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The Time to Gift is Now

As we approach the end of 2010, the window for maximizing wealth transfers may be closing

It seemed unthinkable – would congress let 2009 pass without addressing the scheduled lapse of the estate tax? Well, they did, granting 2010 decedents and their families the gold lining of a tax free estate. In the dusk of 2010, we now face the scheduled sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”). Absent fourth quarter congressional action, gift and estate tax provisions are set to return to pre-2001 levels. It looks like baby new year might well be born with a full set of teeth. In keeping with the theme of old things becoming new again (like egregious gift and estate tax rates), we repeat last year’s call from the rooftops: Gift Now!

As we are approach the end of 2010, the window for maximizing wealth transfers is arguably closing from multiple perspectives. First, the valuations of many businesses and assets are down due to the plight of the economy. History suggests that even the worst economic shocks will not keep us down forever. Second, higher and reinstated taxes, in tandem with potential new prohibitions against certain valuation treatments, will not be conducive to efficient wealth transfer.

If you believe that Congress will extend prevailing tax provisions, thereby keeping the gift tax rate at an historical low of 35%, then no urgency is required. If, however, you believe that Congress will allow EGTRRA its scheduled sunset, in which case the highest marginal rate will to return to its previous level of 55% on January 1, 2011, then NOW is the time to gift. The present economic and political climate provides individuals an opportunity to gift at a favorable rate, at a time when value is depressed, providing the ability to gift more for less.

Although low investment asset values are far from ideal, you can mitigate the pain by taking advantage of the opportunity transfer wealth at tax rates unlikely to been seen again for some time, if ever. Assuming an ownership interest with a fair market value of \$5.0 million in the fall of 2010, a top gift tax rate of 35% and a joint unified credit of \$2.0 million, a married couple would pay gift tax of \$1,050,000 on the transfer of the interest.

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For the sake of example and because of the potential likelihood of its happening, we will assume that Congress takes no action pertaining to the gift tax by the end of 2010 and the gift tax rate reverts to pre-2001 levels. In Fall 2011, given an increase in fair market value of 10%, a married couple's tax liability would nearly double, as shown in Figure One.

Figure One	
Assumed Value of Investment Portfolio in 2010	\$5,000,000
- Unified Credit	2,000,000
= Taxable Gift	\$3,000,000
Gift Taxes Paid Out of Other Assets on Taxable Gifts @ 35.0%	\$1,050,000
Approximate Value of Same Portfolio in 2011	\$5,500,000
- Unified Credit	2,000,000
= Taxable Gift	\$3,500,000
Gift Taxes Paid Out of Other Assets on Taxable Gifts @ 55.0%	\$1,925,000
Difference in Gift Taxes Paid on Gift of Same Assets	(\$875,000)

Using the same assumptions as above, with no growth in the investment portfolio (an unfortunate possibility), the tax savings is still significant, as shown in Figure Two.

Figure Two	
Assumed Value of Investment Portfolio in 2010	\$5,000,000
- Unified Credit	2,000,000
= Taxable Gift	\$3,000,000
Gift Taxes Paid Out of Other Assets on Taxable Gifts @ 35.0%	\$1,050,000
Approximate Value of Same Portfolio in 2011	\$5,000,000
- Unified Credit	2,000,000
= Taxable Gift	\$3,000,000
Gift Taxes Paid Out of Other Assets on Taxable Gifts @ 55.0%	\$1,650,000
Difference in Gift Taxes Paid on Gift of Same Assets	(\$600,000)

The current depressed prices, combined with the looming gift tax increases present a unique opportunity to make gifts. If you would like to discuss this illustration with regard to a particular matter, please contact us. It is not too late to take advantage of this, but it very likely will be on January 1.

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NEW PRESENTATION

Demystifying Beer Distributorship Valuation

Recent presentation for the National Beer Wholesaler's Association 73rd Annual Convention by Timothy R. Lee, ASA.

NEW QUOTE

Gibbs Comments on Potential Impact of Dodd-Frank Act on Bank Consolidation

In the November 12-18, 2010 issue of the *Memphis Business Journal*, Mercer Capital Senior Vice President Andrew K. Gibbs, CFA, CPA/ABV is quoted commenting on the recently passed Dodd-Frank Act's impact on bank consolidation. Gibbs' comments, which are part of a regular feature called "The Weigh In," are excerpted.

