Legacy ADVISORS GROUP

M & A UPDATE®

December 2010 Volume 6, Issue 12

A Very Practical Option Regarding Social Security

Bart A. Basi, CPA/Attorney at Law
The Center for Financial, Legal & Tax Planning, Inc.

Introduction

There has been a lot of talk about Social Security and its future. Unfortunately, a lot of the attention it has received lately has been negative. Social Security was designed to be a cross generational system of support based upon a number of then valid assumptions regarding demographics, life expectancy, and other factors. The original assumptions, through medical advancements and other changes in our health and in society, have lead to some flaws in the system. Although this is true, Social Security still remains a viable system of supplemental support for seniors now, and will continue to be in the future. It can and will be depended upon for generations of Americans to come. While most people see Social Security as a system of support payments that requires and mandates little planning, Social Security has its complexities and opportunities. In this advisory we look at the little used "Do-Over" option.

"Do-Over Strategy"

Within the rules regarding Social Security, a provision exists enabling those who have taken early distributions and who have the means, to increase their monthly Social Security payments once they reach the age of 66. Out of the millions receiving early distributions, utilization of the "Do-Over" option is relatively unused. Here's how it works: Upon reaching 62 years of age, Person X opts to take early Social Security benefits. The benefits are 20-25% lower than had the participant waited until 66 to draw social security. In our example, Person X then draws Social Security for a term of years. He then decides he should have waited until the age of between 66 and 70 to draw Social Security and get the higher amount because, 1) he is in good health, 2) his family history suggests he could live to 80 or longer, and 3) he has the means to pay Social Security back and get handed a higher monthly distribution thereafter. The participant then pays his cumulative payments received back to the Social Security Administration in order to receive what would have been Social Security payments of 100 – 132% of full Social Security benefits.

Continued on page 2

Mike Ertel is a Certified M & A Advisor and a Principal Broker with Legacy Advisors Group, a full-service M & A Advisory firm with an office in Tampa, Florida specializing in representing sellers and buyers of small- to mid-sized companies. Prior to joining Legacy Advisors Group, Mike's business career spanned 30+ years with Fortune 500 and Fortune 1000 Companies, with senior management roles in Marketing, Operations and Logistics. Mike also served as President, COO of a mid-sized Manufacturing company headquartered in Tampa. Mike also holds a BS in Electrical Engineering and an MS in Industrial Administration, both from Purdue.

A CASE STUDY

In an IRS Letter Ruling, the IRS decided that two life insurance policies were not includible in the gross estate of a decedent. In the case, two trusts owned a limited partnership which owned two life insurance policies. On the two life insurance policies, the decedent removed the powers of appointment and conversion from himself and placed the powers in his sister and his wife. Because the insured did not have power of appointment within himself, the insurance policies were not includible in his estate and were therefore not subject to estate tax.

Continued on page 2

Weighing Your Options

Paying back the cumulative payments received is expensive, typically over $100,000. As mentioned, those weighing whether to pay back Social Security should consider why and if they should. Health is a big factor. It will take time to overcome the payback. Usually it takes 13 years to break even on the Do-Over. If you are healthy and longevity is within your family health history, there is a good chance you will recover the investment and more. Second, your overall financial condition must be considered. Additional factors include life goals, immediate financial needs, family needs, and various others.

For those in business, business cycle, funding, and volatility can also be factors. Those in business do not necessarily always receive a week to week paycheck and the business may demand shareholder loans in order to continue. A financial analysis can be beneficial for those in business to determine whether the risk is acceptable or not.

To illustrate, consider a man who just turned 66 with excellent health and an excellent family history including his parents living well into their 90's. This person will likely see 80 years of age. And, while the extra income may seem somewhat insignificant now, the step up in income will be even more useful during his 80's when Social Security is statistically likely to be his only source of income.

On the other hand, there are those in their 60's with significant health problems and a very meager family health history. Those individuals may be better advised to forgo the Do-Over option.

Conclusion

Giving the Social Security Administration a check to payback Social Security benefits can be daunting. Even though it may be seem like an expensive option, the Do-Over is relatively inexpensive when considering inflation adjusted increases and when compared to other investments. Everything else being equal, the Do-Over feature is a good option to consider, especially for those with the means to do it and health that will endure. If you are in the process of estate planning or a financial review, call The Center with your concerns.

Dr. Bart A. Basi is an attorney, CPA, and the Senior Advisor of The Center for Financial, Legal & Tax Planning, Inc, a full service company specializing in financial, legal & tax matters. Basi is a nationally recognized author, lecturer, and advisor on how to structure deals to minimize taxes. Tax structure makes the difference between getting the deal done and watching the deal fall apart. Many of you may be familiar with Basi and the topics he covers in the Financial, Legal & Tax Advisory which may be read in various industry-specific trade publications.

