The Financial and Estate Planning Council of Metropolitan Detroit, Inc.

August 2018

33006 W. Seven Mile Road, #237, Livonia, MI 48152 • (313) 530-9223 • FAX: (248) 479-0350

President's Message

A Message from the Board of Directors,

As we move towards the last few months of 2018, we reflect on the year thus far. The Financial and Estate Planning Council of Metropolitan Detroit started the year off with an event featuring an update on the Tax Cut and Jobs Act among the historic cars of the GM Heritage Center. We enjoyed our annual charity golf outing and the college planning speaker this May. In addition to our evening events, we also co-sponsored lunch-and-learn educational events including an economic analysis from the Federal Reserve and an update on the implementation on the tax reform.

To celebrate the summer, we held our annual spouse event dinner aboard the Infinity as we cruised down the Detroit River. The weather was amazing and the food, drinks and company made for a memorable evening.

The Board of Directors is looking forward to our planned events for the remainder of the year. In September we will be hosting attorney Brian Raftery of the Dentons Law Firm who will be sharing advanced estate planning techniques while we dine at Andiamo's at the Detroit Renaissance Center. The Planned Giving Organization will be co-sponsoring Tom Hegna for our November annual Member's Meeting. Mr. Hegna is a national expert on retirement planning and should provide us with an informative and entertaining evening.

The FEPCMD is an active participant in the National Association of Estate Planners and Councils (NAEPC). In conjunction with this relationship, we have several benefits including access to the Accredited Estate Planner (AEP) designation and their annual educational conference which will take place in Fort

WELCOME TO OUR NEW MEMBERS

JENNIFER BESSEN
Oakland University Student
Sponsors: Jeffrey Hoenle and Lori Oancea

KEN BIERI
Bieri Agency Inc.
Student Member

CHRISTOPHER COUSINS, ChFC, RICP
Financial Architects, Inc.
Sponsors: Jack Couzens and Glenn Barnes

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Giarmarco, Mullins & Horton, PC
Sponsors: Tess Sullivan and Jessica Dadas-Schulze

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DAVID JOZEFIAK, CFP
Next Degree Financial, LLC
Sponsors: Jeffrey Hoenle and Lori Oancea

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Fenner, Melstrom & Dooling, PLC
Sponsors: Michael Weil and Larry Glanz

KRISTI NIMSGERN
Fifth Third Bank
Sponsors: Pete Gargasoulas and Margaret Amsden

RYAN SCHACHT
Great Lakes Financial Services Group
Student Member

CHARLES (CHUCK) W. SNYDER, MSFS, AIF
Vigilant Financial
Sponsors: Jeffrey Hoenle and Lori Oancea

GRACE K. TRUEMAN, JD
Honigman Miller Schwartz and Cohn LLP
Sponsors: Charles Nida and Tess Sullivan

Lauderdale this November. If you have an interest in the AEP designation or attending the national conference, please feel free to email Kris Wolfe at FEPCMD@AssociationOffice.org.

The Board would like to thank our many volunteers. Our organization has several committees that help to plan our educational events, golf outings, evaluate membership applications and help to make sure we consistently make a positive impact on the community. If you have an interest in participating in the operation and/or leadership of the organization, again, please reach out to Kris Wolfe.

We look forward to seeing you this fall!

On Behalf of Your Board of Directors,

Jeffrey Hoenle, President

The Financial and Estate Planning Council of Metropolitan Detroit

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Seven Shifting Currents that Make Upstream Gifting More Mainstream

David R. Foster

A primary focus of traditional wealth transfer planning is the effective transfer of wealth downstream to younger generations. Advisors often recommend strategies to address common goals such as minimizing estate taxes, keeping a family business in the family, assuring children are not spoiled by substantial inheritances, and protecting assets from creditors. But in recent years opportunities for transferring wealth upstream to senior generations to achieve tax and non-tax goals have moved into the mainstream of planning advice.

A client's motivation for considering upstream gifting strategies may be a truly altruistic desire to provide financial support to their parents. This might involve supporting a parent's lifestyle in retirement, paying for vacations, entertainment, improved housing or automobiles. Other options may include providing financial support by paying costs associated with everyday living expenses, medical expenses, assisted living facilities, or possibly building an in-law suite addition to their home.

