

Financial Planning Meets Estate Planning: Charitable Remainder Trusts

You want to provide for your favorite charity in your will, but there's no current tax advantage to you for charitable contributions after you're gone. Or is there? You also want to be sure that you have not limited your resources in the event of long-term medical issues. Can you meet all these goals at once? The answer is yes.

Charitable Remainder Trusts can be the perfect planning tool to reduce your current tax bill, provide for your favorite charity, and allow for some cash flow to meet your ongoing needs as you get older. Here's how it works: A trust document is prepared to define your wishes and name a charitable beneficiary(s) and a non-charitable beneficiary(s), which can be you, your family, or your business, whomever you want to provide with annual cash payments. You choose assets from your investment portfolio that will pro-

vide an income to put in the trust, perhaps appreciated stock. You take a charitable deduction for the donation now, and the beneficiary(s) receive annual cash payments for the next five to twenty years, or your lifetime. At the end of the designated period, the remaining assets go to the charity(s) you have named.

It sounds complicated, but once it is set up properly, it requires little maintenance. The biggest question is, how much of a tax benefit can I get now and in the future? We will determine this based on the amount of assets you want to contribute, and an actuarial calculation of the remaining value based on your life expectancy and how much cash you want to take out each year. The present value of that amount, called the remainder, is what you can deduct in the current year. The future tax benefits you receive are multiple. First, the dividends, interest, and

capital gains on the investments each year are not taxable because the investments are held in a trust. Secondly, no capital gains tax is paid on the transfer of appreciated assets now. Third, if the investments are sold over time to provide annual cash flow, there is no tax due on any gain realized.

There are two types of charitable remainder trusts. A charitable remainder annuity trust provides a fixed amount of cash to be distributed annually. The annual cash payments, called distributions, can be a flat figure or a percentage. They must be between five and fifty percent (5-50%) of the fair market value of the investments at the time the trust is set up. A charitable remainder unitrust provides a variable amount determined annually using the fair market value of the assets at the beginning of each year. This allows the distributions to fluctuate with the market, increasing with inflation. The allowable percentage is also between five and fifty percent (5-50%), set at inception of the trust.

Who receives the distributions? It works like an annuity, allowing you to provide for your own needs, family members, or your business. These can be individuals, your estate, another trust, partnership, association, company, or corporation. Additionally, the charitable beneficiary(s) can receive annual distributions as well. The main requirement is that the combination of total payments to charitable and non-charitable beneficiaries falls within the 5-50%, as determined at inception, and that the payments to each recipient continue until the beneficiary(s) interest(s) end with the term of the trust. In other words, this is a long-term financial planning decision.

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Bormel, Grice & Huyett Business Scholarship Awarded

We are proud to announce the presentation of the sixth annual Bormel, Grice & Huyett Business Scholarship Award to Niti Majmudar of River Hill High School. Larry Bormel presented the scholarship

Larry Bormel presenting the scholarship award to Niti Majmudar.

at the school's senior awards night held on May 25, 2005. The Bormel, Grice & Huyett Business Scholarship Award is presented annually to an area high school senior for scholastic achievement and interest in pursuing a business curriculum in college. Past recipients include students from Hammond High School,

Laurel High School, River Hill High School, Atholton High School, and St. Vincent Pallotti High School.

Congratulations to Niti Majmudar and the 2005 graduating class of River Hill High School. ■

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How long does the trust exist? The trust can be for your lifetime, your spouse's lifetime, or a combination of the two, or a fixed number of years, between five and twenty. The charitable remainder must be at least 10% of the fair market value of the assets initially contributed, so you

can choose the term that fits your needs, while providing the required charitable benefit at the end of the term. If you choose a term of years, you could fund college tuition, support of a family member, or capital contributions to your business over a period that you determine.

Alternatively, this could complement your retirement.

