Atlanta Wealth Consultants
Peter Miralles, CFP®CIMA®CLU
President
Two Ravinia Drive
Suite 1590
Atlanta, GA 30346
770-394-4448
877-473-0830
pmiralles@awc2.com
www.AWC2.com

March 2012 Atlanta Wealth Consultants

Election Year Tax Talk: Deciphering the Terminology

This year's election chatter is sure to include a healthy dose of tax talk. To keep up, here are five terms you should know.

The "Bush tax cuts"

A number of major tax changes were enacted in 2001 and 2003, including lower federal income tax rates, special maximum rates for long-term capital gains and qualifying dividends, and increased standard deduction amounts. While most of the provisions were extended by legislation passed in late 2010, these tax provisions are still commonly referred to as the "Bush tax cuts" or the "Bush-era tax cuts." With these provisions set to expire again at year-end, much of the tax debate will center around whether to extend the provisions again--particularly whether to extend the provisions for all taxpayers, or only to those who make less than a certain amount (e.g., individuals with incomes under $200,000, married couples with incomes under $250,000).

Alternative minimum tax (AMT)

The AMT is essentially a separate federal income tax system with its own rates and rules. If you're subject to the AMT, you have to calculate your taxes twice--once under the regular tax system and again under the AMT system. Bush tax cuts expanding AMT exemption amounts were extended only through the end of 2011. This increases the pressure to address AMT this year--failure to extend AMT relief would result in an estimated 30 million or more individuals being affected by the AMT in 2012. (Source: U.S. Congressional Research Service. The Alternative Minimum Tax for Individuals (RL30149; August 23, 2011), by Steven Maguire.)

The "Buffett rule"

On August 14, 2011, the *New York Times* published an opinion piece written by Warren Buffett, chairman and CEO of Berkshire Hathaway (Warren E. Buffett, "Stop Coddling the Super-Rich," *New York Times,* August 14, 2011). In the piece, Buffett essentially argued that he and his "mega-rich friends" weren't paying their fair share, noting that the rate at which he paid taxes (total tax as a percentage of taxable income) was lower than the other 20 people in his office. As Buffett points out, this is partially attributable to the fact that the ultra-wealthy typically receive a high proportion of their income from long-term capital gains and qualified dividends, which are currently taxed at rates that are generally lower than the rates that apply to wages and other ordinary income. President Obama has articulated the "Buffett rule" as the tenet that people making more than $1 million annually should not pay a smaller share of their income in taxes than middle-class families pay. (Source: www.whitehouse.gov.)

Value added tax (VAT)

A value added tax (VAT) is a consumption tax, like a sales tax. What distinguishes the VAT from a straight national sales tax is the fact that the VAT is assessed and collected at every point in the chain of production, on the "value added" at that step in the chain. Although a VAT can be implemented in different ways, here's one general approach: With a 10% VAT in effect, a supplier who sells $100 of materials to a manufacturer would pay $10 in VAT; the manufacturer who, in turn, sells a finished product to a retailer for $150 pays $5 in VAT ($150 sale price - $100 cost of materials, multiplied by the VAT rate); the retailer sells the product for $200, and pays an additional $5 in VAT ($200 sale price - $150 cost, multiplied by the VAT rate). Total VAT paid on the product is $20, or 10% of the final sale price.

Flat tax

Simple in concept, a flat tax would apply a single tax rate to individual income, or individual wages only (i.e., excluding investment income). A separate single rate might apply to businesses. Depending on the specific proposal, a base exemption may be allowed to exclude low-income families from the tax, and certain deductions may be allowed in determining the amount subject to tax.

What will happen to your business when you become disabled, retire, or die? You will generally need to identify someone to transfer your ownership interest to family members, co-owners, key employees, or an outside party. There are many options for you to consider.

Business Owner Succession Planning

Every successful business owner must eventually face the question: What will happen to my business when I become disabled, retire, or die? Sooner or later, you will generally need to identify someone to transfer your ownership interest to family members, co-owners, key employees, or an outside party. Without a succession plan, the business may need to be liquidated.

Successor management

One of the first questions that should probably be addressed is: Do you have successor management readily available to run your business? Without it, the business may fail. You might look among co-owners, family members, and key employees for candidates. It may be necessary to train successor management, helping others develop their skills or even bringing in new talent. Of course, if you sell to an outside party, that party may provide their own management. It should be noted that successor management can, but need not, be the same as the successor owners.

Co-owners

If you have co-owners, you and your co-owners may wish to keep ownership limited to a select group. One way to do this, while providing a market for your interest in the business, is for you and the other owners or the business entity to enter into a buy-sell agreement. A buy-sell agreement is a legally binding contract in which the owners of a business set forth the terms and conditions of a future sale or buyback of a departing owner's share of the business. Specifically, buy-sells control when owners can sell their interests, who can buy an owner's interest, and at what price.

