Seven Arrows To Potentially Save Taxes When Selling a Business or Real Estate

As a financial advisor, I want to help my clients maximize the value of their business or real estate sales while minimizing their tax burden. Just as an archer carefully selects the right arrows for their target, I have multiple tax-efficient strategies that may help you reach a better tax outcome and may help you achieve your financial goals.

When planning to sell your business or real estate, taxes can significantly impact your final returns. However, with proper planning and the right approach, we can explore several strategies to help you keep more of what you have earned.

I want to share seven powerful tax strategies (plus one bonus) that could benefit you during your sale. Each approach offers unique advantages, and we can work together to determine which combination might best suit your specific situation. Of course, we will collaborate closely with your CPA and tax professionals to ensure we create the appropriate plan for your circumstances.

Let us explore each of these strategies.

Arrow No. 1: Intermediated Installment Sale

The **Intermediated Installment Sale** is an advanced tax strategy that allows you to defer capital gains taxes while earning a return on the tax that would otherwise be paid to the IRS. Often referred to as the Installment Sale Method, it has its statutory basis under IRC 453. The legal theory is that a trust is used as an intermediary, mitigating the risk of you holding a note from the buyer.

Potential Benefits of the Intermediated Installment Sale:

1. **Tax Deferral:** You can defer the taxes for up to 20 years.
2. **Returns Arbitrage:** You earn a return on deferred taxes not paid to the IRS, which may provide

additional income over time.

3. **Income Replacement:** Replace income lost from the asset's sale.
4. **Inflation Advantage:** Use inflation to your advantage.

My firm can help you understand this program's benefits and risks, including sequence risk, possibly paying the tax at a higher later capital gains rate, and legislative and IRS uncertainty.

Arrow No. 2: Charitable Remainder Trust (CRT)

A **Charitable Remainder Trust** allows you to donate your assets to a charitable trust, providing tax benefits while seeking to secure an income stream and a charitable gift.

Key Benefits of a CRT:

1. **Potential to Reduce Capital Gains:** You eliminate the capital gains tax at the point of sale.
2. **Income Replacement:** You can create an income stream to replace income lost from the asset's sale.
3. **Return on Deferred Taxes:** Potentially earn a return on the taxes you did not give the IRS at the point of sale.
4. **Immediate Tax Deduction:** Receive a tax deduction in the year the trust is funded.
5. **May Retain Up to 90% of the Asset's Value:** You can receive up to 90% of the asset back during your lifetime.
6. **Estate Tax Reduction:** Remove the assets from your estate.
7. **Charitable Contributions:** Support a **Donor-Advised Fund (DAF)** or charity of choice.

My office offers illustrations and can help assist in the establishment of this trust.

Arrow No. 3: Donor-Advised Fund (DAF)

A **Donor-Advised Fund** allows the charitably inclined to maximize their tax deductions by "bunching" multiple years of donations into one year.

For example, let us hypothetically assume you typically contribute $50,000 annually to various charities and sell your asset for $5 million. You can fund a DAF with $500,000, equivalent to ten years of charitable giving. This creates an immediate tax deduction, helping offset the sales tax burden.

My office can help you illustrate this benefit. Remember, you control all your charitable donations when using a Donor-Advised Fund.

Arrow No. 4: Qualified Opportunity Zone (QOZ)

Investing in Qualified Opportunity Zones can provide potentially significant tax incentives for selling assets with capital gains while contributing to the development of economically distressed communities.

Potential Benefits of QOZ Investments:

1. **Deferral of Capital Gains:** Capital gains tax on the sale of assets can be deferred until December 31, 2026, if reinvested in a QOZ.
2. **Reduction of Capital Gains:** If the QOZ investment is held for at least five years, investors can exclude 10% of the deferred gain. If held for seven years, 15% of the gain can be excluded.
3. **Tax-Free Growth:** If the investment in the QOZ is held for more than ten years, any additional gains on the QOZ investment itself can be excluded from capital gains taxes.

Arrow No. 5: Delaware Statutory Trusts (DSTs)

Delaware Statutory Trusts can be particularly beneficial when diversifying your real estate investments while potentially deferring taxes through a 1031 exchange. DSTs allow you to invest passively in large-scale real estate properties, making them ideal for those who want exposure to real estate without the burden of direct property management.

Potential Benefits of DSTs:

1. **Fractional Ownership:** Allows passive investment in large real estate properties.
2. **Tax Deferral:** Potentially defer capital gains taxes through a 1031 exchange.

3. **Diversification:** Can spread investments across multiple properties and locations.
4. **Potential for Passive Income:** DSTs may generate passive income streams, allowing clients to benefit from real estate income without active involvement in property management.

Arrow No. 6: Investments in Oil and Gas Exploration

Investing in **oil and gas exploration** offers substantial tax advantages, particularly in high-income years. Depending on the nature of the deal, you can generally **deduct up to 90% of the investment**, making it an attractive option for those facing a large tax bill.

Arrow No. 7: Pay the Tax

While not always the most tax-efficient option, sometimes you may prefer to pay the tax and move on with your life. Paying the tax outright remains an option for those who do not want to use more complex tax-efficient strategies.

