

Estate Planning Masterclass:

Leveraging Trusts in Estate Planning

Wednesday, April 2, 2025
12:00 PM to 2:00 PM EST
(120 minutes)

Moderated by: Tom Dickson



Alan Gassman, JD, LL.M. (Taxation), AEP®
(Distinguished)
agassman@gassmanpa.com



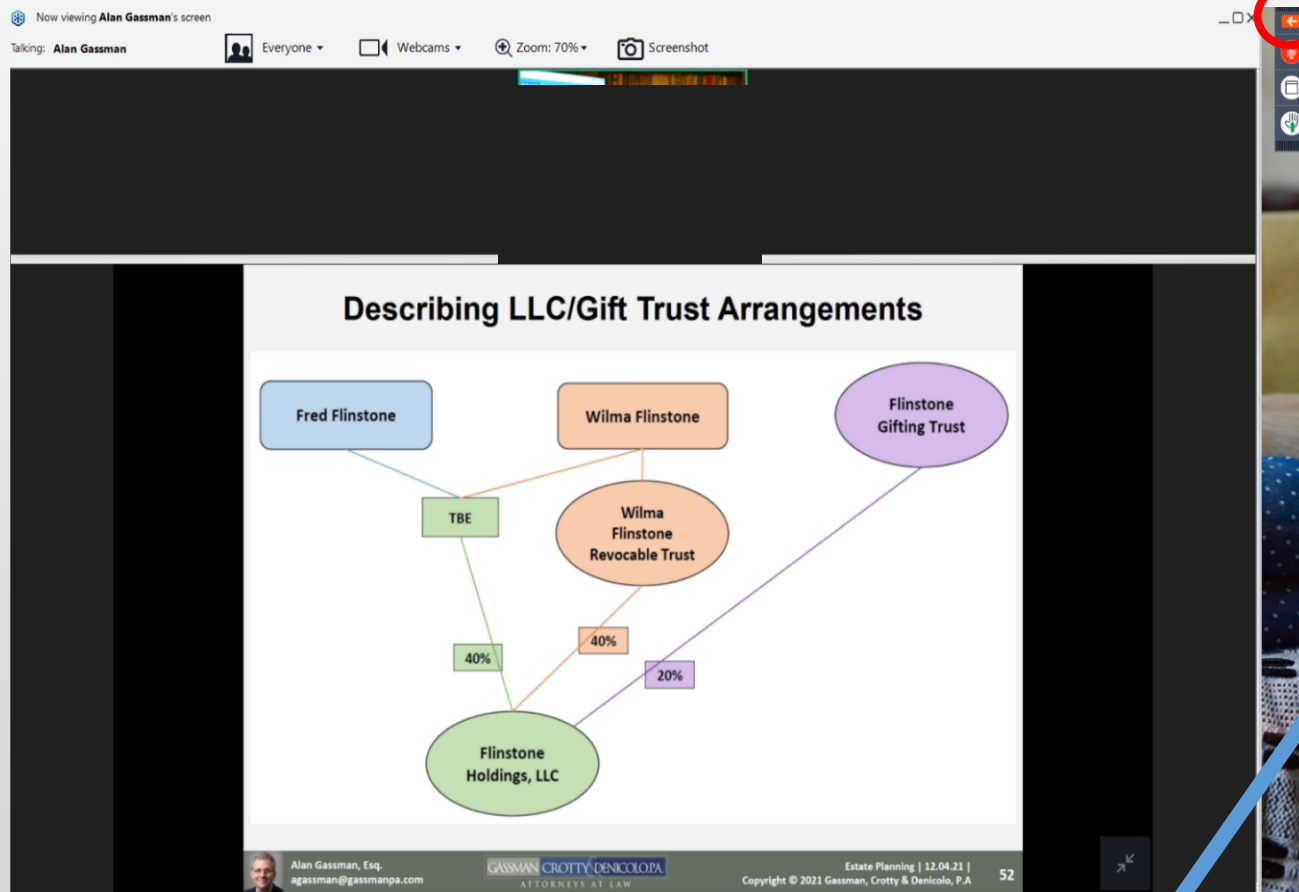
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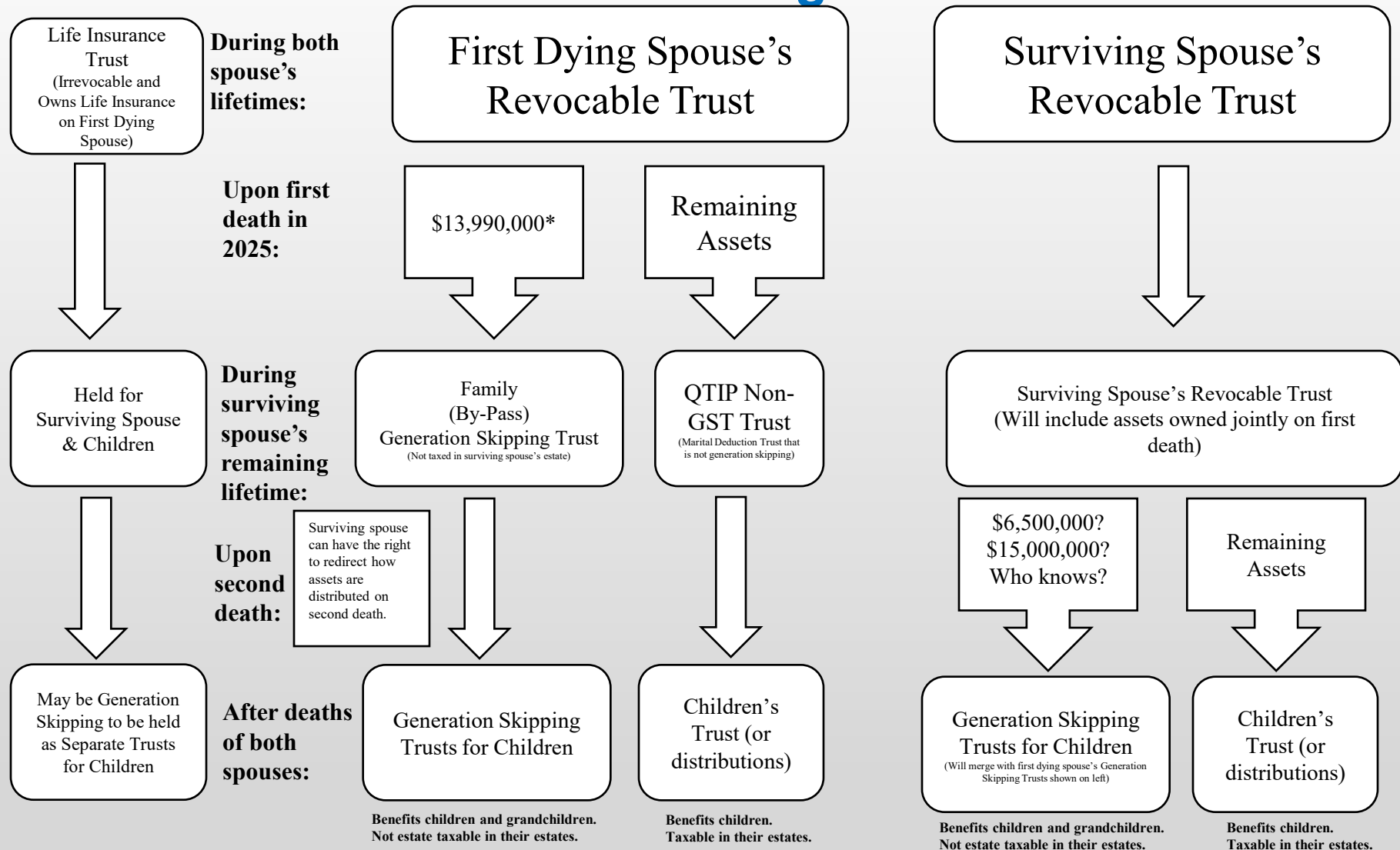
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Protective Trust Logistical Chart



*Assumes first spouse dies in 2025 when the exemption is \$13,990,000, and that the surviving spouse dies in a later year when the estate tax exemption has changed. The estate tax exemption is \$13,990,000, less any prior reportable gifts, for those that die in 2025, and increases with the "Chained CPI."

If the first spouse does not use the entire exemption amount, what remains may be added to the surviving spouse's allowance under the "portability rules" but will not grow with inflation, and will be lost if the surviving spouse remarries and the new spouse dies first, leaving no exemption.



