

## **Tax Tip**

**Week of September 26, 2011**

### **Transfer of Capital Gains to a Minor**

If property is transferred to a spouse, any resulting income or capital gain is taxable to the individual that made the transfer. However, if an asset is transferred to a minor, any income, such as interest or dividends, would be taxable to the transferring parent, but not the capital gains realized when the child sells the asset. This provides an excellent tax planning opportunity as parents can purchase shares in “growth” companies, transfer these assets to their children and any capital gain when the stock is resold will be taxable to the child.

The attribution rules apply to children under the age of 18. Once a child reaches 18, assets can be transferred to adult children and any capital gains or investment income will be taxable to the child, rather than the parents. However, there is an anti-avoidance rule that applies to transfers of property to non-arm's length individuals, if the transaction was motivated by tax reasons. To implement this strategy it is important to emphasize the purpose for which the child received the funds, i.e., funding an education, purchasing a home, or a distribution of the parent's estate prior to their death. Individuals utilizing this strategy will argue that any tax benefit is ancillary to the main purpose of the loan.