

BOGGS & COMPANY

WEALTH MANAGEMENT

BUILDING OPPORTUNITIES GUIDING GENERATIONAL SUCCESS



MONTHLY FEATURES

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AUGUST REMINDERS

The summer has slipped away quickly, but we still have a little time before autumn creeps in! Children are going back to school, the air is cooling, and Boggs & Company has enjoyed July and August.

Reminders

- Join Boggs & Co at the Community Trust Foundation's annual Whiskey Rebellion Festival Friday, September 8th from 6PM-10PM
- *Any additional reminders*

ICYMI

In Case You Missed It



Boggs & Co was happy to support Track and Field, Bocce, Softball, and Swimming participants in the Allegany County Special Olympics in June.



We were proud to help support the Mineral County All-Stars as they traveled to compete in the Tournament of State Champions! Great job, team!



Patsy, Molly, and Brenda made it to the Barron's Advisor Teams Summit!

COLLEGE FUNDING STRATEGIES FOR BUSINESS OWNERS

What are my options as a business owner?

As a business owner, you have unique college planning opportunities. If you are in a high tax bracket, it may be advantageous for you to shift assets or income to your child, who will typically be in a lower tax bracket. Generally, you can shift business income to your child using one of the following strategies:

- Gift company stock to your child
- Transfer a partnership or S corporation interest to your child
- Arrange a gift-leaseback transaction with your child
- Put your child on the company payroll

The common theme in all of these strategies is shifting business assets or income to someone in a lower tax bracket to take advantage of lower tax rates.

Gift company stock

If you plan to sell appreciated company stock to pay for college, you may be able to shift the resulting capital gain into a lower tax bracket by gifting the stock to your child and allowing him or her to sell it. Your child can then use the sale proceeds to pay college expenses. There may be some tradeoffs, however.

First, the kiddie tax may limit your tax savings. Under the kiddie tax rules, a child's unearned income over a certain threshold (\$2,300 in 2022) is taxed at parent income tax rates. The kiddie tax generally applies to children under age 18 and full-time college students under age 24 whose earned income doesn't exceed one-half of their support.



Second, this strategy may have gift tax implications if the stock will be sold for more than the annual gift tax exclusion (\$16,000 in 2022) for individual gifts and \$30,000 for joint gifts).

Third, this strategy might reduce your child's financial aid award. Under the federal government's methodology for determining financial aid, child assets (whether actual shares of stock or sale proceeds in a savings account) are weighed more heavily than parent assets. Accordingly, most college advisors recommend that your child hold few assets in his or her name as of the date the financial aid application is completed.

Fourth, it may be difficult to find a market for stock in your closely held business. A pre-arranged sale to another family member might be deemed a sham transaction by the IRS. But if the stock is sold to someone outside your circle of family and friends, your family may end up sharing ownership of the business with a stranger. Seek the advice of an attorney or tax advisor when selling to a close family member so the transaction won't be considered a sham by the IRS.

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College Funding Strategies Continued**Transfer a partnership or S corporation interest**

If your business is treated as a partnership or S corporation for tax purposes, you may be able to shift income to your child by transferring an interest in the business to him or her. After you have transferred an interest in the business, your child can accumulate distributions of business income (unearned income) to cover college expenses. However, the kiddie tax may limit your tax savings and this strategy might reduce your child's financial aid award (as described in the previous section).

However, the IRS has rules governing who is eligible to be a shareholder in an entity treated as an S corporation for tax purposes. Consult with an attorney or tax advisor to be certain that making your child a shareholder of your S corporation will not jeopardize the corporation's tax treatment. In addition, to be recognized as a partner in a partnership, your child must have the capacity to enter into a partnership contract in your state. Generally, your child must have reached the age of majority or acted through a duly authorized guardian, conservator, or trustee. Consult an attorney or tax advisor who is familiar with the laws of your state.

In addition, there are costs associated with this strategy. An attorney must draft a partnership agreement. Documents and tax returns must be filed. Appraisals must be made. Transfers must be documented and appropriate titling instruments prepared. Further, if a trust is recommended, trust documents must be drafted. Consider these expenses when evaluating your potential tax savings. In the case of an S corporation, you

will need a corporate attorney to handle the transfer of stock and, if needed, the issuance of nonvoting shares.

Arrange a gift-leaseback transaction

A gift leaseback is a transaction in which one party gifts property to another party and then leases the property back. The discussion here focuses on a parent/business owner using a gift-leaseback arrangement to transfer an asset to a child in order to reduce the family's overall federal income tax liability.

In a gift-leaseback transaction, the typical strategy is to give a substantial business asset (e.g., a building, land, equipment) directly to your child or to an irrevocable trust for the benefit of your child. A trust is often used when parents are uncomfortable gifting a substantial asset directly to their child. You then enter into a fair market lease with your child (or the trust) to lease the asset back. Your child receives income from the lease payments, and you can deduct the lease payments as a business expense.