There are many benefits to using charitable remainder trusts as part of your estate plan, including tax relief, cash flow, and charitable giving. There are complicated

financial and estate planning issues that should be considered when contemplating such a decision, and the alternatives. Please contact us to discuss them. ■

President Bush Signs Bankruptcy Reform Act

The biggest bankruptcy reform bill since 1978 was signed into law by President George W. Bush on April 20. The House of Representatives approved the final bankruptcy reform bill, the *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*, on April 14 by a vote of 302-126. Since the Senate already approved the bill on March 10, it went straight to the White House for President Bush's signature. This new law is effective October 17, 2005.

The most prominent change made by the new law is the addition of "means testing." Individuals with incomes above a certain threshold would be forced to file under Chapter 13 debt repayment rather than Chapter 7 bankruptcy. However, the tax consequences of the new law – while not in the limelight – are also significant. This article highlights the impact of those changes.

"Discharge" is the most important word in the bankruptcy universe and alleged abuse has fueled support for reform. Discharge is the release of a debtor from personal liability for debts. However, not all debts are dischargeable.

The reform package makes some important changes in how tax obligations are treated. It does away with the so-called "superdischarge" in Chapter 13 plans. It also changes the priority of taxes during bankruptcy proceedings and the subordination and nondischargeability of certain types of taxes. Under the reform measure, superdischarge is no longer allowed. Taxes resulting from failure to file a return, untimely

filing of a return, or fraudulent filing of a return will not be dischargeable under a Chapter 13 plan. In addition, nonfraudulent tax claims entitled to priority under 11 U.S.C. 507(a) also will be nondischargeable. The playing field between Chapter 7 and Chapter 13 will be leveled.

The tax-related provisions of the new law predominantly favor the IRS and other taxing authorities, giving them increased priorities and additional protections. Taxpayers, however, have several new provisions in their favor. These include creditor protection for Individual Retirement Accounts (IRAs), as well as having a set and uniform rate of interest due on tax liabilities and quicker set-offs of refunds and liabilities.

The reform legislation gives more protection to *ad valorem* tax liens on a bankruptcy estate. *Ad valorem* taxes are assessed on the value of real or personal property of the estate. Under the measure, subordination of *ad valorem* liens will be limited. Subordination means the rearrangement of the priorities of creditors' claims so that some claims have a lower priority than others. The reform package also puts a stop to the practice by bankruptcy courts of determining the amount of *ad valorem* liability late in the process. Some debtors were successfully petitioning the courts to determine these amounts, even when the time for contesting them had expired. Now, the amount cannot be determined by the bankruptcy court if the applicable period for contesting that amount under nonbankruptcy law has expired.

The new law protects the priority status of tax claims by providing that a priority tax claim may be filed within a larger window of time: before the trustee begins final distribution or 10 days following the mailing to creditors of the summary of the trustee's final report, whichever is earlier.

The reform legislation clarifies and expands the rules governing exemption for retirement accounts. Retirement savings accounts, to the extent funds are in a tax-favored fund or account, will now be exempt from the bankruptcy estate. The new law also changes the scope of the automatic stay that is applied for appeals of tax determinations by courts or administrative tribunals. The automatic stay in the Tax Court is limited to an individual debtor's pre-petition taxes (taxes owed before entering bankruptcy).

Finally, the greatest immediate protection available to debtors is the broad automatic stay of certain actions by creditors once an individual or a business files a bankruptcy petition. The bankruptcy code mandates this stay in order to bring all collection and enforcement activities into one forum—the bankruptcy court. Reform also will impact the setoff of income tax refunds. Debtors sometimes have been burdened by additional interest and penalties accruing because of the manner in which the automatic stay operated to prevent set-off of a pre-petition tax refund against a pre-petition tax obligation. ■

Bankruptcy Filing Stats (for fiscal year 2004)

Total Filings

Chapter 7	1,153,969
Chapter 11	10,368
Chapter 12	238
Chapter 13	454,412
TOTAL	1,618,987

Total Non-Business Filings

Chapter 7	1,133,625
Chapter 11	932
Chapter 13	449,613
TOTAL	1,584,170

Total Business Filings

Chapter 7	20,344
Chapter 11	9,436
Chapter 12	238
Chapter 13	4,799
TOTAL	34,817

Client Profile:

Bormel, Grice & Huyett, P.A. is proud to feature our client Kohler Equipment, Inc.