Credit Shelter Trusts

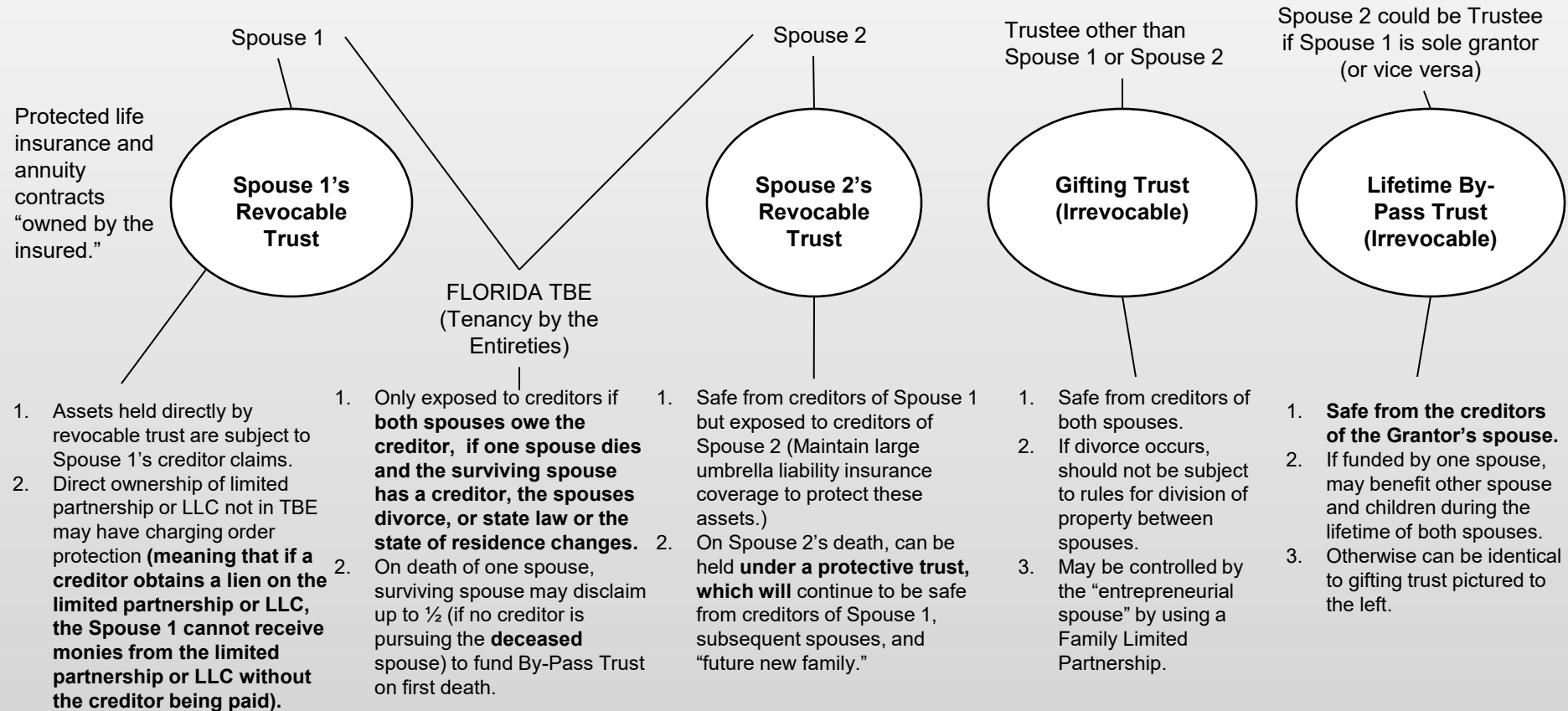
- A married taxpayer will typically leave the maximum amount that can pass estate tax-free into a “credit shelter trust” that can be held for the health, education and maintenance of the surviving spouse without being taxed in the surviving spouse’s estate.
- It does not make sense to require that the income of that trust be paid to the surviving spouse, because that will add to the surviving spouse’s estate.
- The surviving spouse could serve as sole Trustee of the trust with the ability to receive benefits limited to what is needed for “health, education, maintenance and support” (“HEMS”), and can also be given the power to appoint (direct) how trust assets will pass on his or her death. This is called a “limited power of appointment,” and is usually exercisable solely in favor of common descendants and/or charities.
- It is not advisable to require that all income will go to the spouse or that the spouse can withdraw up to 5% of principal per year.
- A fiduciary can be given the power to give the spouse the right to appoint assets to creditors of her estate to get a new income tax basis on death if estate tax avoidance is not needed.
- Credit Shelter Trust article: <https://gassmanlaw.com/wp-content/uploads/2013/10/Credit-Shelter-Trust-May.pdf>



Determining How to Best Allocate Assets as Between a Married Couple – Part 1

General Rules:

- Typically want each trust funded with at least \$11,200,000 worth of assets on death for estate tax planning.
- May be funded from ½ of tenancy by the entireties assets via disclaimer and probate or by life insurance/pension/IRA assets.



SEE NEXT PAGE FOR SECOND TIER PLANNING

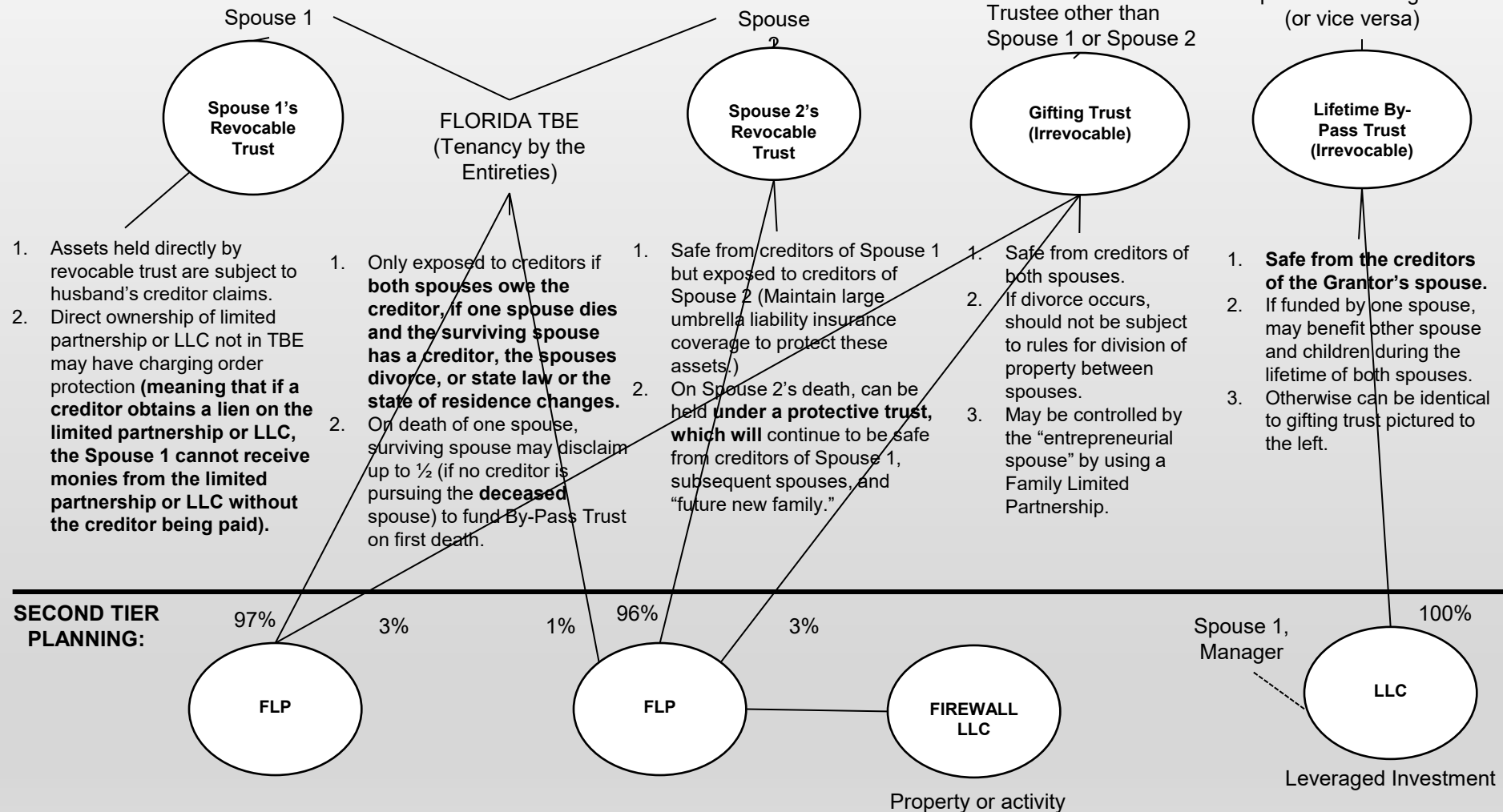
A COMMON SOLUTION - to use a limited partnership or similar mechanisms and have no assets directly in the "high risk" spouse's trust, half to two-thirds of the assets held as tenants by the entireties, and half to two-thirds of the assets directly in the "low risk" spouse's trust.



Determining How to Best Allocate Assets as Between a Married Couple – Part 2

General Rules:

- Typically want each trust funded with at least \$11,200,000 worth of assets on death for estate tax planning.
- May be funded from ½ of tenancy by the entireties assets via disclaimer and probate or by life insurance/pension/IRA assets.



A COMMON SOLUTION - to use a limited partnership or similar mechanisms and have no assets directly in the "high risk" spouse's trust, half to two-thirds of the assets held as tenants by the entireties, and half to two-thirds of the assets directly in the "low risk" spouse's trust.

(From Alan Gassman's article on Portability Mistakes) Credit Shelter Trusts vs. Relying on Exemption Portability

A married couple might provide for all assets to go to the surviving spouse, or to "lock up" up to \$11,400,000 on the first death to facilitate a "credit shelter trust."

CREDIT SHELTER TRUST

SURVIVING SPOUSE INHERITS ALL ASSETS – USE PORTABILITY OF HIS OR HER \$11,400,000 EXEMPTION

1. Uses the first dying spouse's \$11,400,000 Generation Skipping Tax exemption (the ability to benefit children without being taxed at their level) – this is lost if portability is used.	1. No preservation of first dying spouse's GST exemption, although a "reverse QTIP" election may be able to be made in some situations to preserve some of the first dying spouse's GST exemption.
2. Assets can increase in value, to hopefully outpace inflation	2. No CPI or other value increase after first dying spouse's death.
3. Better investment opportunities can be channeled to shelter trust assets.	3. Combined assets will be used to pay personal expenses and to hold "wasting assets."
4. Co-Trusteeship can require conservatism.	4. Surviving spouse may lose or give away the assets in remarriage or otherwise.
5. Can be protected from creditors of the surviving spouse.	5. Not creditor protected.
6. Can borrow money from surviving spouse at the applicable Federal Rate (presently 1.51% for a 9-year Note), and it runs a greater rate of return on its own investment.	6. No ability to leverage with debt or otherwise.



The Stepped-Up Basis Conversation

	No Planning	JEST or Special Power of Appointment Trust Arrangements	Alaska Community Property Trust
Drafting and Design Time to Implement	None.	Requires sophisticated drafting and implementation.	Can be simple to install.
Creditor Protection Attributes	No effect.	Will typically expose assets to creditors to each owner spouse unless further planning is effectuated.	Alaska creditor protection law applies.
Annual Maintenance Costs	None beyond what client is already paying.	None but best to review assets and allocation within JEST periodically.	\$3,000 per year payment to Alaska trust company and requiring that the clients follow appropriate formalities if they want to have creditor protection attributes.
Administration After Death of First Spouse	No special provisions needed.	Must meet with qualified planner to decide how to allocate assets between one or two credit shelter trusts and administration issues.	Can simply dissolve trust or maintain trust and step up has occurred.
Degree of Tax Certainty	Nonapplicable.	The Service may challenge the stepped-up basis and funding of a credit shelter trust from the assets of the first dying spouse.	Statutory support and over decades of community property case law eliminates stepped-up basis and full credit shelter trust funding issues.



GETTING A FULL STEP-UP USING POWERS OF APPOINTMENT ON FIRST DEATH – THE JEST TRUST

Consider the JEST Trust to fully fund a Credit Shelter Trust while receiving a stepped up basis for all joint and separate assets.