This is not my favorite strategy.

Bonus Arrow No. 8: Pre-Sale Trust Strategies

Proactive planning well before selling the asset could reap potentially significant benefits if you plan to sell your business or real estate in the coming years. My firm can help you explore different trust strategies that have the potential to offer substantial benefits:

- **Early implementation:** Establish trusts well before the sale to maximize potential tax benefits.
- **Potential income tax reduction:** In states with income and capital gains tax, there could be a reduction in your annual tax bill.
- **Estate tax mitigation:** Properly structured trusts can remove assets from the taxable estate, potentially reducing future estate taxes.
- **Gift value discounting:** Some trust structures allow for discounting the value of the gifted asset, effectively stretching the lifetime gift tax exemption further.
- **Enhanced capital gains tax flexibility:** Certain trust arrangements may offer opportunities to reduce or defer more capital gains when the asset is ultimately sold.
- **Strategic Planning:** We can better design a holistic strategic plan for you and your family by addressing these issues early.

Closing Thoughts

These tax strategies represent a comprehensive approach to protecting and maximizing the value of your sale. Our firm has carefully explored each option, and we can help you navigate complex business and real estate transactions.

My role is to help you understand each option thoroughly and guide you toward the solution that best supports your financial goals and comfort level. We will work closely with your tax and legal professionals to ensure we structure your plan correctly and that it serves your best interests.

It is important to note that successful implementation of these strategies often requires careful planning and adequate time for proper execution. The earlier we begin our planning process, the more options will be available.

I am committed to serving as your trusted advisor throughout this process. My team and I will coordinate with all necessary professionals, monitor the implementation of your chosen strategy, and remain available to address any questions or concerns you might have.

Let us schedule a time to discuss these options in detail and create a personalized plan for your situation. The sale of your business or real estate represents a significant milestone, and I am here to help ensure you achieve the most favorable outcome possible.

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Disclosures

Charitable Remainder Trust

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The trust is subject to the published fee schedule at the time the trust is established.

Income tax consequences for the donor can be complex, depending on the individual situation. All or some of the income from the trust may be taxed at ordinary income rates, but part may be taxed at lower capital gains tax rates, or may even be tax-free, for some years.

Donor Advised Fund

Investors should carefully consider a fund’s investment goals, risks, sales charges and expenses before investing. The prospectus contains this and other information. Please read the prospectus carefully before investing or sending money.

A donor advised fund is a separately identified account that is maintained and operated by a section 501(c)(3) organization, and is not a registered investment company.

Contributions to a Donor-Advised Fund are irrevocable contributions. Individuals considering a contribution to a Donor-Advised Fund should consult their legal and tax advisors regarding deductions, based on their personal considerations.

Administrative services fees and other fees may apply. There may be additional fees charged by the Financial Advisor that is separate from the administrative and impact investment fees.

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We encourage you to seek from qualified professionals regarding all, personal finance issues.

Trust strategies offered through Dunham Trust Company, a Nevada Trust Company. Dunham & Associates Investment Counsel, Inc., an affiliated entity of Dunham Trust Company, offers the Dunham Donor Advised Fund. For more information about the Dunham Donor Advised Fund, please visit https://www.dunham.com/FA/Pages/DAF .

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Although the trust itself is a tax-exempt entity, the trust income distributed to beneficiaries is taxable, according to terms dictated by the U.S. Internal Revenue Code and accompanying U.S. Treasury regulations.

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Intermediated Installment Sale

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We encourage you to seek advice from qualified professionals regarding all personal finance issues.

Risks associated with an intermediated installment sale: One of the primary uncertainties as to whether or not a client should consider an Intermediated Installment Sale or other similar tax strategies is that current tax rates are subject to change at any time and no one can predict with certainty what Congress or the IRS may do or that IRS will not challenge the strategy in the future.

Dunham Trust Company does not guarantee the completion of the installment note as investments will be subject to market conditions. Information and hypothetical case studies are made available to you for hypothetical illustrative e purposes only and are not intended to provide investment or tax advice. We cannot and do not guarantee that your objectives will be achieved.

Delaware Statutory Trusts

General real estate and market risks apply to 1031 Exchange DST. There can be no assurance that a property will perform as projected and Delaware Statutory Trust are subject to economic volatility, tenants not paying their rent timely, and other traditional risks of owning, selling, and operating real estate.

DSTs are sophisticated investments and to invest in one you must be an accredited investor as defined by the SEC.

Delaware Statutory Trusts are structured according to the Revenue Ruling 2004-86. It is possible the IRS would rule unfavorably on a 1031 Exchange DST offering and this could result in immediate tax liability.

Delaware Statutory Trusts typically require a minimum investment of $100,000, and an investor can acquire or exchange into ownership in one or multiple DSTs. DST real estate is generally held for 3 to 10 years. Upon the sale of the property, the investors receive all sales proceeds, including gains from potential appreciation, which can then be exchanged again to continue deferring tax.

A Delaware Statutory Trust interest is an illiquid investment and there is no current active secondary market for selling your interest.

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