Alternatively, the goal of an upstream gift may be to create personal tax benefits for themselves. Tax savings may be achieved by gifting highly appreciated assets upstream to senior family members in order to take advantage of the step-up in basis rules when the assets are bequeathed back downstream. Substantial capital gain taxes may be avoided when this is done properly.

Shifting Currents – Why Planning May Shift Upstream

The tax advantages of an upstream gift have been available to clients for many years; however, the concept has largely remained on the fringes of wealth planning advice. That may be changing for the following tax and non-tax reasons:

1.

Achieving the maximum tax benefits of upstream gifting requires a family to have senior family members who do not have an estate large enough to be subject to estate taxes. Two events have made this a more likely scenario: The advent of higher estate tax exemptions and the increase in the number of self-made wealth creators versus inheritors. The estate tax exemption took a substantial leap in 2013 and again, though possibly temporary, in 2017.

2.

It is helpful for clients to have remaining gift tax exemptions. In 2018 individuals have an additional $5 million of gift tax exemption ($10 million for married couples).

3.

The step-up in basis rules must be in effect in order to achieve the tax advantages associated with upstream gifting. Proposals on tax reform as recently as 2016 included provisions to repeal or limit the step-up in basis rules; however, the 2017 tax reform legislation did not modify current rules.

4.

Increasing lifespans may increase the probability of

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FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

THURSDAY, SEPTEMBER 27, 2018

Andiamo Detroit Riverfront
400 Renaissance Center, Detroit, MI 48243

Valet parking is included with registration. Valet parking is located on Atwater at the Wintergarden Entrance directly in front of Andiamo. Please bring your valet ticket to the event so that staff may provide you with a pre-paid sticker to attach to your ticket.

Brian Raftery, JD, CPA

"Estate Planning….Flexibility in ILIT Planning"

Brian E. Raftery is a member of Dentons' **Trusts, Estates and Wealth Preservation** practice, as well as a Dentons' Global Practice Leader for this practice. He brings his background as a Certified Public Accountant to his law practice, which focuses on domestic and international estate planning, creditor protection through the use of foreign and domestic asset protection trusts, estate planning for artwork, wealth preservation, life insurance planning, protective dynasty trusts for children and grandchildren (against creditors, estate taxes and division in the event of a divorce), business succession planning and trust and estate administration.

In addition, Brian counsels clients with respect to the preparation of simple and complex wills, trusts, limited liability companies (LLC) agreements, partnership agreements and pre- and post-nuptial agreements. He is also experienced in litigating will contest cases and negotiating will contest settlements.

Brian represents ultra high net worth individuals, including celebrities, international families and professional athletes and helps them find the solutions that best meets their planning needs.

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- Warner Norcross & Judd
- Wayne State
- Wells Fargo Private Bank
- Williams Williams Rattner & Plunkett, PC

AGENDA:	5:30 p.m.	Complimentary Cocktails
	6:30 p.m.	Presentation & Dinner

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Log onto our website by September 14, 2018 to make your reservation and pay with VISA or Master Card.
www.metrodetroitfepc.org

RESERVATIONS RECEIVED AFTER SEPTEMBER 14 WILL COST $85.00 PER PERSON.

OR PLEASE MAIL YOUR RESERVATION AND CHECK BY 9-14-18 TO: COST: $70.00 PER PERSON
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senior family members needing financial assistance. Life expectancies have increased substantially in the past few decades.

5.

Having low basis assets maximizes the tax advantages of upstream gifting. Assets may have a low basis due to depreciation. When included in a parent's estate and passed back downstream, the new owner will receive a stepped up basis without depreciation recapture and will be able to begin to depreciate the asset themselves. The 2017 tax reform legislation includes provisions that enhance the current rules on accelerated bonus depreciation.

6.

Grantor Retained Annuity Trusts (GRATs) and sales to Intentionally Defective Grantor Trusts (IDGTs) may be part of an upstream gifting strategy. In recent years there have been proposals that would limit or negate these strategies. These proposals were not included in the comprehensive 2017 tax reform legislation.

7.

The tax advantages of upstream gifting are greater when families own assets with substantial appreciation. The most commonly owned asset of those filing an estate tax return in 2016 was publicly traded stock. From March 1st, 2008 to March 1st, 2018 the Dow Jones Industrial Average has increased 100%.