Kohler Equipment, Inc. is a full service outdoor power equipment dealer providing sales, service, and parts to landscape professionals in the Baltimore, Washington, and Northern Virginia markets. Kohler Equipment, Inc. sup-

plies many types of machines required to maintain turf along with leaf vacs, trailer parts, snow blowers, snow plows, and salters.

Established in 1974 as a local bicycle and lawnmower sales and service shop in Landover, MD, Kohler Equipment, Inc. has grown over the years and in 1990 moved into a new facility in Upper Marlboro, MD while retaining the location in Landover. The Upper Marlboro facility has had three expansions and now occupies 20,000 square feet of warehouse

and office space. Kohler Equipment, Inc. has been recognized with many awards over the years. One in particular was the award for being the largest Exmark Commercial Mower Dealer in the country as well as the top Fisher Salt Spreader Dealer. Exmark and Fisher are both number one manufacturers in their respective fields. ■

Tips on Handling Telephone Appeals

The Federal “do-not-call” legislation has dramatically reduced the number of unsolicited telemarketing calls we receive, but did not eliminate all of them. Congress exempted themselves, politicians, and non-profit organizations from this law. It is inevitable that telemarketing companies will seek out new customers in the nonprofit arena and we will see an increase in telemarketing appeals.

The Charity Navigator organization has developed a guide to handling telephone appeals in an effort to assist potential donors. They suggest the following:

FIND OUT WHO'S CALLING:

Is the caller an employee or volunteer of the charity, or does the caller work for a telemarketing company? Professional for-profit telemarketers keep a significant portion of your donation for themselves.

ASK WHERE YOUR DONATION GOES:

Ask how much of your donation will actually go to the charity. By law, they must tell you. Professional telemarketing fees can range from 20 to 90 cents of each dollar raised.

GET IT IN WRITING:

Ask the person calling to send you a copy of the charity's annual report

or literature describing the charity. Effective and efficient charities are proud of their accomplishments and are able to provide materials describing their mission, accomplishments, and financial information.

DO SOME RESEARCH:

There are several organizations, such as Charity Navigator or Guidestar, that rate or provide information about charities. Visit the charity's website. You can request a copy of the organization's IRS Form 990 (tax return). Federal law requires nonprofit organizations to provide their last three Form 990s and their IRS Form 1023 (application for tax exemption) within 30 days of your request.

ELIMINATE THE MIDDLEMAN:

If you wish to donate to the charity calling you, contact them and find out how to donate directly to the charity, so your entire donation will go to the charity.

ADDITIONAL TIPS:

Never give out credit card, bank account, or other personal information over the phone.

Beware of “sound-alike” organizations that have names similar to responsible, reputable charities.

Remember you have the right to end the phone call whenever you wish. ■

Tax Due Date Calendar

JUNE 15

Payment of second installment of 2005 estimated tax by individuals and trusts is due;

Second quarter of 2005 estimated tax is due by calendar-year corporations.

JULY 15

Last day for filing 2004 Form 1041 for trusts that obtained an automatic three-month filing extension;

Last day for filing 2004 Form 1065 for partnerships that obtained an automatic three-month filing extension.

AUGUST 1

Second quarter 2005 payroll tax returns due;

Annual Return/Report of Employee Benefit Plan (Form 5500) is due.

AUGUST 15

Last day for filing 2004 income tax return by individuals who obtained an automatic four-month filing extension.

AUGUST 31

Due date for Heavy Vehicle Use tax return (Form 2290).

SEPTEMBER 15

Third quarter calendar-year corporation's estimated tax payment due for 2005;

Third quarter individual or trust's estimated tax payment due for 2005;

Last day for filing 2004 income tax returns by calendar-year corporations that obtained an automatic six-month filing extension.

OCTOBER 17

Last day for filing 2004 individual income tax returns for those who obtained an additional two-month filing extension;

Last day for filing 2004 Annual Return/Report of Employee Benefit Plan (Form 5500) for those who obtained a two-and-one-half-month filing extension.

OCTOBER 31

Third quarter 2005 payroll tax returns due.