A CASE STUDY CONTINUED:

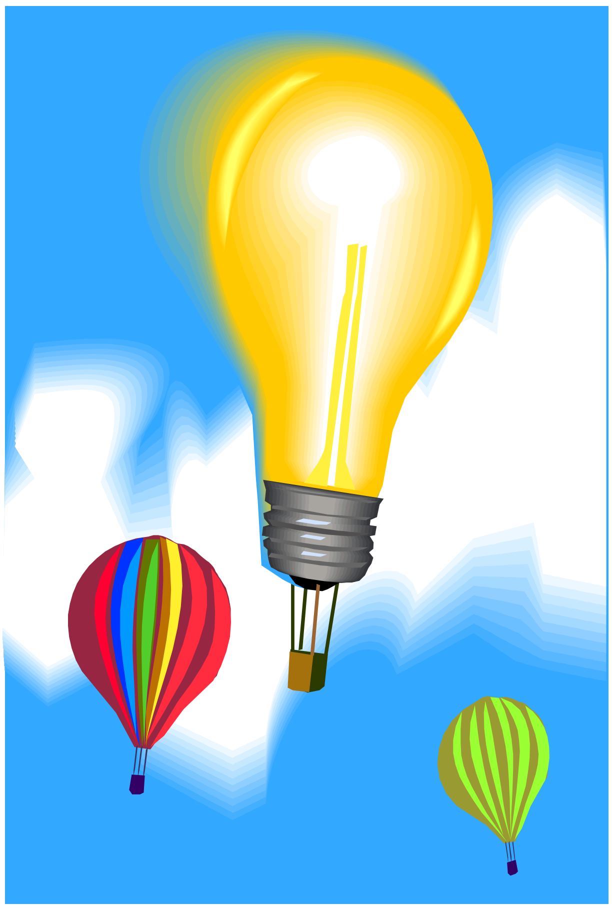
Editor's Comment: It pays to have professionals who know what they are doing. Here, had the decedent retained the right of appointment, these life insurance policies would have become entirely taxable to the estate, and would have been absolutely no more benefit to the decedent's estate. When shopping for life insurance policies and setting them up, you must pay attention to the potential value of the estate, the cash position of the estate, and legal contingencies with life insurance policies, including power of appointments.

Legacy Advisors Group
1101 Channelside Drive, Suite 290
Tampa, FL 33602-3611

The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959

Points of Interest

- **Out of the millions receiving early distributions, utilization of the "Do-Over" option is relatively unused.**
- **If you are healthy and longevity is within your family health history, there is a good chance you will recover the investment and more.**
- **Even though it may seem like an expensive option, the "Do-Over" is relatively inexpensive when considering inflation adjusted increases and when compared to other investments.**



The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959

Legacy Advisors Group
1101 Channelside Drive, Suite 290
Tampa, FL 33602-3611

Role & Importance of Seller Financing

Mike Ertel, CBI/ M&AMI/ CM&AA

Almost without exception, all business sellers would prefer to get 100% of their selling price in cash at closing – and for some very good reasons. Most sellers have heard horror stories about other sellers who sold their business for little or no cash down, and carried a seller's note for almost the entire purchase price, and lived to regret it.

Nonetheless, I generally coach my selling clients that they should be prepared to take back a least a small seller's note – perhaps for only 10% of the selling price – if the deal justifies it. In today's extremely tight credit market, it may be necessary to take back more than 10%.

Often when the seller insists on getting 100% cash at closing, the buyer, his banker and other advisors, begin to suspect that perhaps the seller knows something is about to go wrong with the business, and is eager to get as far away as possible. This suspicion obviously has a chilling effect on the negotiations. One study focused on the impact zero seller financing has on selling price, and concluded that businesses which sold with zero seller financing sold for as much as 40% and 60% less than comparable businesses.

Other studies have shown that 70% of all business sales included some element of seller financing. This percentage is has probably increased in the last two years due to the tightening of the credit markets.

This is particularly true of smaller businesses. One study concluded that in over half of all businesses sold, the seller financed over 50% of the selling price. Some businesses which are particularly difficult to "bank," such as construction contractors, may be almost unsalable without significant seller financing.

Another benefit of taking even a small seller's note and treating the transaction as an installment sale for tax purposes is that it may reduce the seller's total tax burden.

If you know of a business owner who's thinking of selling or buying a business and who might benefit from a free, confidential, consultation with us, have them contact me at: mertel@legacyadvisorsgroup.com

Legacy Advisors Group
813.299.7862 Direct
mikeertel@legacyadvisorsgroup.com

Legacy Advisors Group
1101 Channelside Drive, Suite 290
Tampa, FL 33602-3611
Phone: 888-864-6610
Fax: 866-353-0382

The Center for Financial, Legal & Tax Planning, Inc.
4501 W. DeYoung St., Suite 200
Marion, Illinois 62959
Phone: 618-997-3436
Fax: 618-997-8370
Satellite Office:
Longboat Key, FL 34228
Phone and Fax: 941-383-3338

We're on the Web!

www.taxplanning.com
www.legacyadvisorsgroup.com

Frequently Asked Questions…

Q: Do you have any last minute tax advice?

A: For most taxpayers in business, I would recommend making payments a little early in order to reduce taxable income. For those looking to take capital gains or dividends, quickly take the gains and dividends before the low rates disappear. For others, opening an IRA or other retirement account and contributing the maximum is advisable.

Q: What will be the limits for an IRA in 2011?

A: Unfortunately, the contribution limits to IRA accounts do not change for 2011. They remain at $5000, unless you are over the age of 50. Those 50 and older may make additional $1000 contributions for a total of $6000. If the taxpayer has both a traditional IRA and a Roth IRA, the total between the two accounts is limited to $5000 for those under 50 and $6000 for those 50 and over.

Q: New Years is coming. What is happening with estate planning?

A: The Estate Tax Exemption will in all likelihood go back down to $1,000,000 until Congress lifts the limit back to its 2009 level of $3,500,000. The consensus is that the exemption will be retroactive to January 1, 2011. Therefore, for those passing at any point during 2011, their estates will likely be taxed at more beneficial rates than under the $1,000,000 exemption. The gift tax exemption of $13,000 will remain in place.