From Bodman PLC

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Estate Planning In A Down Market

"The best time to plant a tree was 20 years ago. The second best time is now." Chinese proverb

The same can be said for estate and gift tax planning. The best time is now. Asset values have recently declined at a pace not seen since the Great Recession. While we certainly hope that this is short lived, it is important to face reality and take advantage when opportunity arises.

The benefits of estate tax planning now are threefold: (1) current low values mean lower taxable gifts, thus reducing the amount of gift tax exemption required to shelter the gifts (or reducing the gift tax payable for larger gifts); (2) all post-gift income and appreciation may avoid gift and estate tax; and (3) a long time horizon provides the compounding effect of the time value of money and the likelihood of a post-gift market rebound.

Business assets provide additional benefits because of the opportunity to leverage the business owner's gift tax exemption. Leverage in this context means the ability to supercharge a gift by transferring an amount of value which exceeds the gift tax exemption used. This can occur with minority interests in closely held businesses for example. For tax purposes, such minority interests may be discounted meaning the gift reported to the IRS is less than the pro rata value of the equity interest transferred.

Such gifts may be further enhanced through a variety of trusts or use of other entities. Examples include Grantor Retained Annuity Trusts, Intentionally Defective Grantor Trusts, Corporate Recapitalizations, Family Limited Liability Companies and other planning techniques.

Finally, the current low interest rate environment not only enhances the above gift strategies, but also can facilitate wealth transfer through creative intra-family transactions.

"Nothing can be said to be certain in life, but death and taxes." & "By failing to prepare, you are preparing to fail." Ben Franklin