

**Abstract:** Many people will eventually need to transfer ownership of real estate, a family business or some other asset expected to appreciate dramatically in the future. In such cases, an installment sale may be a viable option. This article explains under what circumstances this strategy should be considered, and discusses its advantages and disadvantages.

## **Installment sales: A viable option for transferring assets**

Are you considering transferring real estate, a family business or other assets you expect to appreciate dramatically in the future? If so, an installment sale may be a viable option. Its benefits include the ability to freeze asset values for estate tax purposes and remove future appreciation from your taxable estate.

### **Giving away vs. selling**

From an estate planning perspective, if you have a taxable estate it's usually more advantageous to give property to your children than to sell it to them. By gifting the asset you'll be depleting your estate and thereby reducing potential estate tax liability, whereas in a sale the proceeds generally will be included in your taxable estate.

But an installment sale may be desirable if you've already used up your \$11.18 million (for 2018) lifetime gift tax exemption or if your cash flow needs preclude you from giving the property away outright. When you sell property at fair market value to your children or other loved ones rather than gifting it, you avoid gift taxes on the transfer and freeze the property's value for estate tax purposes as of the sale date. All future appreciation benefits the buyer and won't be included in your taxable estate.

Because the transaction is structured as a sale rather than a gift, your buyer must have the financial resources to buy the property. But by using an installment note, the buyer can make the payments over time. Ideally, the purchased property will generate enough income to fund these payments.

### **Advantages and disadvantages**

An advantage of an installment sale is that it gives you the flexibility to design a payment schedule that corresponds with the property's cash flow, as well as with your and your buyer's financial needs. You can arrange for the payments to increase or decrease over time, or even provide for interest-only payments with an end-of-term balloon payment of the principal.

One disadvantage of an installment sale over strategies that involve gifted property is that you'll be subject to tax on any capital gains you recognize from the sale. Fortunately, you can spread this tax liability over the term of the installment note. As of this writing, the long-term capital gains rates are 0%, 15% or 20%, depending on the amount of your net long-term capital gains plus your ordinary income.

Also, you'll have to charge interest on the note and pay ordinary income tax on the interest payments. IRS guidelines provide for a minimum rate of interest that must be paid on the note. On the bright side, any capital gains and ordinary income tax you pay further reduces the size of your taxable estate.

### **Simple technique, big benefits**

An installment sale is an approach worth exploring for business owners, real estate investors and others who have gathered high-value assets. It can help keep a family-owned business in the family or otherwise play an important role in your estate plan.

Bear in mind, however, that this simple technique isn't right for everyone. Our firm can review your situation and help you determine whether an installment sale is a wise move for you.

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