The Joint Estate Step-Up Trust (JEST)

A recently variation on the tax-basis revocable trust is the joint estate step-up trust, or JEST. See Gassman, ' Denicolo, & Hohnadell, *JEST Offers Serious Estate Planning Plus for Spouses - Parts I and 2*, 40 Est. Plan. 3, 14 (Oct., Nov. 2013).

1. Structure of the JEST

a) Joint Revocable Trust

A JEST is a joint revocable trust created by a married couple who reside in a non community property state. The JEST becomes irrevocable when the first spouse dies; both powers to revoke then terminate.

b) Separate Shares for Each Spouse

Each spouse owns a separate share of the trust.

c) Each Spouse Can Terminate Trust During Joint Lives

Each spouse has the power to terminate the trust during their joint lives, when each spouse's share will be distributed to him or her individually.



Using General Power of Appointment to Receive Step-Up In Basis

Potential Exceptions:

1. Power Acquired Within One Year of Death – IRC 1014(e) and TAM 9308002

In the case of a decedent dying after December 31, 1981, if—

1. Appreciated property was acquired by the decedent by gift during the 1-year period ending on the date of the decedent's death, and
2. Such property is acquired from the decedent by (or passes from the decedent to) the donor of such property (or the spouse of such donor)

The basis of such property in the hands of such donor (or spouse) shall be the adjusted basis of such property in the hands of the decedent immediately before the death of the decedent.

2. Step Up May Not Apply to Extent the Property Has Been Depreciated – IRC 1014(b)(9)

“...if the property is acquired before the death of the decedent, the basis shall be ... reduced by the amount allowed to the taxpayer ... for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent.”

NOTE – Section 1014(b)(4) applies when the power is actually exercised and does not include a similar reduction for depreciation taken by the taxpayer

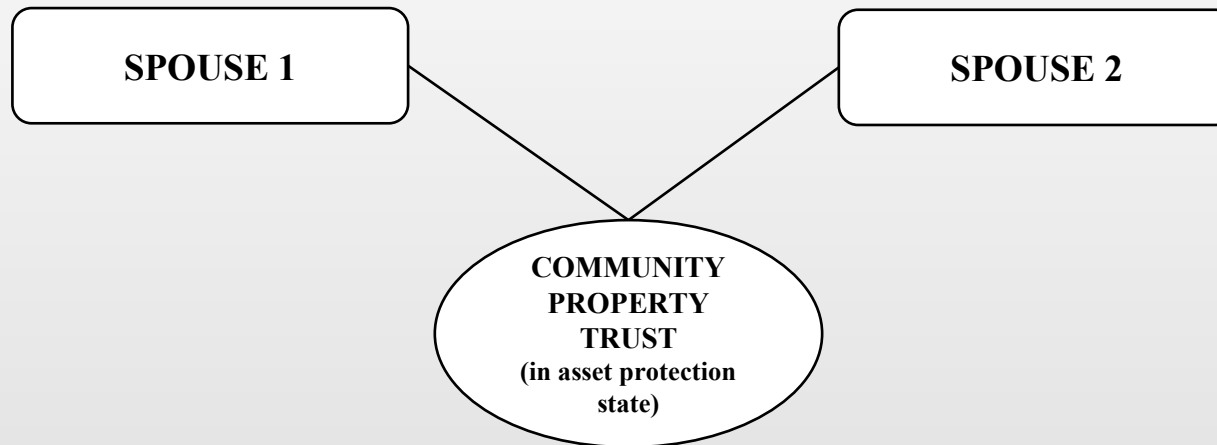


**Planners may recommend
separating/transmuting community
property to avoid all assets being
subject to the claims of the creditors
of either spouse, or possible use of
Alaska or Tennessee Community
Property Asset Protection Trusts**

**(If couple resides in a Community Property
State)**



Community Property Trust



- * May offer creditor protection in asset protection state.
- * Step-up basis is more well assured than with JEST - see Zaritsky/Blattmachr articles.
- * Deduct your next trip to Alaska to discuss this with Doug Blattmachr.

**** See "Tax Planning with Consensual Community Property: Alaska's New Community Property Law (written by Zaritsky/Blattmachr/Ascher) at:**

http://www.jstor.org/stable/20782170?seq=1#page_scan_tab_contents



Community Property States

- ✓ Arizona
- ✓ California
- ✓ Idaho
- ✓ Louisiana
- ✓ Nevada
- ✓ New Mexico
- ✓ Texas
- ✓ Washington
- ✓ Wisconsin

NOTE: Alaska and Tennessee are opt-in community property states that give both parties the option to make their property community property under a trust that can protect from creditors and enable all assets to receive a new fair market value date of death income tax basis if one spouse dies.



Elective Community Property States

- The advantage of community property over non-community property is a fully stepped up basis on the first death.
- The primary disadvantage is that creditors of one spouse can reach all community property.
- Alaska, Tennessee, South Dakota, and soon to be Florida have elective community property systems. Under these systems, married couples can opt in to treating their assets as community property through the creation of a community property trust or entering in to a community property agreement.
- Contrast elective community property systems to regular community property systems, where assets acquired during the marriage are automatically considered community property. These may be referred to as “opt-out” systems.
- In this way, elective community property regimes give the most flexibility in estate planning.



Florida's Community Property Trust Act Requirements

- Under the CPTA, spouses will be able to jointly settle a community property trust by:
 1. Expressly declaring the trust to be a community property trust.
 2. Having at least one trustee who is a qualified trustee (meaning a natural person residing in Florida or a company authorized to act as a trustee in Florida), provided that both spouses or either spouse also may be a trustee.
 3. Having the trust signed by both settlor spouses consistent with the formalities required for execution of a trust under the statute.
 4. Having language at the beginning of the trust agreement in essentially the same form as set forth by the statute, which warns each spouse of the legal ramifications of signing the agreement and urges the spouses to seek competent and independent legal advice.



Florida's Community Property Trust Act Requirements

- In 1998, Alaska passed a community property trust law, the Alaska Community Property Act, for the purpose of enabling married couples residing in any U.S. State or jurisdiction to get a stepped up basis on the first death.
- It has been reported that billions of dollars worth of assets have been placed in community property trusts and have received increased basis in the states that presently offer those trusts, which are Alaska, Tennessee, South Dakota, and soon to be Florida.
- It is important to note that the trust can backfire from a creditor protection standpoint.
 - A married couple who lives in Florida who jointly own assets and have only one-half of them exposed to the creditors (or none of them if held as tenants by the entirety) of one spouse could lose all of the assets if they convey them to a community property trust, even if the community property trust is established in an asset protection jurisdiction.



Florida's Community Property Trust Act Requirements

- Florida is set to join the states that currently have elective community property systems through the Community Property Trust Act (CPTA) under SB 1070.
- The bill has been approved by both the House and Senate and awaits a final signature from the Governor.
- But will it work?
 - Uncertainties remain as to whether community property trusts settled in non-community property states will receive the 1014(b)(6) fully stepped-up federal tax benefit.



Reasonable Minds May Differ

- In *Tax Planning With Consensual Community Property: Alaska's New Community Property Law* (Real Property, Probate and Trust Journal. Vol. 33, No. 4, 1999), Jonathan Blattmachr, Howard Zaritsky, and Mark Ascher tackle the question that *Commissioner v. Harmon* poses.
- The authors note that “Neither section 1014(b)(6) nor its legislative history distinguished between opt-in and opt-out versions of community property. Because *Harmon* had been decided by the Supreme Court just four years before the adoption of section 1014(b)(6), Congress presumably was aware of both opt-in and opt-out community property systems and did not attempt to distinguish them in section 1014(b)(6).” (pg. 630)
 - Highlighting the fact that if Congress intended 1014(b)(6) to apply to only one type of community property system, it would have indicated so in the aftermath of *Harmon*.
- They conclude that “[c]ouples should opt into the Alaska community property system only if that form of ownership reflects the type of treatment they desire for their assets, because availability of section 1014(b)(6) is not absolutely certain” (pg. 631)



Reasonable Minds May Differ

- By contrast, In *Section 1014(b)(6) and the Boundaries of Community Property* (5 Nev. L.J. 704, 2005) by Jeremy T. Ware, the author notes that “[t]he automatic nature of traditional community property regimes is the key to their validity for federal income tax purposes, concerning the splitting of income. Thus, it would seem that any elective community property regime runs afoul of *Harmon* and will be declared invalid for federal income tax purposes, including 1014(b)(6).” (pg. 727.)



Will it Work?

- In *Commissioner v. Harmon*, 323 U.S. 44 (1944) The Supreme Court held that an Oklahoma Statute allowing spouses to opt-in to a community property arrangement would not be recognized for federal income tax reporting purposes.
- The IRS has taken the position that the *Harmon* decision should apply to the Alaska elective system for income reporting purposes.
- Based on the above, it remains to be seen whether the IRS will willingly allow the 1014(b)(6) step up in basis on the first death to apply to married couples who settle a trust under Florida's Community property Trust Act.



What about JEST's?

- Compare the JEST (Joint Exempt Step-up Trust), which is available in non-community property states.
- Under the JEST arrangement the first dying spouse will have a power of appointment exercisable in favor of creditors of his or her estate, and the portion of the trust subject to that power of appointment can pass to a trust for descendants. Trust protectors may be named and have the ability to add the first dying spouse as a beneficiary. The trust protectors would act in a non-fiduciary manor, and only be able to add the spouse if the assets available to the spouse are not sufficient to maintain the spouse for his or her lifetime.
- A typical JEST will have half of the assets considered as owned by the first dying spouse so that the step up is clear and the surviving spouse's access to such assets is unobstructed.
- Some planners are comfortable allowing the surviving spouse to be the beneficiary of the other half of the JEST assets (those assets over which the first dying spouse had a power of appointment to appoint to creditors of his or her estate), especially if the trust language provides that the surviving spouse's access to such secondary trust will only apply if and when other assets available to the surviving spouse are not sufficient.

