End-of-Year Planning: Things to Consider in Your Financial Health

In just six weeks, the holiday season will be in full swing with pumpkin spice giving way to peppermint and the inevitable news stories detailing price inflation of a Thanksgiving dinner sure to dominate headlines.

In the meantime, gear up for Q4 2022 with these supplemental year-end planning points for your late fall/early winter client meetings.

ESTATE AND TRANSFER TAX PLANNING

Go further with annual exclusions: Encouraging a client to use their annual exclusion gifting capacity each year can be highly impactful but consider these additional annual exclusion planning points to implement in Q4.

- **December/January gifts:** For situations where a client is trying to help a child or loved one with a larger purchase (e.g., down payment for a home), the client could bunch annual exclusion gifts by making gifts in December and again in January. With the 2023 annual exclusion estimated at $17,000, Mom and Dad could combine to give a child $66,000 in the space of a few days if timed correctly.
- **Intra-family loans:** In an ever-increasing interest rate environment, wealthy clients may find it compelling to help younger family members purchase assets using loan funds. Clients can use these loans as a partial estate freeze (by charging interest at AFR) and, to some extent, use annual exclusion capacity to forgive portions of the loan. Consider coordinating intra-family loan programs with other client advisors (RSM, other CPA, family attorney).
- **Super-funded 529 plan gifts:** Especially with stock prices at recent lows, clients should consider super-funding 529 plans for younger children or grandchildren (using 5x the annual exclusion per done in a single year).
- **Another year closer to UTMA distributions:** Don't forget about clients who have diligently used annual exclusion gifts to transfer large sums to UTMA accounts for children and grandchildren. Each year, UTMA beneficiaries get closer to mandatory distribution age (18 or 21, depending on the state). Consider talking with your client about how to approach an older child or grandchild on using the money responsibly or investing the money, or the custodian could convert the UTMA to a 2503(c) trust, which can be useful in kicking the can further down the road.
- **Crummey letters:** Consider asking your client or the client's attorney whether Crummey letters have been prepared, sent and returned acknowledged if the client has made annual gifts to a gift trust for which annual exclusions are desired (e.g., an ILIT).

Lifetime exclusion gifts and sunset: Another year since the Tax Cuts and Jobs Act was passed means another year closer to the sunset of the current, historically high lifetime exemption amounts. Only time and the next two election cycles will determine if the sunset actually happens at the end of 2025, but why wait? For clients who should be making lifetime exemption gifts, consider the benefits of making a large gift this year to get the Form 709 statute of limitations running.

Pre-sale or pre-appreciation gifting to family: If a taxable business owner client is planning to sell a business in 2023 (but is not yet under LOI), encourage the client to make gifts before year-end. Not only is it best practice to make gifts in advance of the LOI for potential valuation arbitrage, but the tax-year separation of the gift and the sale at differing values may provide a more compelling tax reporting position. Similarly, if a client is not considering selling a business but foresees significant appreciation in an asset, gift early and lock in the value on a timely-filed Form 709.

Digital assets: Help clients to track and formulate a plan to help safeguard digital assets in the event of death or disability (including crypto currency, NFTs, photos/content stored on the cloud, etc.).

INCOME TAX PLANNING

Tax projections, estimated taxes and AMT: Work with your client's CPA to prepare a year-end tax estimate. This will provide a roadmap for the effectiveness of year-end tax planning moves. A projection will also help clients to plan for any remaining estimated tax payments or potential AMT exposure. The projection can also assist clients in determining exposure to NIIT. As part of this exercise, rebalance portfolios and review excess cash that may be on the sidelines.

Grantor trust analysis: Include in a client's tax analysis any grantor trusts (aka "defective trusts" or IDGTs) for which the client retains income tax ownership. As wealth transfer to a grantor trust becomes more successful, so will income tax obligations and necessary cash flow planning. As the burden of the income taxes increases, consider potential options for toggling off grantor trust status.

