

Insight

2010: A Perfect Storm for Wealth Transfer Opportunities?

The currently *dynamic* economic environment and static political environment have created what could shape up to be a perfect storm for wealth transfer planning. As detailed below, the combination of demographics, valuations and uncertainty in our nation's capital creates an unusual opportunity for passing along family wealth in a more tax-efficient manner than had been previously possible.

Maturing Baby Boomers

The first baby boomers reach "retirement" age (65) in 2011. Though what exactly that means seems to be ever-changing, the fact remains that an increasing number of business owners and wealthy families will be focusing on family wealth transfer.

Low Interest Rates/Valuations

In response to (or perhaps causing) the staggering economic downturn in 2008, valuations of businesses, real estate and many investments remain relatively low—at least compared to their recent lofty levels. Sellers of non-public assets remain quick to attest to market illiquidity and difficulty with completing transactions. In an effort to get the

markets moving again, the Federal Reserve has allowed interest rates to drop and remain at their lowest levels in some 50 years. This includes the Applicable Federal Rates (AFR) that the government sets and requires for use in intra-family gifts and other advanced planning strategies. For example, the April mid-term AFR of 2.7 percent, though up from a year ago, is well below its 22-year average of 4.33 percent.

While this combination of low valuations and low rates is perhaps not so good for an owner trying to sell and maximize return, it is good for intra-family transfers where the object is to facilitate multi-generational ownership while minimizing negative tax consequences.

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Low Gift Tax Rates

What planning should be done under the existing transfer tax system? Under current law in 2010, there is a gift tax exemption for the first \$1 million transferred and the highest marginal gift tax rate is 35 percent—down from 45 percent in 2009. Favorable as that may seem, suspension of the estate tax for persons dying in 2010 might make any taxable gifts seem risky. Why pay gift tax in the absence of any estate tax? There appears, however, to be insufficient support for permanent repeal of the estate tax, and restoration of some estate tax program in 2010 with retroactive effect is certainly possible, if not likely.

As more and more Americans move from an accumulation phase to a distribution phase, creative and aggressive planning for wealth transfer becomes essential.

Political Uncertainty Around GRATs and Discounts

To complicate things further, the proposed budget recently released by the White House takes dead aim at two very popular wealth-transfer techniques — the use of short-term Grantor Retained Annuity Trusts (GRATs) and valuation discounts for minority interest transfers to family members. On the GRAT front there is discussion of enacting a minimum required duration for the instrument and valuation discounts would be severely limited, especially as they are used for Limited Partnerships and LLCs containing marketable securities. So the window seems to be closing on these very popular and effective techniques.

Conclusion ... and the Usual Caveat

There are not many ways for people to capitalize on gridlock in Washington — particularly in a shaky economy. As more and more Americans move from an accumulation phase to a distribution phase, creative and aggressive planning for wealth transfer becomes essential. Many business owners and wealthy individuals are faced with significant and real succession crises for their businesses and wealth. Determining to whom assets should go is tricky enough without the potentially crippling imposition of transfer taxes.

Washington tax policy is indeed fickle, and no one really knows what the remainder of the year holds in store. Taxable gifts are always a dicey proposition. Nonetheless, many advisors think that 2010 will be as good as it gets from a timing perspective on the transfer of assets. Valuations and interest rates are low, and techniques remain available which, properly combined, should produce favorable results for those willing to commit to a strategy.

Artwork by Anne Kilguss and Tom Ouellette at the Ten Post Office Square Gallery

Boston Private Bank will be displaying the work of Anne Kilguss and Tom Ouellette in the Bank's Ten Post Office Square Gallery Alcove. Anne Kilguss is a realist painter in the tradition of the Boston School of artists who worked around the turn of the 20th century. These artists were greatly influenced by the French Impressionists and the French academic school of training artists. Anne has studied primarily with Tom Ouellette, who has his own school of art in Boston. Anne likes to paint "the beauty of everyday life," particularly flowers, fruits and vegetables with interesting objects, in silver, copper and porcelains. Anne is a member of the St. Botolph Club, Boston, and the Copley Society of Art, Newbury St., Boston. She also has shown her work at the Provincetown Art Association and the Chatham Creative Art Center.

Tom Ouellette is a contemporary realist. He uses the classic artistic

Left, "A New Day" by Tom Ouellette.

Below, "Copper bowl, peppers, leeks" by Anne Kilguss.



techniques perfected by masters such as John Singer Sargent to provide a fresh and exciting perspective on contemporary subjects. In Tom's paintings, the subject is frequently technology, and his studies of light bulbs, kitchen appliances and tableware reveal the beauty and elegance found even in the most mundane objects of the 21st century. "We often don't realize how beautiful functional objects around us are, at least not until they become antiques," says Tom. "My goal is to reveal that beauty in a way that delights and surprises the viewer."

More than 40 of Anne and Tom's paintings are on display in the Boston Private Bank & Trust Gallery Alcove through August 25th.