DECEMBER 15

Payment of last installment of 2005 estimated tax by calendar-year corporations.

BG&H held its annual company picnic in June. **Tina Megofna** organized a silent auction to benefit the Bormel, Grice & Huyett Business Scholarship Fund. We raised over \$1,000 toward the scholarship fund. Thank you to our staff and firm friends who helped make this event a success.

David Young completed his Masters Degree in Taxation at American University in May. Our congratulations to David on all of his hard work and on a job well done.

Brenda Cummings participated in her 7th annual American Cancer Society's Relay for Life on May 20-21, 2005. As a member of the SunnySiders relay team she walked different time frames to help keep their team on the track continuously. Brenda and the SunnySiders raised over \$12,500 for the American Cancer Society.

In April 2005 **Eddie Manney** and her March of Dimes WalkAmerica team raised funds for the March of Dimes to help support research on the causes of premature birth and what can be done to prevent them.

Congratulations to **Ray & Missi Plummer** on the birth of their first child, Keegan Wilken Plummer. Keegan was welcomed by his parents on March 25, 2005.

Congratulations to **John & Margaret Watkins** on the birth of their third grandchild, Andrew Thomas. Andrew joined his parents, John and Allison and brother Landon in November 2004.

Larry and Barbara Bormel proudly announce the marriage of their daughter Nicole to Kevin Miller. Best wishes for many years of love and happiness.

John & Margaret Watkins attended the wedding of their son Matthew and new daughter-in-law Kate. Congratulations to Mr. & Mrs. Matthew Watkins.

Rod Burr flew to Disney World to see his daughter Erica exchange vows with her new husband Kevin Baxter. Best wishes to the new couple.

Kevin Bormel, son of **Larry and Barbara Bormel**, graduated from University of Maryland College Park in May. Kevin earned a citation in Civicus (community service) and received his Bachelor's Degree in Criminal Justice.

Matthew Bormel, son of **Larry and Barbara Bormel**, graduated from River Hill High School and will be attending University of Maryland College Park. Matthew was President of Future Business Leaders of America (FBLA) and served as an officer of the National Honor Society and the Maryland Technology Honor Society.

Matthew Sanders, son of **Bette Anne and Steve Sanders**, graduated from Blake High School and will be attending Colorado State University in the fall. Matthew received the National Scholar Athlete Award from the U.S. Army.

Lauren Huyett, daughter of **Anna and Patrick Huyett**, recently played the role of Golde in the Mount Hebron High School's production of Fiddler on the Roof. Lauren received the "Best Female Vocalist" award for that performance at the Cappies of Baltimore Gala at the Hippodrome in May.

We are sad to share the news that our friend and co-worker, **Donna Kibler**, passed away in February 2005. Friends and family gathered for a beautiful service where many fond and humorous stories were shared. The following poem was written by **Donna Peirce**, a member of our staff, as a tribute to Donna.

If you haven't already done so, please visit our website at www.bormel-grice.com. Through our website you can access information about our firm and its specialty groups, the latest issue of our newsletter, and links to other sites such as tax forms and publications, Maryland Comptroller of the Treasury, Maryland Association of Certified Public Accountants, American Institute of Certified Public Accountants, Baltimore-Washington Corridor Chamber, State Department of Assessments and Taxation, Bloomberg Financial Services, and client websites. Your comments and feedback are welcome and appreciated.



A Dedication to Donna Kibler

A brisk walk up a hill
A yellow daffodil

Eyes so bright
and full of life
A mother,
a grandmother
and a wife

The floral scarves,
a cup of tea
The brightest smile
you could ever see

She taught us joy,
she taught us love
Now she guides us
from above

—
D. E. Peirce

The BG&H UPDATE is published for our clients, staff, and professional contacts. Copies will be provided to other business people upon written request. Any action based on information contained herein should be taken only after a detailed review of the specific situation.

The following members of our firm have contributed to this edition: **Larry Bormel, Kathy Grice, Anna Huyett, Donna Peirce, Catherine Newman, Rod Burr, Brian Jordan, and Brenda Cummings.**