

An aerial satellite-style photograph of a large hurricane or tropical storm over the ocean. The storm's eye is visible in the center, surrounded by dense, swirling clouds. The ocean surface shows ripples and waves, with some whitecaps visible. The sky is a clear, deep blue.

Planning in a Perfect Storm for Business Owners

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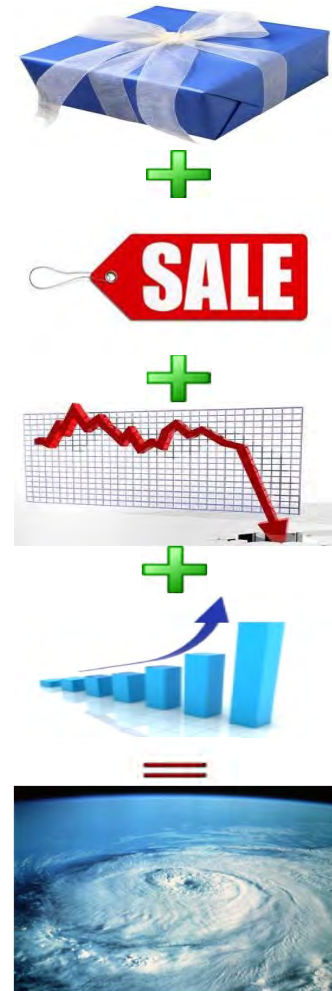
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Why is Now the “Perfect Storm” for Planning?

- \$12,060,000 Gift Tax Exemption
- Low Interest Rates
- Valuation Discounts
- “Defective” Grantor Trust (DGT) Rules
- “Squeeze & Freeze”



Ideas for Business Owners to Harvest and Leverage Gift Tax Exemption

1. Outright Gifts to Heirs
2. Gifts to Trusts for Benefit of Heirs
3. Estate Freeze Sale to DGT
4. Estate Freeze Sale to “678 Trust”
5. Gift to Spousal Lifetime Access Trust (SLAT)
6. Gift of Undivided Interest in Real Estate or Real Estate Partnership
7. Irrevocable Life Insurance Trust (ILIT)

1. Outright Gifts of Business Interests to Heirs

- Gift \$12.06 million outright to descendants
- Drawbacks:
 - Assets subject to descendants' creditors
 - Estate and GST tax exemptions not preserved for future generations
 - Fails to take advantage of leveraging and perhaps the use of discounts



2. Gifts to Trusts for the Benefit of Heirs

- Traditional, non-grantor trust
- Defective Grantor Trust (DGT)
 - Gift is “supercharged” by Grantor’s payment of income tax on trust income
 - Can toggle off Grantor Trust status later, if desired

3. Estate Freeze Sale of Business Interest to DGT

- Sell assets to DGT in exchange for 25-year promissory note (long-term AFR for June is 3.11%)
- Freezes client's estate at value of the note
- All post-sale appreciation is in the DGT



4. Estate Freeze Sale to “678 Trust”

- Client’s parent establishes 678 Trust with \$5,000 gift; Client sells business to 678 Trust in exchange for promissory note
- Benefits:
 - Assets owned by 678 Trust not subject to estate or GST taxes for generations
 - Assets owned by 678 Trust not subject to creditors
 - ***Client continues to have access, control, and flexibility*** over assets in 678 Trust



5. Spousal Lifetime Access Trusts (SLATs)

- Husband creates trust for Wife, and Wife creates trust for Husband; trusts must be substantially different
- **Benefits:**
 - Harvests both spouses' gift tax exemptions (“Use It or Lose It”)
 - Assets owned by SLATs not subject to estate or GST taxes for generations
 - Assets owned by SLATs not subject to creditors
 - Spouses continue to have access to assets in SLATs

6. Gift of Undivided Interest in Real Estate

- **Example:**
 - Client owns real estate under business worth \$5,000,000.
 - Client deeds an undivided 1/16 to Son and Daughter. The value of each gift is \$156,250 minus a 20% discount, which is \$125,000.
 - When Client dies and the real estate is still worth \$5,000,000, Client's 15/16 interest is reduced by a 20% discount (\$4,687,500 minus \$937,500 equals \$3,750,000).
 - That single deed removed \$1,250,000 from Client's estate.

7. Irrevocable Life Insurance Trust (ILIT)

- Client gifts money to ILIT to pay for premiums
- Trustee uses money to purchase policy and stay current on premiums
- Upon Client's death, life insurance proceeds are paid to ILIT
- Client saves approximately \$400,000 in estate tax for every \$1 million of insurance by removing policy from Client's estate

Considerations for Gift-Giving

- **Loss of basis step-up when gifting low basis assets**
- **Many ways to qualify for discounts**
- **Benefits of trusts over outright gifts**
- **Use Caution with hard-to-value assets:**
 - Leave a cushion
 - Obtain a qualified appraisal
 - Report the gift adequately on gift tax return
 - Use a Wandry adjustment clause



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