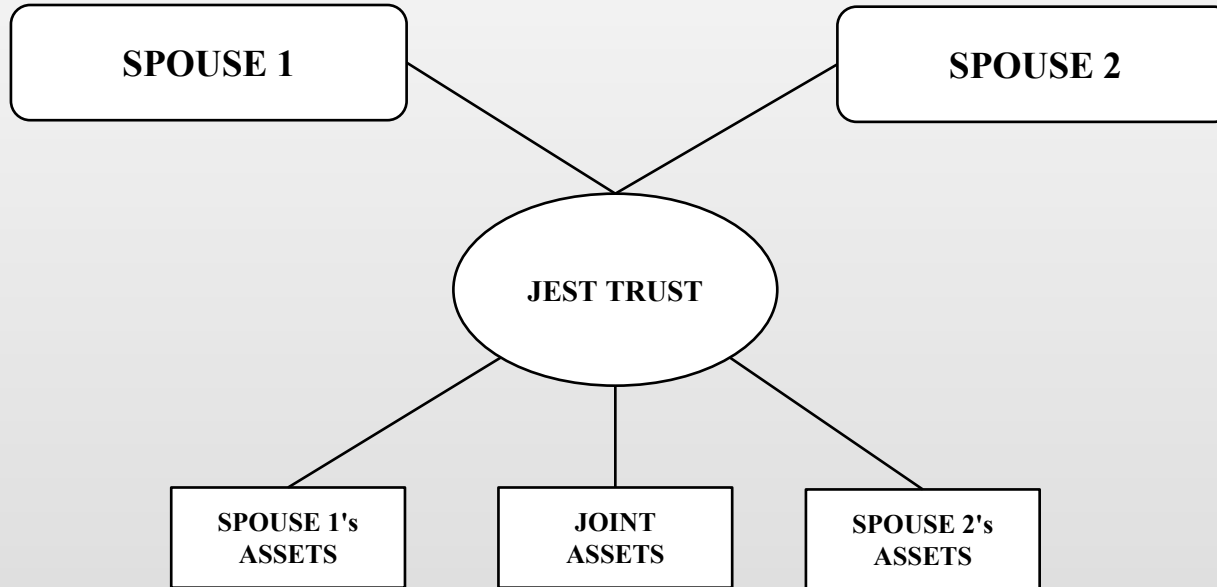


What about JEST's?

- The fact that Internal Revenue Code section 1014(e) provides that assets gifted by a donor to a donee less than one year before the donee's death do not receive a step up in basis if they are inherited back by the donor.
- Assets passing to a trust that gives the original donor limited access (such as when limited to what is reasonably needed for the health, education, maintenance, and support of the donee spouse) would not seem to be subject to such statute, although treasury regulations, private letter rulings, and a technical advisory memorandum that have never been challenged have been published to the contrary.
- Other issues exist with respect to using JESTs. See "JEST Offers Serious Estate Planning Plus for Spouses – Part 1 & 2" by Alan Gassman, Christopher Denicolo, and Kacie Hohnadell.



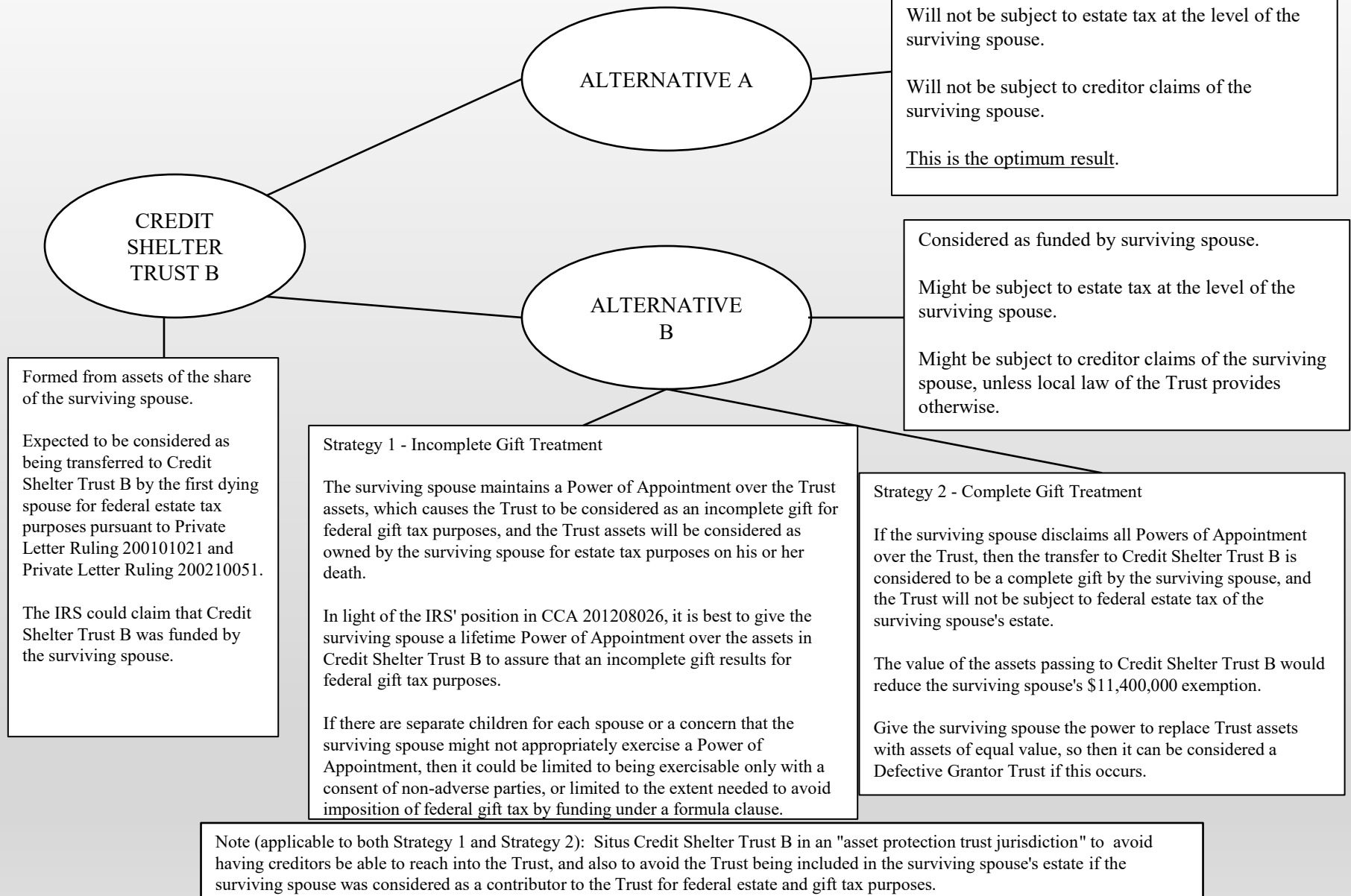
JEST Trust



On first death, up to exemption amount of first dying spouse (as much as \$11,400,000), may pass to Credit Shelter Trust or Trusts to benefit surviving spouse and descendants, with a possible full step-up of all assets - excess assets going into QTIP Trusts, which may also qualify for full step-up.

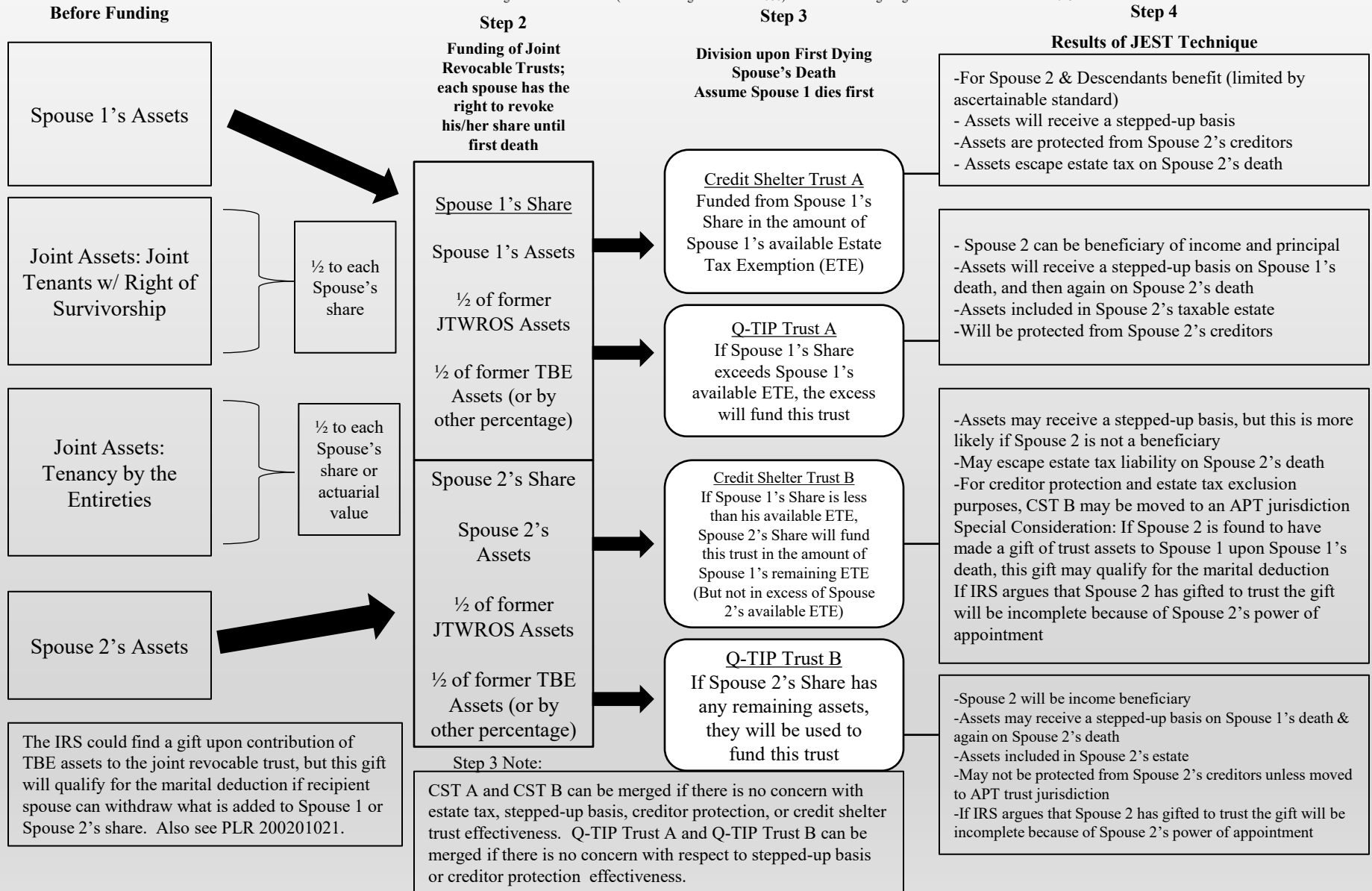


JEST Credit Shelter Trust B Planning



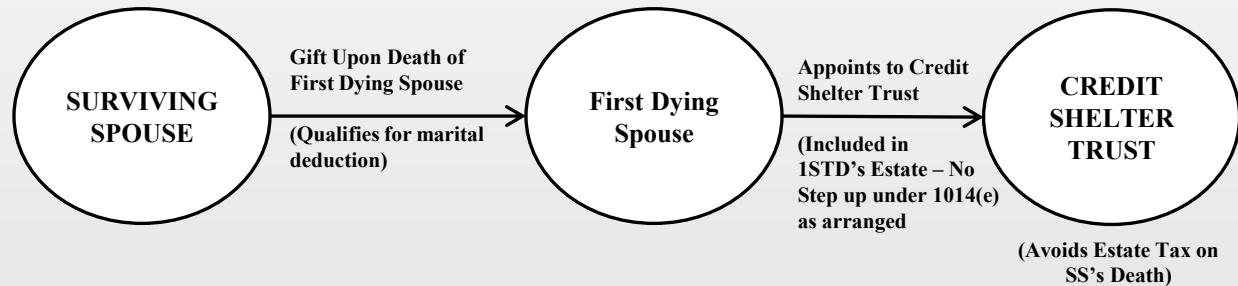
Joint Exempt Step-Up Trust (JEST) Chronology – The 4 Steps from Drafting to Implementing

Derived from articles that can be found on Leimberg Information Services (Estate Planning Newsletter #2086) and Estate Planning Magazine October and November 2013 Editions



Basic JEST Anatomy

**1993 Technical Advice &
2001 and 2002 Private Letter
Rulings**



Blattmachr Article

Credit Shelter Trust could be found to be funded by surviving spouse under step transaction doctrine so creditor may invade the trust in most states.