Pre-sale analysis: Along with other planning touchpoints around pre-sale planning, help a client who is considering or in the process of a business sale transaction understand the tax effects and net of tax results of the proposed deal. This is especially vital for clients who have engaged in pre-sale planning where some proceeds will flow to wealth transfer structures (e.g., gift trusts, FLLCs, FLPs, CRUTs).

Tax residency planning: Help clients with residency changes to be diligent on the compliance around these changes and to make sure records are being kept and forms are being filed to declare domicile (if/when necessary). This could be a great touch point and way to team with other advisors, tax, and legal in helping all the "i"s get dotted and "t"s crossed for the client.

Portfolio loss harvesting: Consider reviewing potential loss harvesting options with your clients from their portfolios.

Retirement planning: Many potential discussion points exist for clients:

- **RMDs or QCDs:** Ensure clients are taking RMDs or substituting in whole or in part QCDs prior to December 31.
- **Consider qualified retirement solution:** Many self-employed and other business owner clients do not take full advantage of available qualified retirement plan options. Should your client implement a plan before year-end? Although matching or profit-sharing contributions would not be due until the tax filing deadline for the business, the plan would need to be set up, and any employee contributions are still due by December 31.
- **401(k)/403(b)/IRA/SEP contributions:** As eligible, has the client made all relevant contributions to qualified retirement accounts or IRAs, including catch-up contributions? If a client is trying to maximize employer-based account contributions for matching purposes, consider whether the applicable match occurs based on the total of contributions for the year or by pay period.
- **Roth conversions, backdoor Roth, and mega backdoor Roth:** Consider Roth conversions for your client's existing IRAs and/or funding new IRAs for backdoor Roth conversions for higher-earning clients. For greater impact for a client who is a W-2 employee, you might consider helping the client determine if her 401(k) plan allows for after-tax contributions and in-service distributions to engage in a mega backdoor Roth.

Charitable giving: Consider with your client whether any year-end charitable giving is best carried out with gifts directly to charity, through a DAF, or if it's time to consider a private foundation. Don't forget to take into account any charitable giving carryovers and choose highly appreciated assets for maximum tax effect.

Pre-sale charitable giving: For the charitably inclined client considering pre-sale wealth transfer to family, don't forget the potential benefits of pre-sale charitable giving. By engaging with and giving to a donor-advised fund prior to having a signed LOI, clients can not only generate a fair market value deduction, but avoid the gain entirely on low-basis business equity.

Foundation minimum distributions: For clients with private charitable foundations, ensure they are working with their tax advisor to identify and distribute the required minimum distribution amount prior to year-end.

HSA account funding: Client should consider fully funding their HSA accounts by December 31.

Complex trust distributions: If your client is a beneficiary of a discretionary gift trust and has a good relationship with the trustee, consider analyzing the tax effects of further distributions. For example, additional distributions might drive a beneficiary's income over NIIT MAGI or AMT thresholds. Alternatively, additional trust distributions might carry out additional income to the beneficiary taxed at a lower rate. Don't forget the 65-day rule, which allows trustees to treat distributions made within the first 65 days of the calendar year as made on the last day of the prior calendar year.

INSURANCE PLANNING

Property and casualty review: Talk with clients about their current property and casualty insurance coverage to see if they are comfortable with the understanding of their program and coverages. Is their coverage keeping up with home values in their area (if they do not have guaranteed replacement cost coverage)? If they have property in Florida or portions of California, do they know if their carrier is planning to remain in that market, or should they consider other options before it's too late? Consider having an independent agency provide a review of insurance program for clients.

Medicare: Consider if a client is becoming Medicare-eligible and timing for applying for coverage.

INVESTMENT PLANNING

Investment policy statement: Review IPS with clients (and update forms on file with Choreo) to make sure current allocation continues to be best fit, and confirm planned withdrawals from the portfolio for coming year.

Let's talk. Please reach out to your Choreo advisor with any questions or to discuss how we can help make your year-end planning as smooth as possible. www.choreoadvisors.com

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