NEWSLETTER UPDATE

New Issues of Mercer Capital's *Bank Watch* Available Now

Get the very latest thinking from Mercer Capital in the most recent issue of our bank-focused e-mail newsletter, *Bank Watch*, which is available here.



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SELECTED LIST OF RECENT & UPCOMING SPEAKING ENGAGEMENTS

November 7, 2010

"Using Methods Under the Cost Approach and Market Approach to Fair Value"

AICPA 2010 National Business Valuation Conference
Washington, D.C.

Travis W. Harms, CFA, CPA/ABV

November 10, 2010

"Buy-Sell Agreements"

BVR/Georgetown School of Law Summit on Valuation, Tax, and Estate Planning
Washington, D.C.

Timothy R. Lee, ASA

November 16, 2010

"The Equity Risk Premium: Perspectives on the Data"

Memphis CFA Chapter Meeting

**Travis W. Harms, CFA, CPA/ABV and
Matthew R. Crow, CFA, ASA**

January 13, 2010

"Buy-Sell Agreements"

Tuscaloosa Estate Planning Council
Tuscaloosa, Alabama

Timothy R. Lee, ASA

January 20, 2010

"Fair Value Measurements and Disclosures (Topic 820) Explored"

Knowledge Congress Webcast

Travis W. Harms, CFA, CPA/ABV

January 30, 2011

"Exploring Employee Stock Ownership Plans: Alternatives for Liquidity & Capital While Maintaining Independence Acquire or Be Acquired Conference"

Scottsdale, Arizona

**Andrew K. Gibbs, CFA, CPA/ABV and
Jay D. Wilson, Jr., CFA**

To see a complete list, visit the Speaker's Bureau section of our web site at www.mercercapital.com. To inquire about engaging a professional from Mercer Capital to speak to your group, contact Barbara Walters Price at priceb@mercercapital.com, or by calling 901.322.9724.

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NOW
AVAILABLE

How to Know Your Agreement Will Work
Without Triggering It



BUY-SELL AGREEMENTS

for Closely Held and Family Business Owners

Z. Christopher Mercer, ASA, CFA, ABAR

Foreword by Tom Deans, Ph.D.
Author of *Every Family's Business*

BUY-SELL AGREEMENTS

for Closely Held and Family Business Owners

“The business owner’s self-defense manual”

– Stephan R. Leimberg, Leimberg Information Services, Inc.

Chris Mercer’s book on buy-sell agreements is a grand slam. Because it uses plain language to explain complex terminology related to buy-sell agreements, attorneys and CPAs will find it to be a very helpful resource when advising their clients about buy-sell agreements, especially the pitfalls of various agreements. I was so impressed with the book that I ordered additional copies and sent them to tax attorneys who we work with on a regular basis.

James A. Koerber, CPA/ABV, CVA, CFE, CFF

The Koerber Company, PA.

This book is very well-researched, easy to understand, and contains numerous helpful examples. It reminds us in great detail how many of the components of a buy-sell agreement cause more problems than they solve. I particularly liked the charts that succinctly presented the advantages and disadvantages of the important elements of a good buy-sell agreement. Also, this book is not just for valuation analysts. Business owners should read it too. It is also a must-read for CPAs, financial planners, attorneys, and anyone else who advises business owners.

James R. Hitchner, CPA/ABV/CFF, ASA

Managing Director, Financial Valuation Advisors
Chief Executive Officer, Valuation Products and Services
President, Financial Consulting Group

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NOW
AVAILABLE

How to Know Your Agreement Will Work
Without Triggering It



BUY-SELL AGREEMENTS

for Closely Held and Family Business Owners

Z. Christopher Mercer, ASA, CFA, ABAR

Foreword by Tom Deans, Ph.D.
Author of *Every Family's Business*

BUY-SELL AGREEMENTS

for Closely Held and Family Business Owners

by **Z. Christopher Mercer, ASA, CFA, ABAR**

Buy-sell agreements are among the most common yet least understood business agreements, and many are destined to fail to operate like the owners expect. Many, in fact, are ticking time bombs, just waiting for a trigger event to explode. If you are a business owner or are an advisor to business owners, this book is designed to provide a roadmap for business owners to develop or improve your buy-sell agreement.