Mulligan

If first dying spouse needs approval of surviving spouse to appoint then 2041 may not apply, could be considered as a gift of $\frac{1}{2}$ by the surviving spouse – but 1933 Johnston case held otherwise in a similar situation.

Zaritsky

2015 Heckerling Presentation.

Will the service consider the surviving spouse to have funded the credit shelter trust or trusts by reason of the step transaction doctrine?



Tax Exclusive Nature of Estate and Gift Tax



Hypothetical

- John has a \$10 million estate.
- John has used all of his estate and gift tax exclusions.
- Therefore, every dollar is subject to the 40% estate and gift tax.



Scenario 1

- John makes a gift of \$2 million to his daughter.
- 40% of \$2 million makes the gift tax \$800,000.
- John now has a net worth of \$7.2 million.*
- When John dies, only the \$7.2 million is subject to the 40% estate tax. 40% of \$7.2 million is \$2.88 million.
- John's family will then inherit the remaining \$4.32 million, in addition to the \$2 million gift, and thus receive \$6.32 million in total.

*Please note that John needs to live at least 3 years after making the gift to avoid having the 800,000 considered as "restored to his estate."

If John dies within 3 years, then he is considered to still own what he gifted but not any growth or income thereon that took place after the gift and to have not made the gift, so the family is still better off if what was gifted has grown in value.



Scenario 2

- John doesn't make a gift.
- John dies with a \$10 million estate, which is all subject to the 40% tax.
- The estate tax is, therefore, \$4 million leaving the family with \$6 million.



Calculations

	No Gift	Gift
Value of the estate	10,000,000	10,000,000
Gift amount	0	2,000,000
Gift tax (40%)	0	800,000
Value of the estate after deducting gift and gift tax	10,000,000	7,200,000
Estate tax (40%)	4,000,000	2,880,000
Value of the estate after estate tax	6,000,000	4,320,000
Amount family gets from the estate and gifts	6,000,000	6,320,000



The Advantages of the Tax Exclusive Nature of the Federal Gift Tax System.

Gift Tax that You Pay More than Three Years Before Death Reduces Overall Taxes

Example. Senior has an asset valued at \$1,000,000 and \$400,000 in cash. Senior makes no gift. Because Senior expects to live another 20 years, the \$1,000,000 asset will increase to \$3,000,000 and the \$400,000 cash is invested in an asset that is valued at \$1,200,000 in 20 years. In 20 years, the estate tax on Senior's \$4,200,000 will be \$1,680,000 ($40\% \times \$4,200,000$).

If Senior pays \$400,000 gift tax on a \$1,000,000 taxable gift, at the end of 20 years the \$3,000,000 asset is not exposed to the estate tax and the only cost is what the \$400,000 cash would have grown to. The estate taxes saved are ($40\% \times \$2,000,000 = \$800,000$).

Children net in 20 years if no gift is made:

+ \$3,000,000
+ \$1,200,000
- \$1,680,000
Net \$2,520,000

Children net in 20 years if gift tax is paid = \$3,000,000.

The \$2,000,000 of appreciation is sheltered from the estate tax. The longer the donor lives, the more effective the freeze.



Current and Recent Applicable Federal Rates (2024-2025)

MONTH	SHORT TERM	MID-TERM	LONG-TERM
April 2024	4.83%	4.25%	4.40%
May 2024	4.91%	4.37%	4.50%
June 2024	5.06%	4.61%	4.73%
July 2024	5.00%	4.44%	4.56%
August 2024	4.89%	4.29%	4.47%
September 2024	4.52%	3.98%	4.32%
October 2024	4.17%	3.67%	4.06%
November 2024	3.96%	3.67%	4.11%
December 2024	4.25%	4.14%	4.48%
January 2025	4.28%	4.20%	4.48%
February 2025	4.29%	4.47%	4.80%
March 2025	4.26%	4.41%	4.76%
April 2025	4.12%	4.17%	4.56%

**Can use lowest of last three months on a “sale or exchange” under IRC Section 1274(d)(2).
See IRC Section 7872(f)(2)**



\$1,000,000 PROMISSORY NOTE/SCIN/PRIVATE ANNUITY/GRAT ALTERNATIVES

MARCH 2025 / CLIENT AGE 70

Alternatives: (For March 2025 allowable Applicable Federal Rates and March 2025 Section 7520 Rate of 5.4%)

CLIENT (AGE 70)	<3 Year Interest Only Installment Note @ 4.26% - Payment = \$42,600 per year*	TRUST (PURCHASER)
	9 Year Interest Only Installment Note @ 4.20% - Payment = \$42,000 per year*	
	>9 Year Interest Only Installment Note @ 4.48% - Payment = \$44,800 per year*	
	15 Year Interest Only SCIN @ 9.0641% - Payment = \$90,641 per year*	
	Private Annuity Level Annual Payment - Payment = \$104,354 per year	
	3 Year Level Payment GRAT @ 5.4% - Payment = \$369,959 per year	
	3 Year GRAT @ 5.4% - Initial Payment = \$306,861 and Increases Annually by 20%**	

* Notes would have no penalty for prepayment – minimum payments are shown above.

Self-cancelling installment Notes must balloon before life expectancy as measured at time of Note being made. Client's life expectancy is 15.4 years under IRS tables. The SCIN calculations above are based on a 15-year note term.

** This GRAT assumes that each annuity payment will increase by 20% each year. **All GRATs assume no taxable gift on funding**
If interest rates increase in the future, consider the use of a 20-year interest only note at the 4.48% long-term AFR, locking in a 4.48% rate for the next 20 years.

Note: Lowest allowable semi-annual compounding Applicable Federal Rates for March 2025 are:

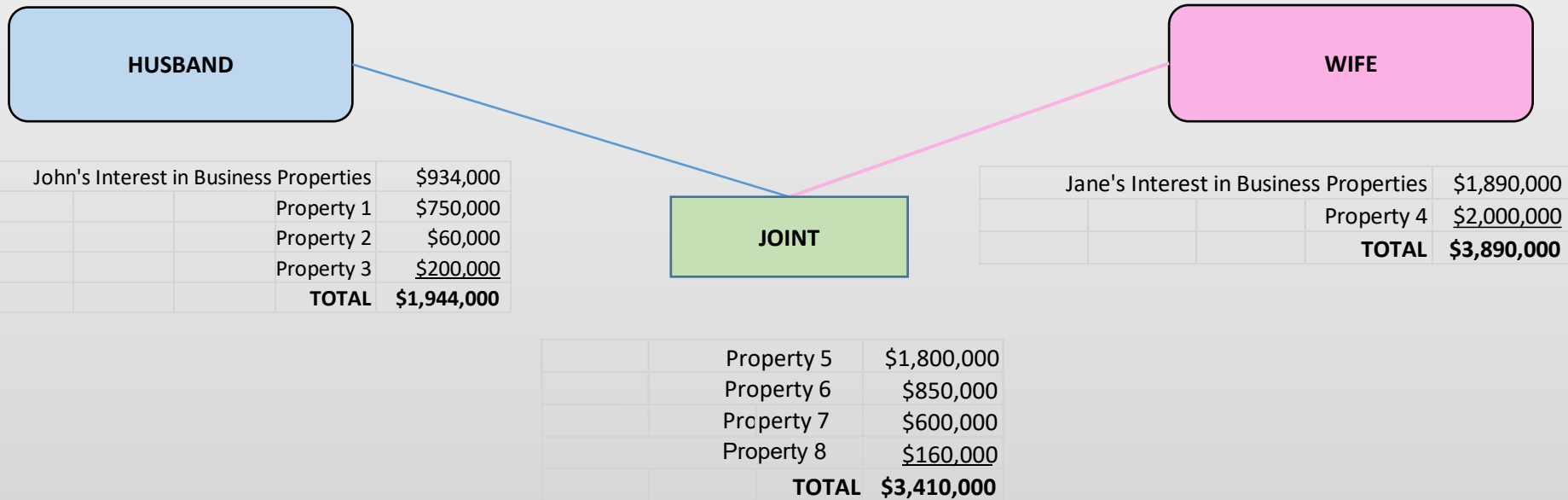
Short-Term –	4.26%
Mid-Term –	4.20%
Long-Term –	4.48%

Usable through March 31, 2025 for a “sale or exchange”