Family members

Keeping the business in the family can present many issues that may contribute to the success or failure of the business as it is transferred to the successor generation. Do you wish to sell the business to family members, make gifts or bequests of interests, or perhaps use some combination of these? Do you need income for retirement, for your surviving spouse, or for the payment of final expenses? You may need to provide compensation to family members working in the business and profits to family members retaining an ownership interest, while cashing out some family members or otherwise providing for them.

Gifts you make are generally subject to federal gift tax. But you can make gifts of up to $13,000 per recipient per year free from gift tax using the annual exclusion. You can effectively double that amount by splitting gifts with your spouse. You can often obtain significant valuation discounts by making gifts of interests in a family limited partnership or a family limited liability company.

In 2012, you can also make gifts or bequests of up to $5,120,000 that are sheltered from federal gift tax and estate tax by the basic exclusion amount. This limit applies to all gifts you make during life and to your estate at your death. Under some circumstances, spouses may be able to effectively double the limit by splitting gifts with a spouse or by using the unused exclusion of a deceased spouse (portability). Note, though, that unless Congress acts, in 2013 the exclusion will be reduced to $1 million and portability expires. Similar exclusions or exemptions apply for generation-skipping transfer (GST) tax purposes, an additional tax imposed when the transfer is to someone two or more generations younger than you. There may also be state gift, estate, or GST tax to consider.

Sales to family members can utilize buy-sell agreements and installment sales. Installment sales allow the family member to make payments over time.

Key employees

You may have some key employees working for you, who provide some unique skills and value to your business, and who have an interest in owning the business. You may be able to sell the business to them utilizing buy-sell agreements and installment sales. A business can also be sold to an employee stock ownership plan (ESOP), a tax-favored retirement plan for employees.

Outside party

In some cases, succession is not practical using transfers to co-owners, family members, and key employees. Or it may be that you need to obtain the highest possible price for the sale. In that case, selling to an outside party may be the answer.

Income tax consequences

Generally, the sale of your interest in a business will result in capital gain or loss tax treatment. You generally receive a tax basis stepped up (or stepped down) to fair market value for property you own at your death. Therefore, there will generally be no capital gain if your estate sells your interest shortly after your death. Also, if you sell your interest in an installment sale, capital gains (if any) are generally not taxed until installment payments are received.

Seniors Are Often Targets of Scams

Here are a few things that may help you protect an elderly relative from being victimized by a scam:

- ***Become familiar with your loved one's finances***
- ***Recommend that they have any regular income directly deposited to their bank***
- ***Suggest that they consult you or someone else they trust before buying any service or product over the phone, online, or via the mail***

Anyone can fall victim to a financial scam, but seniors tend to be particularly popular targets. Frequently, fraud perpetrated against seniors is not reported until long after the scam has occurred, usually because victims don't realize they have been scammed or know where to report the scam, or because victims are too embarrassed to admit that they have been taken. Nevertheless, it's important for seniors and their family members to be aware of the signs that may point to a fraudulent scheme, and know what steps can be taken to prevent becoming victims of a scam.

Why seniors?

Seniors are a popular target for scammers for a number of reasons:

- Seniors are more likely to own their own homes, have a nest egg that's liquid and easily accessible, and have excellent credit.
- Today's generation of seniors were raised to be kind, helpful, trusting, and polite--perfect qualities for a scammer to exploit, knowing that it's hard for some seniors to simply say "no."
- Age has a tendency to affect memory, and scammers count on seniors not being able to remember important details when reporting a scam to the authorities.

What to look for

Scams targeting seniors often occur in one of three ways--through the Internet, on the telephone, or in person. And just when you think you've heard of all the possible scams out there, scammers will come up with another scheme intended to victimize seniors. The FBI website (www.fbi.gov) has a section dedicated to fraud targeting seniors. The site describes a number of schemes that have been discovered. It's a good idea to check this site regularly to keep updated on new scams. Here are some of the more popular scams that have victimized seniors.

Scams related to health care

There are a number of scams that focus on the new health-care law, health insurance for seniors, and Medicare. These scams may focus on "Obamacare" benefits, claiming that there is a "limited enrollment period," great insurance coverage including drug benefits for a low monthly cost, free medical equipment, low-cost drugs, or free medical tests given at nonmedical facilities like health clubs or shopping malls. To be on the safe side, don't sign a blank insurance claim form, since your insurance company may be billed for items you never received; generally don't do business over the phone or in person with a door-to-door salesman for medical services or benefits; and call your insurance carrier to be sure that what you're supposed to be getting "free of charge" is actually covered by your insurance.

Telemarketing scams

We've all been subjected to telemarketing, and it isn't always a bad thing. Some products and services are legitimate. However, telemarketing also serves as a way to scam people, especially seniors. Some warning signs that should prompt you to decline the offer include being told you "must act now or the offer won't be good," any offer that seems to be free (except that you have to pay for shipping and handling or administrative fees), the requirement that you provide your credit or debit card information or bank account number, and the suggestion that you "leave a check taped to your front door for a courier to pick up." In any case, if the caller tells you it isn't necessary to check out their company or consult family members or your lawyer, it's probably best just to decline altogether.