The main benefit of a gift-leaseback from parent to child is that parents can divert income (in the form of lease payments) from themselves to their child, who is probably in a lower income tax bracket. The child can then use this money (and the resulting tax savings) to save for college. Assuming the gift-leaseback transaction is structured properly, parents can deduct the lease payments as a business expense.

The main drawback of a gift-leaseback is that child assets are counted more heavily than parent assets for purposes of financial aid and you (the donor) may owe gift tax depending on the value of the asset being gifted to your child. If the value of the gift is less than the annual gift tax exclusion amount (\$16,000 for individual gifts

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or \$32,000 for joint gifts in 2022), you will avoid federal gift tax. If the gift is more than this amount, you may owe gift tax (but any gift tax owed may be offset by your applicable exclusion amount).

Also, keep in mind that the IRS pays close attention to gift-leaseback transactions to determine if such transactions are in fact genuine, that is, based on prevailing market values and rental rates. This is especially true for transactions between related parties like parent and child. This means that a qualified independent appraiser should be used to determine both the fair market value of the asset being gifted and what a fair market rental should be for that asset. In addition, there should be a written lease agreement with standard terms for that type of property. One of the provisions of the lease should be a penalty provision for breaches of the agreement, such as a specified penalty for late lease payments. These attributes signify to the IRS that the gift-leaseback transaction is not a sham.

If you give the asset to a trust instead of directly to your child, the trustee of the trust should be independent from you and other family members. Parents should also avoid naming their attorney or accountant as the trustee. Preferably, the trustee should be completely independent (for example, a bank or an independent fiduciary). Also, if a trust is used, it should not contain a provision allowing the property to come back to you at some point in the future (called a reversionary interest). If there is such a provision, the IRS may not consider this arrangement to be a true gift, in which case the lease payments would not be deductible.

And there are some tax consequences to keep in mind. As mentioned, if the gift-leaseback is structured properly, the parent can fully deduct the lease payments as an ordinary and necessary business expense (assuming that the leased asset is used in the parent's trade or business). However, the child must report the lease payments as income, but depending on the asset acquired, he or she may be able to claim depreciation deductions with respect to the asset and offset some of the lease income. Finally, as noted previously gift tax may be due depending on the value of the asset being gifted. Consult an attorney or tax advisor for more information or for help in implementing a gift-leaseback.

Put child on the company payroll

You may be able to shift income into a lower tax bracket by putting your child on your company's payroll. Your child can work in the family business, receive a weekly paycheck, and accumulate money for college.

Check the child labor laws in your state to determine at what age, and for how many hours, your child may legally work. Also beware that if you pay your child more than a reasonable amount of compensation, the IRS may deem the excess a gift.

If you have any questions about college funding strategies, please reach out by emailing us at info@boggsandcompany.com or by calling us at (301) 798-7669.

Important Information

Content in this material is for general information only and not intended to provide specific advice or recommendations for any individual. All performance referenced is historical and is no guarantee of future results. All indices are unmanaged and may not be invested into directly. The information provided is not intended to be a substitute for specific individualized tax planning or legal advice. We suggest that you consult with a qualified tax or legal professional. LPL Financial Representatives offer access to Trust Services through The Private Trust Company N.A., an affiliate of LPL Financial. This article was prepared by Broadridge. LPL Tracking #1-05104659.

RAISE YOUR GLASS FOR A CAUSE

Whiskey Rebellion Fest: Sip, Savor, Support.

The Whiskey Rebellion was a protest against the first tax imposed on a domestic product by the newly formed federal government. The tax became law in 1791 and applied to all distilled spirits, but whiskey was by far the country's most popular distilled beverage in the 18th century. The excise became widely known as the "Whiskey Tax."

Farmers in the Cumberland area and other places along the western frontier were long accustomed to distilling their surplus grain and corn into whiskey. In these regions, whiskey was sufficiently popular that it often served as a medium of exchange. Tax collectors faced violence and intimidation.

Washington called on state governors to send a militia force to enforce the tax. President Washington himself arrived in Cumberland to lead the gathered militias; it was the only time a sitting President had led troops into the field. It was George Washington's last military sortie. Washington also began his military career in Cumberland, as a Colonel under General Braddock in the French and Indian wars. His preserved cabin headquarters is located in downtown Cumberland.



To commemorate this event and other local history, Allegany Museum hosts its annual Whiskey Rebellion Celebration. The Whiskey Rebellion Fest is also a major fundraiser for the Community Trust Foundation. Boggs and Company is proud to partner with CTF for this entertaining fundraiser. You can get tickets at www.whiskeyrebellioncumberland.com before they're sold out!



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& COMPANY**
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**Please contact us for
more information:**

info@boggsandcompany.com
(301) 798-7669 (main)
(301) 798-9641 (fax)
(800) 935-6976 (toll-free)

29 North Liberty Street
The Dajhana Building
Cumberland, MD 21502

boggsandcompany.com

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