With so many factors lining up in favor of upstream gifting, estate planning professionals may find that more of their clients benefit from a discussion on the topic. It will be important not to lock in on any one particular concept or strategy. Clients will have different goals, fact patterns and family dynamics to consider. In addition, the tax laws have become somewhat of a moving target, making flexibility a key ingredient.

Common Upstream Gifting Strategies

There are a number of potential pitfalls to simply gifting ownership of property to parents. With ownership comes the legal right to sell the property, give the property away, or pass it on to someone other than the original owner. The property could also be forfeited due to legal action against the parents or divided as part of a divorce settlement should parents get divorced. And regardless of how the transfer is made, the senior family member who receives the asset will need to survive at least one year after the gift in order for the step-up in basis rules to apply.

Strategies have been introduced to mitigate many of these issues and typically involve carefully drafted trusts. Various trust designs may be considered. One common recommendation involves a gift or sale to a grantor trust that names the parent as a beneficiary. The trust is drafted such that upon the death of the parent, the trust assets are included in their estate. This may be accomplished by granting the parent a general power of appointment (GPOA) to appoint their interest in the trust upon their death to their creditors or junior family members, specifically the initial owner of the asset that was gifted upstream. Another option is to make the GPOA a contingent GPOA, which may only be exercised with the permission of a third party. And there are plenty of other creative trust alternatives depending on the particular client goals and circumstances.

Upstream Strategies Driven by Family Dynamics and Client Goals

Many clients may not be candidates for a typical upstream gifting strategy, but they may still have the same twofold objective of providing financial support to senior family members while obtaining tax advantages. Below we briefly introduce a few such scenarios along with potential strategies.

When Charity Begins at Home

Families who are potential upstream gifting candidates and have a desire to support charitable organizations through their estate, may want to consider a lifetime gift to a charitable remainder unitrust (CRUT). Instead of gifting highly appreciated assets upstream to parents, the family may consider gifting the asset to a lifetime CRUT. The donor and a parent may be named as income beneficiaries in proportion to the amount of support the donor wishes to provide to the parent for their lifetime. The CRUT will sell the asset inside the trust allowing capital gains to be recognized over

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UPCOMING FEPCMD LUNCH & LEARN EVENT

Tuesday, October 23, 2018

Pasquale's Restaurant
31555 Woodward Ave
Royal Oak, MI 48073

Panel of Speakers
"Digital Assets"

UPCOMING FEPCMD ANNUAL MEMBERSHIP MEETING
Co-Sponsored with the Planned Giving RoundTable of SE MI

Thursday, November 1, 2018

Oakland Hills Country Club
3951 W. Maple Road
Bloomfield Hills, MI 48301

Tom Hegna, CLU, ChFC, CASL

"Don't Worry, Retire Happy!
Seven Steps to Retirement Security"

a period of time due to the four-tier accounting rules of IRC §664. In addition, it is likely that the parent will pay a lower capital gain tax on their portion. An individual needs $425,800 of taxable income in 2018 to reach the 20% capital gain tax rate, and a married couple filing jointly would need $479,000 of taxable income. The remainder of the CRUT at the death of the survivor between the donor and parent will be passed on to the designated charity. Different variations of this concept may be applied based on client goals.

A client's parents may currently have sufficient financial resources, but the client may be concerned that their parents are making charitable gifts beyond what their resources allow. Should they gift beyond their means, the client may need to step in with financial support. One potential solution is to contribute highly appreciated property to a donor advised fund (DAF) and permit the parents to make grant recommendations directing where charitable distributions are to be made. The tax deduction available to the client may be of more value than it would be for their parent, particularly if the parent is in a lower tax bracket or is no longer itemizing due to the increase in the standard deduction contained in the 2017 tax reform legislation. Before moving forward it would be important for the client and parent to fully discuss the idea to assure the parent is on board and agrees to use the DAF as their means of meeting their charitable goals. The parent may even want to make a smaller contribution to the DAF themselves.