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This book is written specifically for business owners. It is conversational in tone, straight to the point, and contains resources and recommendations every business owner subject to a buy-sell agreement requires.

If you are a business owner, you need a copy of this book. If you advise business owners, purchase copies as gifts for them as a way to begin a conversation about their buy-sell agreement. It will mean more business for you and will be of great benefit to your clients by potentially saving them from a buy-sell agreement that won't work.

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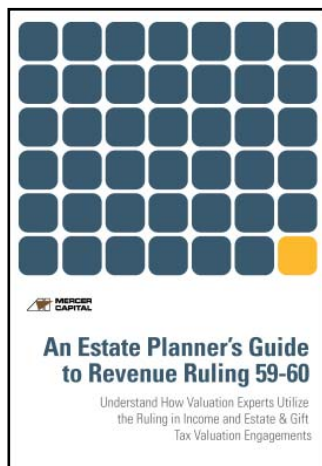
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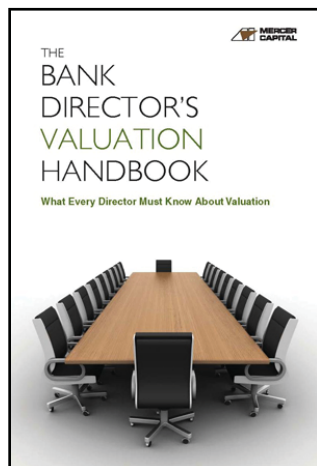
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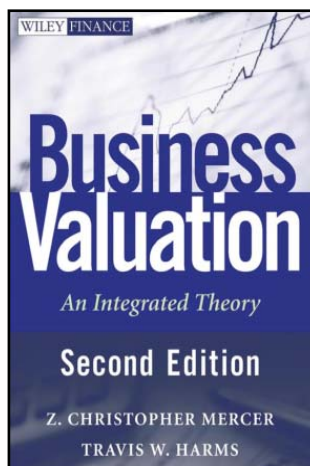
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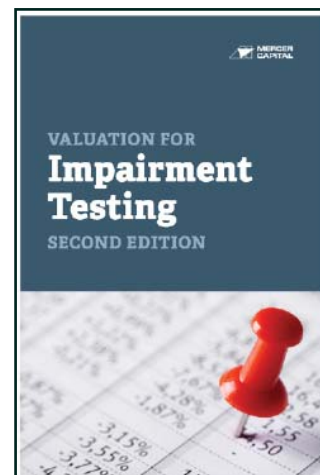
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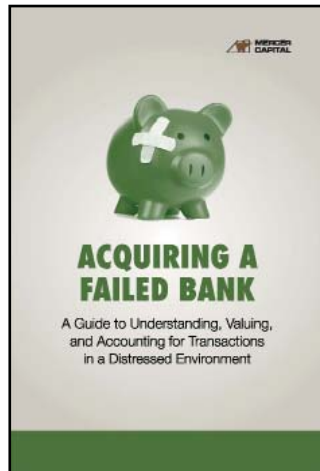
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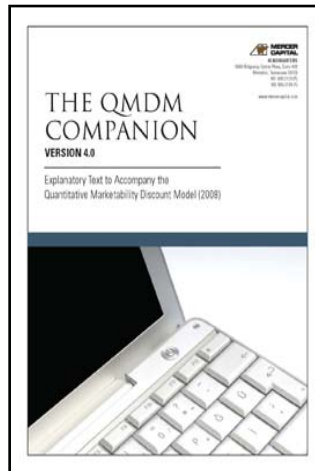
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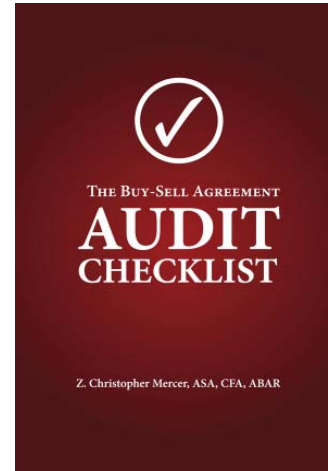
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