Craig Smalley • May. 07, 2018

Before we start with IRC §529 Accounts, I think it best to start with ABLE Plans. Before ABLE Plans, we had Special Needs Trusts, for those kids with special needs. You could put up to the gift tax limits into these trusts. The problem was, when the child became of age, the trust would be held against the child for purposes of disability.

A few years ago an ABLE Account was created. This could also be funded up to the gift tax limits, however, they were not taken into account when the child applied for disability. Today, you can convert an ABLE Account to a 529 Plan. Both accounts grow tax free, and if used for the special needs person or for college, they are tax free upon withdrawal. Further you can use 529 plans for private school.

I have a client that happens to be a doctor. He has two children that he is trying to get into private school, and college. He is in the 35% tax bracket. So I had this idea why not pay the kids $82,500, putting them in the 22% tax bracket. Another thing is the client will own and direct the 529 plan, and get a tax deduction for private school or college. Paying both kids $82,500 a piece, nets my client a tax deduction of $165,000, or a tax savings of $34,650. He can only fund the 529 accounts up to $250,000 a piece. The amounts are more than the $15,000 gift tax limit, or $30,000 if married and you elect to split your gifts.

What are we doing? We are shifting income from a higher tax bracket to a lower one. The issue would arise with Social Security. The children are very young, so SoCial Security will send a letter asking why these young children are being paid a salary. The answer is they do light office work. At the end of the day Social Security and Medicare taxes are being paid, and so is Federal Tax. It shouldn't matter.

My wife and I had our kids very young. In Florida we have something called Florida

could only give $15,000 to both grandchildren, I had an idea. The way the gift tax laws work is that if you give away something that has appreciated, the gift amount is the basis in the hands of the person giving the gift. The client had mutual funds that he had a low basis, but were worth a lot if they were sold. The client gifted his grandchildren $15,000 of the basis in his mutual. The grandchildren turned around and sold the mutuals for $45,000, paying $4,500 in capital gains tax.

The new tax law has opened so many tax planning opportunities, that it isn't funny. We have created a situation where we can not only pay for and deduct our own health insurance, we can have Health Reimbursement Accounts (HRA), which we can put as much into them as we want. If they aren't used they just rollover to the next year.

Depending on income, we can put up to $55,000 into a 401k plan, only having to match our employees 401k by 3%. If our income is higher, we can put up to $215,000 into a defined benefit plan (DBP). It took me forever to do corporate tax returns this year. Most of my clients were S-Corporations, and I had until March 15th to revoke their elections. I don't buy into the IRC §199A deduction. There are too many variables, and most of my clients adjusted gross income (AGI) was too high for it to matter anyway. Not to mention that tax planning is lucrative.

The point is read the new law and become familiar with it. It can really help you.

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