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The Perfect Storm Provides Opportunity for Transfer Tax Planning

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Our nation is facing one of the most challenging economic times in history. Home values have lost ten years of appreciation, unemployment has surpassed eight percent, and values on Wall Street have been cut in half. But I have unwavering faith in the industriousness and ingenuity of our citizens and the flexibility and strength of our system to respond to these challenges. Our nation will prosper again, yet until then, these times present a unique opportunity to move wealth at a significantly reduced cost.

Interest rates generally have an inverse relationship with market values - when one increases, the other decreases. Currently, a very unique situation has developed where interest rates are at historical lows while values have dropped tremendously. When interest rates are low, money is said to be cheap. More accurately, the use of money is cheap, meaning that money may be loaned and property may be purchased at a cost far less than normal.

Thus, the younger generation can borrow money on very favorable terms from the senior generation and use that money to generate a higher return than the interest charge for borrowing the money. Also, the younger generation can purchase property in exchange for a promissory note carrying a very low interest rate. If the purchased property produces a total return that is greater than the interest due on the note, wealth is passed from the senior generation to the junior generation at no transfer tax cost.

Every month, the IRS establishes the minimum interest rates that can be charged without a loan being treated as a gift. These rates are invariably lower than market rates of interest. Recently, these interest rates have become so low they have literally fallen off the charts - the IRS has had to issue new factors for certain interest-rate-driven planning vehicles because existing charts did not cover interest rates as low as they are now. For instance, the short term (i.e., a loan of not more than 3 years) interest rate on February 6, 2009, was 0.6%. Even in today's miserable economy, CDs of 2% or better are readily available. Such a spread between interest rates can significantly benefit the younger generation. If you believe that interest rates will rise, then that spread may increase further, which will benefit the younger generation even more. Likewise, if you believe property values will recover, the benefits of future appreciation can be passed to the younger generation for very little interest cost.

Aside from loans and sales, there are a number of other estate planning vehicles driven by interest rates that will work tremendously well in today's unique environment. There will likely be no better planning environment during our lifetimes to move wealth than right now. Given the amount of money being flooded into our system, inflation is on the horizon. Interest rates will rise and property values will eventually rebound. If you are considering estate tax planning, now is the time to act.

About the Author:
Matthew Ahearn is a shareholder in Dean Mead's Estate and Succession Planning Department. He is Board Certified as an expert in both Tax Law and Wills, Trusts & Estates by The Florida Bar Board of Legal Specialization and holds a Masters in Taxation degree from the University of Florida College of Law.

About Dean Mead:
Dean Mead is a commercial law firm that provides full-service legal representation to businesses and individuals throughout Florida. The firm has 48 lawyers practicing in Orlando, Fort Pierce and Viera.