Internet and e-mail scams

Seniors' use of the Internet and e-mail is increasing daily, and so are Internet scams targeting seniors. Many such scams are based on getting credit or debit card information for services or merchandise that is never delivered. If you're going to give out this information online, try to ensure that the site is secure and reputable. Depending on the Web browser you use, you may see a padlock icon or some other indication to symbolize that there's a higher level of security to send important personal information, but it's not a guarantee that the site is secure. Also, check out the source of the merchandise or service before buying. It should have a physical address and phone number(s) that actually work.

In another type of Internet scam, people send you an e-mail claiming to be in possession of large sums of money and need you to help them open a U.S. bank account. Often, they ask that you "seed" the account with your own money, and in return, they'll pay you handsomely. Don't believe this promise and don't respond to the e-mail.

Bottom line

In short, as we've all heard before, if it sounds too good to be true, it probably is. If you fall victim to a scam, in addition to reporting it to your local police, you can report it to the FBI through their electronic tip line found at www.fbi.gov.

ATLANTA
WEALTH CONSULTANTS LLC

Atlanta Wealth Consultants
Peter Miralles, CFP®CIMA®CLU
President
Two Ravinia Drive
Suite 1590
Atlanta, GA 30346
770-394-4448
877-473-0830
pmiralles@awc2.com
www.AWC2.com

Can I provide annuity payments to my heirs after I die?

You may be able to provide income payments to your heirs for the rest of their lives through the use of a stretch annuity. A stretch annuity (also known as a legacy annuity) makes lifetime payments to the beneficiary you name in your deferred annuity contract if you die before the annuity start date (e.g., before you begin receiving regular annuity payments).

According to the rules regarding distribution of deferred annuity death proceeds, an annuity beneficiary other than the surviving spouse must receive the annuity proceeds within one year from the date of death. Often, the beneficiary will elect to receive the proceeds in a lump sum, subjecting all of the annuity's accumulated interest to income tax, significantly reducing the value of the beneficiary's proceeds. A better option might be to allow the annuity's death benefit to be paid over a number of years, in which case only a portion of each payment is subject to income tax and the balance of the annuity can continue to grow tax deferred.

Generally, most annuity issuers allow the beneficiary to elect how the proceeds are to be distributed. However, some issuers allow the annuity owner to determine how the annuity's proceeds are to be distributed. In either case, in addition to the lump sum payment, most issuers allow the proceeds of a nonqualified annuity to be distributed:

- Over a period not to exceed 5 years
- Annuitized over a period no longer than the beneficiary's life expectancy, including a period certain, such as 10 years
- As scheduled withdrawals based on the beneficiary's life expectancy according to the IRS life expectancy table

A stretch annuity may be most appropriate:

- For beneficiaries in a high income tax bracket who would pay substantial income tax on annuity earnings if received in a lump sum
- For beneficiaries who may be spendthrifts and might be better served by receiving systematic payments as opposed to a large, lump sum of money

Can I deduct losses from my variable annuity?

Generally yes, if the annuity is a nonqualified (e.g., not an IRA) commercial annuity. Typically, a variable annuity allows you to invest your premium in various mutual funds, called subaccounts. Unfortunately, these subaccounts may not perform favorably, and your premium could actually decrease in value.

You can claim the deduction in the year you surrender, or cash-in, the annuity (a partial surrender can't be claimed as a deductible loss). The amount of the loss is determined by subtracting the cash surrender value of the annuity from your basis in the contract. The basis is your investment in the annuity, reduced by any prior withdrawals from principal. For income tax purposes, the loss is treated as an ordinary loss and not a long-term capital loss.

Unfortunately, the IRS has not provided definitive guidance as to where the loss should be claimed on your tax return. Some believe the loss should be taken on the front of Form 1040 as "other gains or losses" from Form 4797.

However, IRS Publication 575 (Pension and Annuity Income) treats the deduction of a variable annuity as an itemized miscellaneous deduction on Schedule A subject to the 2%-of-adjusted-gross-income limit.

Variable annuities are long-term investments suitable for retirement funding and are subject to market fluctuations and investment risk including the possibility of loss of principal. Variable annuities contain fees and charges including, but not limited to, mortality and expense risk charges, sales and surrender (early withdrawal) charges, administrative fees, and charges for optional benefits and riders.

Variable annuities are sold by prospectus. You should consider the investment objectives, risk, charges, and expenses carefully before investing. The prospectus, which contains this and other information about the variable annuity, can be obtained from the insurance company issuing the variable annuity, or from your financial professional. You should read the prospectus carefully before you invest.

ATLANTA
WEALTH CONSULTANTS LLC