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Stock Market Downturn, Low Interest Rates Provide Perfect Opportunity For GRATs

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No one will dispute that we are going through some unprecedented and challenging times. It has been said, however, that within every dark cloud is a silver lining. As an example of this principle, current economic conditions (historically low interest rates combined with a significant downturn in the stock market over the last month) now provide a unique opportunity to avoid the payment of federal gift and estate taxes on asset transfers to children, grandchildren or other beneficiaries. The device to be used to achieve such a result is a “grantor retained annuity trust” (GRAT).

A GRAT is an irrevocable trust in which the donor retains the right to receive annual annuity payments from the GRAT for a term of years (usually 2 years) with an irrevocable remainder interest (after making the annual annuity payments to the donor for the fixed term) to be distributed to the persons designated in the GRAT as remainder beneficiaries. A GRAT is typically structured so that the value of the interest retained by the donor (using the applicable IRS interest rate to determine such value) is equal to the fair market value of the property transferred to the GRAT. Hence, the present value of the remainder interest, and the taxable gift, is valued at zero. This is known as a “zeroed out” GRAT.

Through the use of a GRAT, a client can take advantage of the low applicable IRS interest rate at the time of the gift with the hope (and expectation) that the assets in the GRAT will outperform the IRS interest rate. To the extent that such a result occurs, the excess value becomes, in effect, a tax free gift to the remainder beneficiaries of the GRAT. On the other hand, if – for any reason – the assets in the GRAT fail to outperform the IRS interest rate, there is no downside to the donor and the donor will essentially end up in the same position as if he or she had not created the GRAT in the first place.

To view an illustration of how a GRAT works, [click here](#).

We continue to look for opportunities that will benefit Vorys' trust and estate clients during these turbulent times. If you would like to further discuss the matters above, please contact your Vorys attorney.