Rethinking the Multi-Generational Home

Thirteen percent of home buyers purchased a multi-generational home in part to take care of aging parents, according to 2017 home-buying data. When the circumstances allow, high-net-worth families may want to consider an alternative to building an in-law suite addition or acquiring a typical multi-generational home. Consider the option of building a separate dwelling on the client's existing property and gifting the residence, not the land, to the parent(s). When the parent passes away and the residence is passed back down to the client, they will receive a step-up in basis to the degree there is appreciation of the residence.

In addition, the tax reform legislation of 2017 limits the deduction that may be taken for state and local taxes to $10,000. If the parents own the residence, they may be able to claim a deduction for any property taxes. If an in-law suite were built on to an existing home, that would add to the value and potential property taxes of the client, who may already be unable to claim a deduction based on the new limitations. There may be an imputed gift each year from the client to the parent based on the value of renting the land the separate residence is built on. However, any imputed gift may be covered by the annual gift tax exclusion, and the added security of having the home situated on property the client owns may be beneficial to the client.

Leveraging the Business

Clients who are business owners and have a desire to support senior family members may want to consider creative ways to use the business entity to accomplish their goals. Consider gifting non-voting shares to the parent and limiting transfers by implementing a buy-sell agreement. The parents would receive a pro-rata share of profits, paying taxes at what would typically be a lower tax rate than the client.

An alternative would be to gift land the business is located on to the parent and then execute a lease agreement between the business and the parent as land owner. The lease payments would be deductible to the client and taxable to the parent at a presumably lower rate than the client. When the land or stock is bequeathed back to the client, any appreciation in value would create a step-up in basis for the client.

Clients who are serial entrepreneurs, those who take the financial success of one business venture and invest it in another, may want to consider similar concepts when establishing a new business. Should clients have concerns with transferring ownership to parents, a trust, as discussed earlier, may be utilized.

Loans vs. Gifts

Some clients may not be able to get comfortable with the idea of making upstream gifts for fear of not receiving assets back upon the death of their parent--even with the various trust solutions that are available. These clients may want to consider making a loan to their parents instead of a gift. This concept works especially well if the client has a particular investment asset they would like to acquire.

Using loans to achieve upstream goals may take various forms. Here is one strategy: The client loans money to their parent and executes a loan agreement with interest payable at the applicable federal rate. High basis assets already owned by the parent are used as collateral. The parent uses the borrowed funds to acquire assets that generate income, are expected to grow in value, and may be depreciated – commercial real estate may be a good example, possibly one the client had in mind to acquire themselves. The income generated by the asset in excess of the low applicable federal rate may be utilized by the parent to help support them in retirement. Claiming depreciation on the asset will help to lower their tax burden and will reduce basis. Upon their death, the parent's estate will pay back the loan balance to the client using high basis assets. When the asset acquired with the loan proceeds is passed back down to the client, they will benefit from a step-up in basis.

Final Word

The combination of tax reform, the rise of self-made wealth creators and the need and desire to care for parents is bringing the idea of upstream gifting into the mainstream. We believe it is worth a conversation and advisors should avoid limiting that discussion to one particular strategy. With this type of planning a little creativity may go a long way.

David Foster is a vice president of the PNC Financial Services Group and a senior resident of the PNC Center for Financial Insight. Foster specializes in advising clients on family wealth transfer, business succession, insurance and strategic philanthropy. He has over 20 years of experience in the financial services industry and has served as a planned giving consultant for multiple charitable organizations.

a way to move asset appreciation out of the estate. In these techniques, life insurance can provide a supplemental role, as a non-correlated asset class for investment performance protection and/or as a hedge against mortality risk in a zeroed-out Grantor Retained Annuity Trust (GRAT).

Questions and uncertainty around taxes aren't new to 2017, nor will this be the last time we're faced with a potential change. The fundamentals properties of life insurance will continue to make these products important assets within an asset plan, independent of short term changes to tax law.

Michael is a 2004 graduate of Swarthmore College with a degree in Biology. He has over 12 years of experience in the insurance industry, joining 1847 Financial in August, 2016. Currently, Michael holds a Life Accident and Health, Series 65, 63, 6 and 7 Licenses. He received his Chartered Life Underwriter (CLU®) designation from The American College of Financial Services in 2017. Michael has been a speaker at several industry marketing events, focusing on the technical aspects of life insurance design and application.

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