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WEALTH PRESERVATION SOLUTIONS<sup>SM</sup>  
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## INTENTIONALLY DEFECTIVE GRANTOR TRUST – EFFECTIVE DEFECT

2009 continues to present wealth preservation and estate tax saving opportunities.

An intentionally defective grantor trust (IDGT) is a popular planning technique with a particularly odd name. Assets placed in an IDGT pass outside of the individual's estate and are therefore not subject to estate tax but are considered the individual's for income tax purposes. Subjecting the creator to income taxation on the trust income is a benefit of the plan because it allows the beneficiary's interest in the trust to grow tax free. In order to obtain this treatment the trust is drafted to contain certain intentional "defects". Hence the peculiar name, "Intentionally Defective Trust."

Along with other estate-planning tools, trusts like this one are drawing more interest since the estate tax is not likely to disappear in 2010. A typical IDGT strategy involves creating the IDGT and then lending the IDGT money to buy one of your assets -- such as securities, real estate or a business interest -- that you expect to appreciate significantly. In return for lending money to the IDGT, you receive a Promissory Note with interest payments for a set number of years. The interest rate for the Promissory Note is based on the applicable federal rate, currently 2.25% for a nine year loan. Any appreciation in the IDGT assets above the Note's interest rate pass to the trust beneficiaries free of estate or gift taxes. Therefore, the creator of an IDGT can transfer an asset out of their estate and freeze the value via a sale to the IDGT. The IDGT repays the trust creator the money loaned at the specified interest rate.

This strategy has incredible upside today for four reasons. First, interest rates are at near historical lows and therefore appreciation of assets in the IDGT above the applicable federal rate has the effect of passing all such appreciation on the assets to the desired beneficiaries free of estate taxes. Second, there has been a significant decline in valuation of most assets, and these assets can be sold to the trust at their current depressed values. Third, the Obama administration is considering changes to the tax laws that may remove some of the benefits of this technique, making prompt implementation crucial. Finally, the creator of the trust pays the income taxes attributable to income and capital gains so that the beneficiaries receive any increase in value income tax free. The convergence of these four compelling reasons makes the implementation of an IDGT a family wealth preservation solution worthy of immediate and serious consideration.

Although there is considerable benefit to this technique, you must still conduct your own risk assessment. One downside to an IDGT is the risk of further loss of the asset's value. However, if you believe that your asset will grow in value by more than the current low rate of interest, then this technique will serve to freeze today's value for the assets and the future growth will be estate and gift tax free. An IDGT can yield better returns for heirs than other estate-planning vehicles because it can take advantage of lower interest rates than those available to other irrevocable trusts.

The IDGT is a time tested technique that has good upside, particularly when you consider recent contractions to asset values, coupled with historically low interest rates.

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