A LEADER IN Wealth Management

Boston Private Bank & Trust Company was rated as the top wealth management brand among wealthy investors in a recent Luxury Institute survey. The Luxury Institute is an impartial ratings, research and consulting institution located in New York City.

The Luxury Institute survey, released on April 20, asked investors with at least \$5 million in net worth to rate wealth management firms based on four indices, including quality of service. Boston Private Bank & Trust Company is the only company among 34 evaluated to rate above average

across all four component measures of the Luxury Brand Status Index™.

Jay Henderson, Executive Vice President and Head of Investment Management and Wealth Planning Services, said our favorable ranking can be attributed to our strong reputation as a trusted advisor within our professional community. In addition, we were very excited to learn that our firm was the one that wealthy clients were most willing to recommend to people they care about. Mr. Henderson feels this is directly related to the strong professional team Boston Private Bank has developed over the years.

Survey results show Boston Private

Bank & Trust as the top-rated wealth management firm for:

- Being unique
- Having clients who are admired and respected
- Having the ability to make clients feel special across the full customer experience

"The strength of our brand and reputation is the result of staying true to our core values and providing each client with personalized service, customized advice and a trusted partnership," said Mark Thompson, Chief Executive Officer and President of Boston Private Bank & Trust Company.

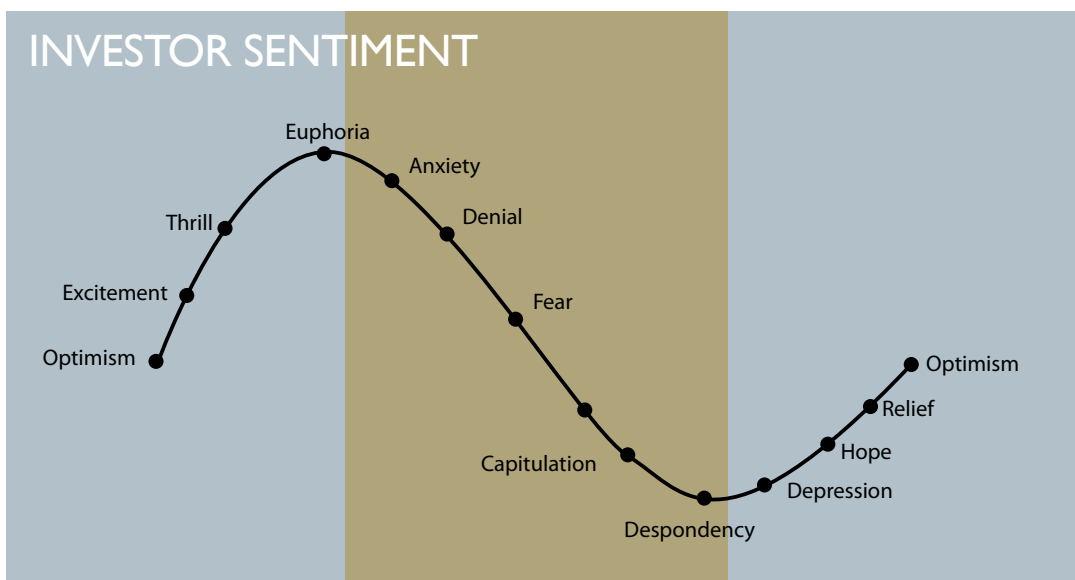
Understanding the Lessons of Investor Sentiments

Three generations ago, during a particularly rough patch for the stock market, financial legend John Pierpont Morgan was asked to explain the market's weakness at the time. "Stocks will fluctuate" was his cryptic reply. Forward to early 2009 and many investors were again questioning how much longer and deeper the market sell-off would extend. Many investors at this time were looking for a more complete explanation of what drives the market than Morgan's age-old response.

A year earlier, an editor at Bloomberg approached me about writing a book covering the multitude of signals professional investors consider when making decisions. Many of these signals revolve around valuation benchmarks and investor sentiment. Famous economist John Maynard Keynes referred to the varying degree that individuals are willing to accept risk as "animal spirits," something very important but hard to explain and quantify. I wanted to explicitly point out the Behavioral Finance concepts that make these signals so important, but was told by my editors to "leave it out — behavioral finance books don't sell."

So, left unsaid in the book is that investment professionals have used various indicators to roughly gauge the level of animal spirits. The book, "Market Indicators," attempted to introduce these signals to serious (but not professional) investors, explain how to use them and show where they can be found on the Internet. Indicators included such signals as the Put/Call ratio, margin balances and executive insider buying and selling levels. All point to periodic extremes in investor tolerance for risk, and therefore opportunity for the even-keeled investor to make portfolio adjustments.

My favorite chart in the book is one called the "Investor Sentiment" cycle, shown above. Even if readers forget many of the indicators listed, they seem to remember this chart and its implied lessons.



Rich Siple, CFA, Vice President and Portfolio Manager at Boston Private Bank & Trust Company. His responsibilities include managing individual and institutional accounts, investment research and economic analysis. Rich's book "Market Indicators: The Best-Kept Secret to More Effective Trading and Investing" was published last fall.