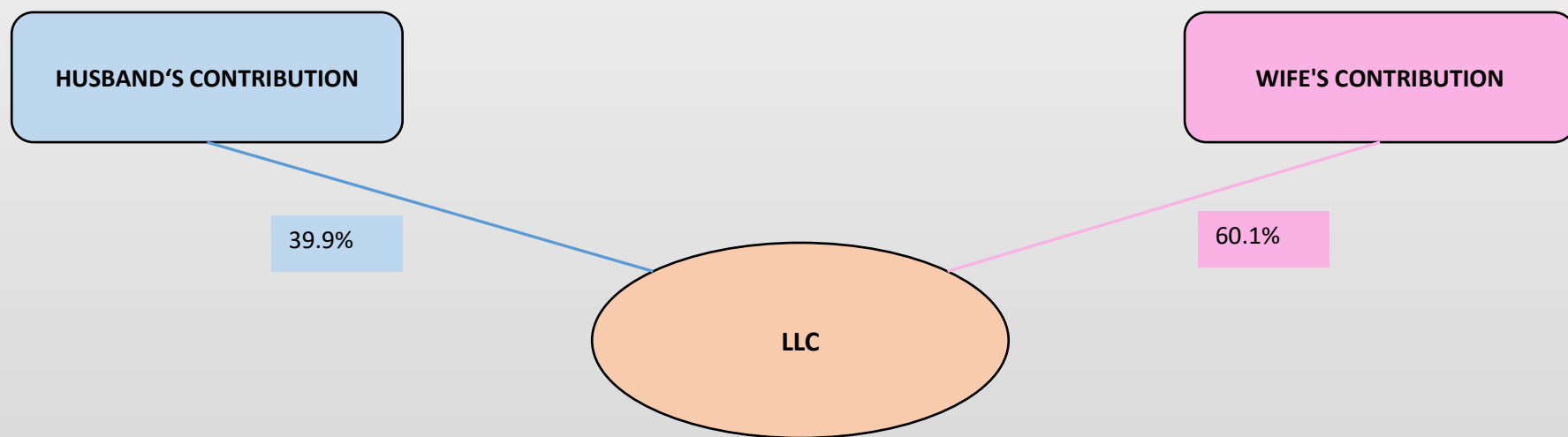
Married Couple with Various Properties Who Would Like to Plan Quickly

Chart 1



Relative Contributions Result in Relative Percentages of Ownership of LLC

Chart 2



Can You Wait To Get This Started?

Step Transaction Doctrine

- *Senda, Holman*, and other court decisions.
- A transfer of assets to an LLC that is immediately followed by a transfer of non-voting member interests by gift will be considered to be a gift of the underlying assets, with no discount permitted.
- It is safest to wait 30-45 days between contribution and member interest transfer.
- The more volatile the asset contributed, the less waiting time required.



Summary of cases where courts have addressed the step transaction doctrine by analyzing the close proximity between date of funding of entity and date of transfer of entity interests.

Case Name/ Court	Decision Date	Date Entity Formed	Date Assets Transferred	Date Interest Gifted	# of days in between	Court Found For	Type of Assets Invested	Court Held	Court's Dicta	Special notes
Holman v. Comr. (U.S. Tax Ct.)	5/27/08	11/3/99	11/2/99	11/8/99	6	Taxpayer	Shares of Dell stock	The limited partnership was formed and the shares of Dell stock were transferred to it almost 1 week in advance of the gift, so that on the facts before us, the transfer cannot be viewed as an indirect gift of the shares to the donees. Furthermore, the gift may not be viewed as an indirect gift of the shares to the donees under the step transaction doctrine.	This case is distinguishable from <i>Senda</i> because petitioners did not contribute the Dell shares to the partnership on the same day they made the 1999 gift; indeed, almost 1 week passed between petitioners' formation and funding of the partnership and the 1999 gift. Petitioners bore the risk that the value of an LP unit could change between the time they formed and funded the partnership and the times they chose to transfer the LP units. Therefore, the Court decided not to disregard the passage of time and treat the formation and funding of the partnership and the subsequent gifts as occurring simultaneously under the step transaction doctrine. Also, in this case, the IRS conceded that a 2-month separation is sufficient to give independent significance to the funding of a partnership and a subsequent gift of LP units.	There were other gifts and transfers, but the Court was only concerned with the November set of transactions.



Summary of cases where courts have addressed the step transaction doctrine by analyzing the close proximity between date of funding of entity and date of transfer of entity interests.

Case Name/ Court	Decision Date	Date Entity Formed	Date Assets Transferred	Date Interest Gifted	# of days in between	Court Found For	Type of Assets Invested	Court Held	Court's Dicta	Special notes
Senda v. Comr. (U.S. Tax Ct.)	7/12/04	6/3/98 (SFLP I)	12/28/98	12/28/98	0	IRS	Shares of stock	The taxpayers' transfers of stock to partnerships, coupled with transfer of limited partnership interests to their children, were indirect gifts of stock to children, and thus, stock and not partnership interests, would be valued for gift tax purposes.	Petitioners presented no reliable evidence that they contributed the stock to the partnerships before they transferred the partnership interests to the children. It is unclear whether petitioners' contributions of stock were ever reflected in their capital accounts. At best, the transactions were integrated and, in effect, simultaneous. Therefore, the Court concluded that the value of the children's partnership interests was enhanced upon petitioners' contributions of stock to the partnerships and were indirect gifts.	On January 31, 2000, petitioner gave to each child an additional 4.5-percent limited partnership interest in SFLP II.
		12/2/99 (SFLP II)	12/20/99	12/20/99	0		Shares of stock			



Summary of cases where courts have addressed the step transaction doctrine by analyzing the close proximity between date of funding of entity and date of transfer of entity interests.

Case Name/ Court	Decision Date	Date Entity Formed	Date Assets Transferred	Date Interest Gifted	# of days in between	Court Found For	Type of Assets Invested	Court Held	Court's Dicta	Special notes
Estate of Jones v. Comr. (U.S. Tax Ct.)	3/6/01	1/1/95 (JBLP)	1/1/95	1/1/95	0	Taxpayer	Assets including real property	Transfers of property to partnerships were not taxable gifts.	All of the contributions of property were properly reflected in the capital accounts of the taxpayer, and the value of the other partners' interests was not enhanced by the contributions of decedent. Therefore, the contributions do not reflect taxable gifts.	
		1/1/95 (AVLP)	1/1/95	1/1/95	0					



Summary of cases where courts have addressed the step transaction doctrine by analyzing the close proximity between date of funding of entity and date of transfer of entity interests.

Case Name/ Court	Decision Date	Date Entity Formed	Date Assets Transferred	Date Interest Gifted	# of days in between	Court Found For	Type of Assets Invested	Court Held	Court's Dicta	Special notes
Shepherd v. Comr. (U.S. Tax Ct.)	10/26/00	8/2/91	Leased Land (8/1/91) ; Bank Stock (9/9/91)	8/2/91	Varies	IRS	Fee interest in timberland subject to a long-term timber lease and stocks in three banks	Transfers represent separate indirect gifts to his sons of 25% undivided interests in the leased timberland and stocks.	Not every capital contribution to a partnership results in a gift to the other partners, particularly where the contributing partner's capital account is increased by the amount of his contribution, thus entitling him to recoup the same amount upon liquidation of the partnership. Here, however, petitioner's contributions of the leased land and bank stock were allocated to his and his sons' capital accounts according to their respective partnership shares. Upon dissolution of the partnership, each son was entitled to receive payment of the balance in his capital account.	



CAN YOU GIFT OR SELL NOW AND REVERSE IT IF CONGRESS DOES NOT ACT?



The Disclaimer Back to Me Trust

Spouse 1 makes a gift to a Spousal Limited Access Trust (“SLAT”), which provides that the beneficiary spouse (“imaginatively named Spouse 2”) may disclaim or cause a disclaimer of all beneficial rights under the Trust, in which event the Trust assets may return to Spouse 1.

1. Will this work?
2. This would provide a 9-month lookback.



A LIFETIME Q-TIP TRUST TO THE RESCUE



Alan S. Gassman, JD, LL.M. (Taxation), AEP® (Distinguished)
agassman@gassmanpa.com

A Lifetime Q-TIP Trust to the Rescue

An alternative strategy that married taxpayers may use to have the client the ability to pull the plug on a large 2021 gift as late as September of 2022, would be to transfer the low interest long-term note in late December of 2021 to a “Lifetime Q-TIP Trust” that will qualify for the estate tax deduction to the extent necessary to avoid imposition of gift tax on the donor spouse.

A Q-TIP Trust is a trust that must pay all income to the spouse beneficiary, and can be used solely to benefit the spouse beneficiary during his or her lifetime. A trustee can be given the power to devise all assets under the trust to such spouse.

A Q-TIP Trust can be divided into two separate sub trusts, one of which can be considered to be a Credit Shelter Trust that will not be subject to estate tax on the death of the spouse beneficiary, with the other trust qualifying for the marital deduction and being considered to be a Grantor Trust owned by the spouse beneficiary during her lifetime.

The Grantor of the Q-TIP Trust can elect what portion of the trust will be treated as the Credit Shelter Trust, and what portion of the trust will be considered to be the Marital Deduction Trust, in the manner described above by an election that must be filed by April 15 of the calendar year following the contribution to the Trust, or by October 15, if the Grantor spouse files a timely extension. It is essential that the election be made on time, because there is no relief available if not. *See Creative Trust Planning Strategies for Using Lifetime Q-Tips, by Richard S. Franklin, ABA Section of Real Property Trusts and Estates Law Webinar April 7, 2018.* Richard Franklin can be contacted at rfranklin@fkl-law.com.



A Lifetime Q-TIP Trust to the Rescue, *Cont'd*

This mechanism allows a grantor who is uncertain as to whether he or she wants to use some or all of his or her remaining estate tax exemption amount, and also enables the Grantor to use a “Formula Clause”, which may best be described by the following example:

Harold has \$10,000,000 of his \$11,700,000 estate tax exclusion remaining in December, 2021. He also has a \$15,000,000 low interest rate promissory note that pays interest annually and will balloon in 20 years. The note may be worth \$12,000,000.

Harold places the promissory note into a lifetime Q-TIP Trust for his wife, Dorothy in 2021. Harold then waits to see whether the estate tax exemption is reduced by legislation. On or before the due date in 2022 Harold may file an election to treat the entire Q-TIP Trust as a Marital Deduction Gift, and thus retain his exclusion amount, as if no gift was made. In that event, the trustee of the Q-TIP Trust may distribute the note to Dorothy, so that no large gift has essentially been made.

Alternatively, if the estate tax exclusion is reduced, then Harold can make the gift to the Q-TIP Trust effective in 2021 as a “retroactive” gift of his remaining exemption amount by making a Formula Election which says “have an amount of assets in Credit Shelter portion of the Q-TIP Trust equal in value to my remaining exclusion amount divided by the total value of trust assets, with the remaining trust assets to be held as a Marital Deduction Trust.”



