



For Immediate Release

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The 2011 Capital Gains Increase Save Money by Planning Ahead

Washington, DC (June 9, 2010)—The year 2003: not a good one for Martha Stewart or the Concorde supersonic airliner, but a pretty good year for taxpayers. The tax rate on long-term gains was reduced to 15 percent, or to 5 percent for individuals in the 15% or lower tax brackets. In 2008, the 5% bracket was further reduced to 0%. Both rates were scheduled to expire in 2008. The reduced 15/0 percent tax rates were later given a reprieve and extended through 2010 as a result of the Tax Increase Prevention and Reconciliation Act signed into law on May 17, 2006.

But all good things must come to an end. Without Congressional intervention, in 2011 these reduced tax rates are scheduled to revert to the rates in effect *before* 2003, which were generally 20/10 percent. If you are thinking of selling valuable assets in the near future, you should be considering tax planning strategies that will mitigate—or possibly eliminate—the impact on your tax bill. Following are several tax planning strategies allowed by the IRS that enable taxpayers to defer capital gains taxes while staying within the law.

One strategy to consider is to accelerate the sale or the payments from an existing sale into 2010. No one knows for sure what will happen in 2011, but the worst case scenario is a tax increase. If you are not able to accelerate a sale, here are some alternatives for stretching the receipt of the money to lessen the effect of the increased long-term capital gain rates.

The **installment sale** lets sellers stretch the profits from a sale across several years, paying taxes only on the gains received on the sale of a business or real estate that were collected in that tax year. A twist on this is the **structured sale**, in which the payments are guaranteed by a top-rated life insurance company. The structured sale option eliminates the risk to the seller that the buyer will at some point default on payments and he or she will wind up receiving back a property that has decreased in value.

A popular method of deferring capital gains is I.R.C. § 1031, **Like Kind Exchange** (often referred to as a “Starker exchange”), which allows taxpayers to exchange certain types of qualified properties for other qualified properties. The process runs almost identically to any standard sale as long as the taxpayer does not touch the money. Both properties being exchanged must be investment or business use properties to qualify. Any property or other consideration received by the taxpayer as part of the exchange (either in cash or debt relief) which is not like-kind to the relinquished property may result in current income.

Another strategy for deferral of capital gains is through the use of a **charitable trust**. This trust is irrevocable and can be established by a donor to provide an income stream to a beneficiary. Also referred to as a Section 664 trust, this trust makes its payments, either of a fixed amount (charitable remainder annuity trust) or a percentage of trust principal (charitable remainder unitrust), to the specified beneficiary. At the end of an established term, a designated charity receives whatever amount remains in the trust. A charitable remainder unitrust paying a fixed percentage offers some flexibility in the distribution of income, which can be helpful in retirement planning. Older donors who aren’t concerned about inflation may be more interested in a charitable remainder annuity trust paying a fixed dollar amount.

If you are concerned about falling prey to the newly pumped-up 2011 capital gains taxes, consult with a qualified tax practitioner to help you plan ahead and minimize your tax burden. While many contact a tax specialist only to prepare their annual tax returns, a visit to a federally-licensed enrolled agent can keep money in your pocket and out of Uncle Sam’s. To find an enrolled agent in your area, visit the “Find an Enrolled Agent” directory at www.naea.org.

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