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ANOTHER POWERFUL ESTATE PLANNING OPPORTUNITY: CHARITABLE LEAD ANNUITY TRUSTS

A Charitable Lead Annuity Trust (a “CLAT”) is an estate and tax planning vehicle that works especially well in the current low interest rate, depressed asset value environment. CLATs are especially useful for persons who have charitable goals and want to blend their philanthropic goals with their familial wealth shifting objectives.

A CLAT is designed to shift wealth to children (or other desired beneficiaries) in a tax efficient manner. Under the terms of a CLAT, a dollar-specific annuity is made to a charity annually for the term of the trust. At the end of the CLAT’s term, the remaining assets are distributed to one or more non-charitable family members as beneficiaries. CLATs thrive when interest rates are low because if the trust’s investment performance exceeds the so-called 7520 Rate (promulgated by the IRS monthly), then the excess earnings and growth at the end of the term pass to the remainder beneficiaries, tax free. The lower the 7520 Rate, the larger the potential gift to the family members.

CLATs are typically designed to reduce gift taxes on shifting assets to family members, and not as a way to obtain a charitable income tax deduction. If a charitable deduction is claimed, the income on the CLAT is taxable to the grantor of the CLAT throughout the term of the CLAT. If the grantor does not claim an income tax deduction, the CLAT’s taxable income is not taxable to the grantor.

The CLAT’s benefits are best gleamed by way of example. Assume you contribute \$1,000,000 to a CLAT with a term of 15 years which pays 5% annually to a charity of your choice. With a 7520 rate of 2% (Rate as of February of 2009), and assuming 7% asset growth, the result would be as follows:

1. Charitable Results:
 - (a) Charity receives \$750,000 (\$50,000/year for 15 years);
 - (b) Gift tax charitable deduction in current year of \$642,000 (present value of \$50,000 per year for 15 years (Note: You will not be taxed on trust income if the charitable income tax deduction is foregone)).

2. Wealth Transfer Results:

- (a) Taxable gift in current year of \$357,000, resulting in maximum gift tax at 45% of \$161,000, or possibly no gift tax if sufficient lifetime gift tax exemption is still available.
- (b) Remainder to family members at end of CLAT term is \$1,502,580.

The tax rules permit using the most favorable 7520 Rate of the past three months. This means that the historically low 7520 Rate of 2% in February of 2009 may be utilized for CLATs created until April 30, 2009.

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