

What to do in the middle of a recession?

By Nilufer Usta, CPA, CVA, MBA

Nusta@KahnLitwin.com

Current financial chaos lead to a depression in the value of assets, and created the perfect opportunity for estate planning. Some people are reluctant to make any long-term financial plans in the middle of a recession, but you should consider taking advantage of this tremendous opportunity and gift now.

Good estate planning allows you to provide for your family and friends, avoid probate, and reduce estate taxes, but making a strategic estate planning decision now has even more advantages. The recent decline in asset values allows you to pass more to future generations and reduce or eliminate estate taxes by taking advantage of leveraging. Outright gifts are one of the many tools estate planners utilize.

In 2010, an individual may gift \$13,000, per beneficiary without using any of their lifetime gift tax exemption. Married couples can double this gift amount per beneficiary. Gifting by taking advantage of the annual exclusion amount allows you to gift tax-free and decrease your estate tax liability by removing assets out of your estate during your lifetime.

The best example is transferring stock to your children. You can transfer more shares of stock, which has a lower value today than you can in the future when the value of that stock appreciates.

Succession planning is also part of your estate planning. When transferring ownership of a company to your successor, you can gift it, sell it, or do a combination of both. The current low values of their businesses allow owners to gift more shares today to their heirs. The low interest rate environment and depressed values also allows for an affordable buy/sell agreement between generations.

Most business owners do not like to hear about the decline in the value of their businesses, but there is a direct correlation between business success and taking advantage of the opportunities that present themselves.

The first step in transferring ownership to the next generation is to have a certified valuation analyst value your company. Once the value per share is determined, you can decide how many shares you can gift within the annual exclusion amount and how much it would cost your children to buy the rest of the shares from you. They may have the opportunity to obtain a loan with a relatively low interest rate to achieve the purchase.

Let's assume that the value of a share of ABC Company was \$1,000 in 2008. In 2008, the owner Bob and his wife Kathy gifted 24 shares to their only daughter Mary (Annual exclusion was \$12,000 per person in 2008). Let's say that the value of the ABC Company dropped 35% since the first gift and one share of ABC Company stock is now worth \$650. Bob and Kathy can gift 40 shares in 2010. The decline in the value of ABC Company allowed Bob and Kathy to transfer substantially more shares to Mary tax free and reduce their potential estate tax.

The Federal estate tax was eliminated beginning January 1, 2010, but the federal gift tax still exists. Each individual has a lifetime gift tax exemption of \$1,000,000. If you make gifts in excess of that in 2010, you will be subject to the federal gift tax at a rate of 35%. There is a great uncertainty about the federal estate tax. Some expect Congress to create an estate tax retroactive to January 1, 2010.

Even though it seems like there is no federal estate tax in 2010, several states still impose estate taxes, but no gift taxes. There are other factors, which need to be considered in estate planning. The step-up in basis was eliminated with the federal estate tax. This may lead to huge capital gains taxes. Estate planning has become more crucial than ever.

This is the time to make the investment and hire an appraiser and an estate planner to save a lot more in the future.