A Lifetime Q-TIP Trust to the Rescue, *Cont'd*

The Trustee hires a valuation expert after Harold has made his election, and the expert opines that 83.33% of the note should pass to the Credit Shelter portion of the Q-TIP Trust and 16.67% of the note should pass to the Marital Deduction portion. 83.33% of \$15,000,000 is \$12,500,000 in principal that the Credit Shelter Trust may receive if the note is paid off after a few years of having the trust receive interest payments. The remaining \$2,550,000 portion of the note that is in the Q-TIP Marital Deduction sub trust will be included in his spouse's taxable estate, and may be subject to both a time value of money discount for the low interest rate situation and a partial ownership discount, as per the *Smith v. U.S.* case, which is discussed above.

If the IRS audits a gift tax return more of the note may have to be allocated to the Marital Deduction portion, but no gift tax will be owed.



A Lifetime Q-TIP Trust to the Rescue, *Cont'd*

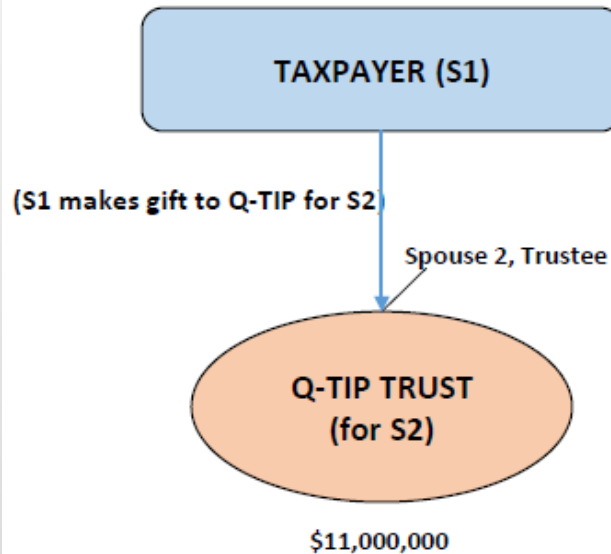
One disadvantage of the Credit Shelter Sub-trust feature of the Q-TIP Trust is that it must pay all income to the surviving spouse, which would mean all interest payments on the promissory note portion allocated to the Credit Shelter Trust will come out to the spouse, but the note may be paid in full, and then the money may be invested in growth stocks that pay no dividends.

In the 1992 5th Circuit Court of Appeals decision of *Estate of Clayton* (976 F.2d 1486), the Court held that the portion of the Q-TIP Trust designated as a Credit Shelter Trust (to not qualify for the marital deduction) would not have to pay income to the surviving spouse if drafted to provide for this. The IRS responded to this case by establishing the “Clayton Q-TIP Election” regulations at Sec. 20.2056(b)-7(d) to allow for this for a Q-TIP trust formed at death, but it is not clear whether this treatment can apply for a lifetime Q-TIP gift.[\[1\]](#)



2020

Flexible Planning With A Q-Tip Trust



In 2010, S1 conveys assets (could be \$11,000,000 worth) to Q-TIP Trust for S2.

Must pay all income to S2 and solely benefit S2 for S2's lifetime, plus can provide health, education and maintenance - and even more benefits and payments to S2.



WAIT AND SEE Q-TIP TRUST

2020

Flexible Planning With A Q-Tip Trust

TAXPAYER (S1)

(S1 makes gift to Q-TIP for S2)

Spouse 2, Trustee

**Q-TIP TRUST
(for S2)**

\$11,000,000

In 2010, S1 conveys assets (could be \$11,000,000 worth) to Q-TIP Trust for S2.

Must pay all income to S2 and solely benefit S2 for S2's lifetime, plus can provide health, education and maintenance - and even more benefits and payments to S2.

On or before September 15, 2021, S1 has the following choices:

2021

Treat The Entire Q-TIP Trust As A Marital Deduction Trust

OPTION 1

TAXPAYER (S1)

(No exclusion used by S1)

Spouse 2, Trustee

**Q-TIP TRUST
(for S2)**

\$11,000,000

OPTION

- 1 Treat the entire Q-TIP Trust as a Marital Deduction Trust -
 - A No use of exemption has occurred.
 - B Trustee can continue Trust - Trust assets protected from creditors.
 - C Trust Protectors or Independent Trustee may cause all assets to be distributed to S2 to terminate the Trust
 - D All income must be paid to S2
 - E Some or all of Trust assets may be transferred to S2
 - F S2 may exercise Power of Appointment, so that assets are held for lifetime health, education and maintenance of S1
 - G Protected from creditors of S1, if S1 resides in Florida or another "Q-TIP Trust protection state."



WAIT AND SEE Q-TIP TRUST

2020

Flexible Planning With A Q-Tip Trust

TAXPAYER (S1)

(S1 makes gift to Q-TIP for S2)

Spouse 2, Trustee

Q-TIP TRUST
(for S2)

\$11,000,000

In 2010, S1 conveys assets (could be \$11,000,000 worth) to Q-TIP Trust for S2.

Must pay all income to S2 and solely benefit S2 for S2's lifetime, plus can provide health, education and maintenance - and even more benefits and payments to S2.

2021

S1 Elects To Have Entire Trust Be A "Completed Gift"

OPTION 2

TAXPAYER (S1)

(Total complete gift treatment - has used S1's \$11,580,000 exclusion, based upon value at time of funding. Will not be included in S2's estate)

Spouse 2, Trustee

Q-TIP TRUST
(for S2)

\$11,000,000

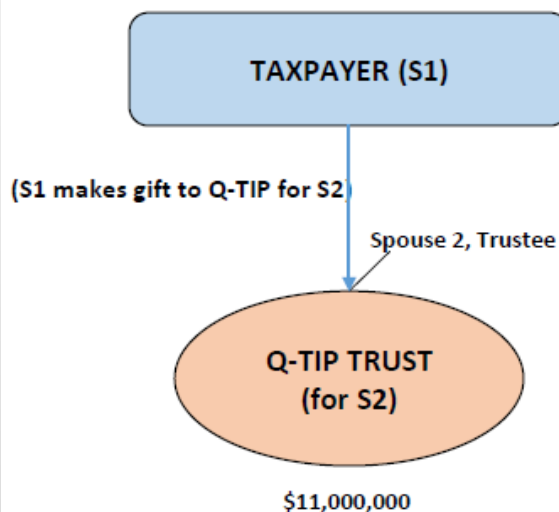
OPTION

- 2 S1 elects to have entire trust be a "completed gift":
 - A Uses S1's \$11,580,000 exemption to the extent of assets contributed.
 - B Can limit payments to being (1) all income to S2, and (2) only amounts as needed for S2's health, education and maintenance.
 - C Trust assets will not be taxed in estate of S1 or S2 - income received by S2 will be added to S2's estate, if not spent.
 - D Trust can invest in low or no income assets, or may be able to use a "Blocker LLC" to reduce or eliminate income.
 - * Treasury Regulations do not provide for a lifetime Q-TIP "Clayton" election that would cause the income interest to not apply.



2020

Flexible Planning With A Q-Tip Trust



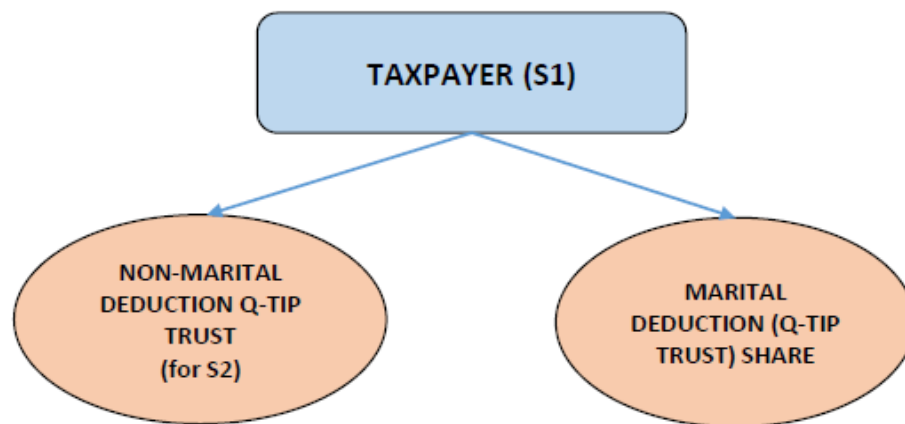
In 2010, S1 conveys assets (could be \$11,000,000 worth) to Q-TIP Trust for S2.

Must pay all income to S2 and solely benefit S2 for S2's lifetime, plus can provide health, education and maintenance - and even more benefits and payments to S2.

2021

Partial Marital Deduction Election

OPTION 3



1. Not included in surviving spouse's estate
2. Must pay income to surviving spouse
3. May be appointed to benefit S1 after S2's death.

1. Pays income to surviving spouse.
2. Independent Trustee or Trust Protectors may transfer all assets to surviving spouse to terminate.
3. Will be considered to be owned by S2 for federal estate tax purposes when S2 dies.

OPTION

3 Partial marital deduction election exercise -

Example A Have marital deduction apply to the extent of \$3,000,000 - the other \$7,000,000 stays in Non-Marital Deduction Q-TIP Trust.

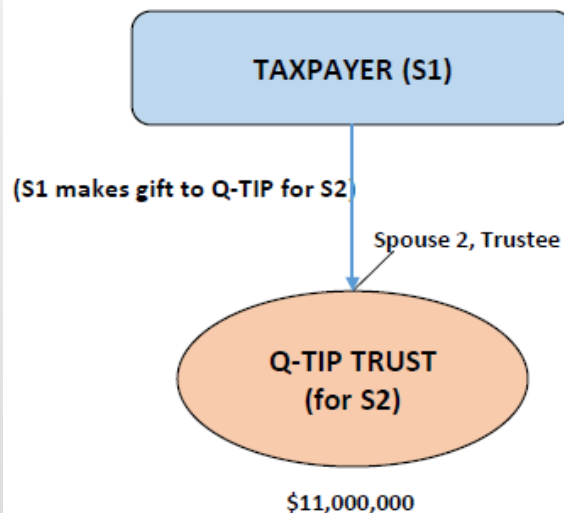
Example B Marital Deduction Trust to the extent exceeding \$8,000,000 so that Non-Marital Deduction Trust is \$3,000,000.



WAIT AND SEE Q-TIP TRUST

2020

Flexible Planning With A Q-Tip Trust



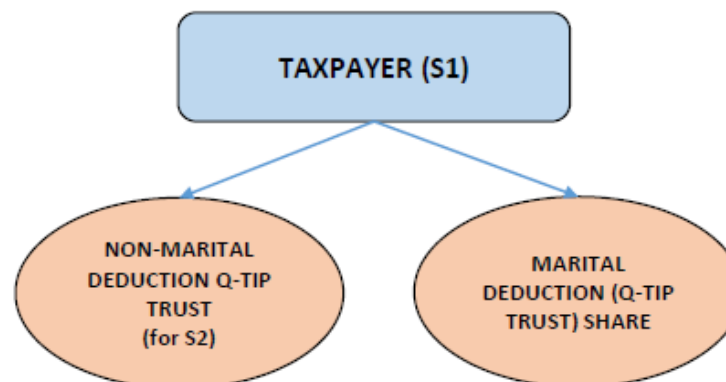
In 2010, S1 conveys assets (could be \$11,000,000 worth) to Q-TIP Trust for S2.

Must pay all income to S2 and solely benefit S2 for S2's lifetime, plus can provide health, education and maintenance - and even more benefits and payments to S2.

2021

Formula Division When Assets May Exceed Exemption Amount

OPTION 4



1. Worth \$11,580,000
2. Must pay income to surviving spouse
3. May be appointed to benefit S1 after S2's death.

$$\begin{aligned}
 &1. \text{ Worth } \$2,420,000 \text{ in value} \\
 &\quad \$14,000,000 \\
 &\quad -\$11,580,000 \\
 &= \$2,420,000
 \end{aligned}$$

OPTION

4

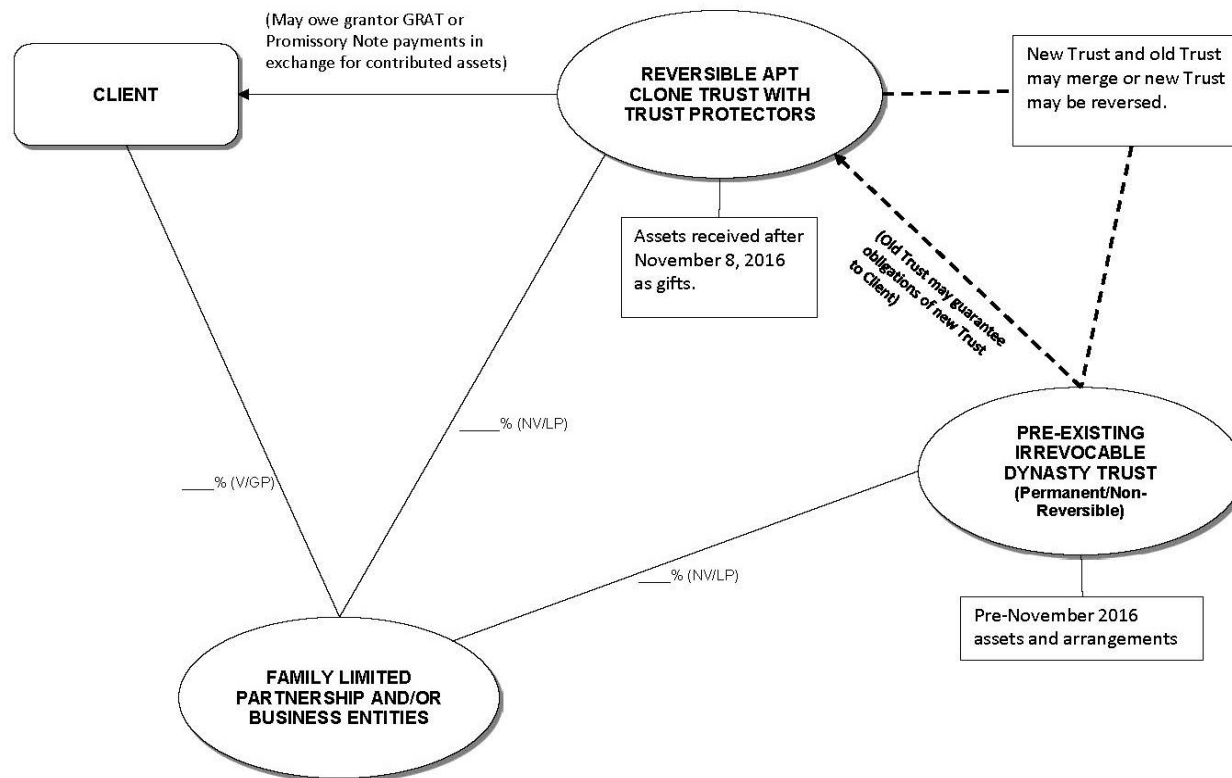
The September 15th election can provide that the amount that can pass gift tax-free will pass to Non-Marital Deduction Q-TIP Trust with remaining assets passing to Marital Deduction Trust. The Taxpayer may claim that the assets are worth less than \$11,580,000. If the IRS audits, there will be no gift tax due - but assets will be pushed to the Marital Deduction Trust.

STRONG WARNING - Failure to file a gift tax return with election on a timely basis causes loss of marital deduction-significant malpractice risk.



The Reversible Exempt Asset Protection (“REAP”) Trust

THE REVERSIBLE CLONE TRUST



If large gifts are being made to existing irrevocable trusts based upon what was in progress before the election results, consider using an identical but reversible irrevocable trust to gift to, which can either be merged into the pre-existing trust, held in parallel, or reversed back by Trust Protectors if and when the estate tax is truly and permanently eliminated.



Steve Leimberg's Estate Planning Newsletter:

Excerpts from “The Reversible Exempt Asset Protection (“REAP”) Trust for 2017 Planning” by Alan Gassman, Christopher Denicolo, Kenneth Crotty & Brandon Ketron

The ‘Reversible Exempt Asset Protection Trust,’ also known as the Reversible Mirror Trust, allows clients to take advantage of presently available and effective estate tax planning opportunities, while providing the flexibility needed to address to the possible uncertainties that might exist the horizon, while also providing asset protection that may greatly exceed what is now otherwise in place.”

EXECUTIVE SUMMARY:

When we look back in a year on the unexpected results of the 2016 Presidential Election, and the tendency for clients and advisors to “wait and see” what happens with estate and gift taxes, we may find that the majority of planners and decision makers erred on the side of doing nothing, costing families significant portions of their assets upon the death of loved ones in the future.

Alternatively, when we look back in five years we may find that the estate tax “went away” but came back in harsher form, after a period of time during which those who planned ahead came out much better than those who did not. While some commentators believe that repeal of the estate tax is a strong possibility, others have pointed out the several likely alternatives that must be considered to stay two or more move moves ahead on the chess board of family wealth planning in this dynamic environment.

By our view it is crucial to give clients options that include flexible methods of taking advantage of present opportunities, while being able to change or reverse what is done, or assure that it would be wanted in a no estate tax world, while also being ahead in the non basis step up environment that may be coming.

The “Reversible Exempt Asset Protection Trust,” also known as the Reversible Mirror Trust, allows clients to take advantage of presently available and effective estate tax planning opportunities, while providing the flexibility needed to address to the possible uncertainties that might exist the horizon, while also providing asset protection that may greatly exceed what is now otherwise in place.

In other words, while some believe that the estate tax is facing the ghoulish prospect of the grim REAPER, we think that knowledgeable advisors should be embracing the REAP Trust.

FULL ARTICLE MAY BE VIEWED AT: http://leimbergservices.com/all/LISIGassmanDenicoloCrottyKetron1_11_2017.pdf



Must a sale for adequate consideration be reported on a Gift Tax Return? vs. Optional (Recommended)

WHAT HAS TO BE REPORTED ON A GIFT TAX RETURN VERSES OPTIONAL (BUT RECOMMENDED)

		Required To Be Disclosed	Not Required To Be Disclosed
1.	Any seed capital gift to the irrevocable trust.	Required, if exceeds the \$15,000 annual exclusion that may be available.	
2.	The funding of a family holding LLC		May not need to be reported.
3.	A sale for a proper note - amount owed equals FMV of assets sold.		May not need to be reported.
4.	Cancellation or gifting of the note.	This will need to be reported.	



Use of Valuation Adjustment Clauses



Alan S. Gassman, JD, LL.M. (Taxation), AEP® (Distinguished)
agassman@gassmanpa.com

Irrevocable Trust Flexible Gifting Techniques

Use defined value formula gifting, w/charity

- The clauses with the most history/authority are defined value formula gifting clauses that pour any excess over to charity:
 - See *Estate of Christiansen v. Comm'r*, 130 T.C. 1 (T.C. 2008), aff'd 586 F.3d 1061 (8th Cir. 2009)
 - *Succession of McCord v. Comm'r*, 461 F.3d 614 (5th Cir. 2006)
 - *Estate of Petter v. Comm'r*, T.C. Memo 2009-280 (T.C. 2009)



Irrevocable Trust Flexible Gifting Techniques

Use defined value formula gifting, w/charity

- There is no specific case using a marital pourover, but in theory it is logically no different from using a charitable pourover, and involves much fewer issues.
- Imagine the income tax filing headaches when you have to go back years later and amend entity tax returns, individual and/or trust tax returns because the ownership was improperly reported and none of the K-1s and other tax filings were correct due to incorrect allocation of ownership.
- If shares are reallocated from IGT to marital trust, both are grantor trusts and this largely goes away.
- If shares are reallocated outright to spouse, and spouses file jointly, this problem largely goes away as well.



Irrevocable Trust Flexible Gifting Techniques

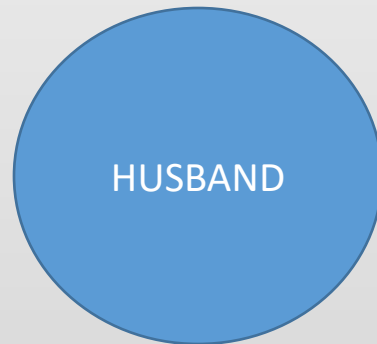
Use defined value formula gifting, w/charity

- There is no specific court case or ruling using an incomplete gift or a GRAT as the pourover, but in theory this should also be possible. The “public policy” in favor of charitable/marital deductions is not quite there.
- In lieu of pouring over into a GRAT or incomplete gift trust, such as a DAPT, you can simply copy the defined value gift in the *Wandry* case.
- *Wandry* simply used a defined value formula wherein any excess amount is deemed to have never been transferred in the first place. The IRS lost the case, but did not acquiesce in the decision. Unlike the *Christiansen* and *McCord* cases, which are at the appellate level and good authority in the 5th and 8th Circuit, *Wandry* is only a tax court memorandum decision – T.C. Memo 2012-88.



King v. U.S., 545 F.2d 700 (10th Cir. 1976)

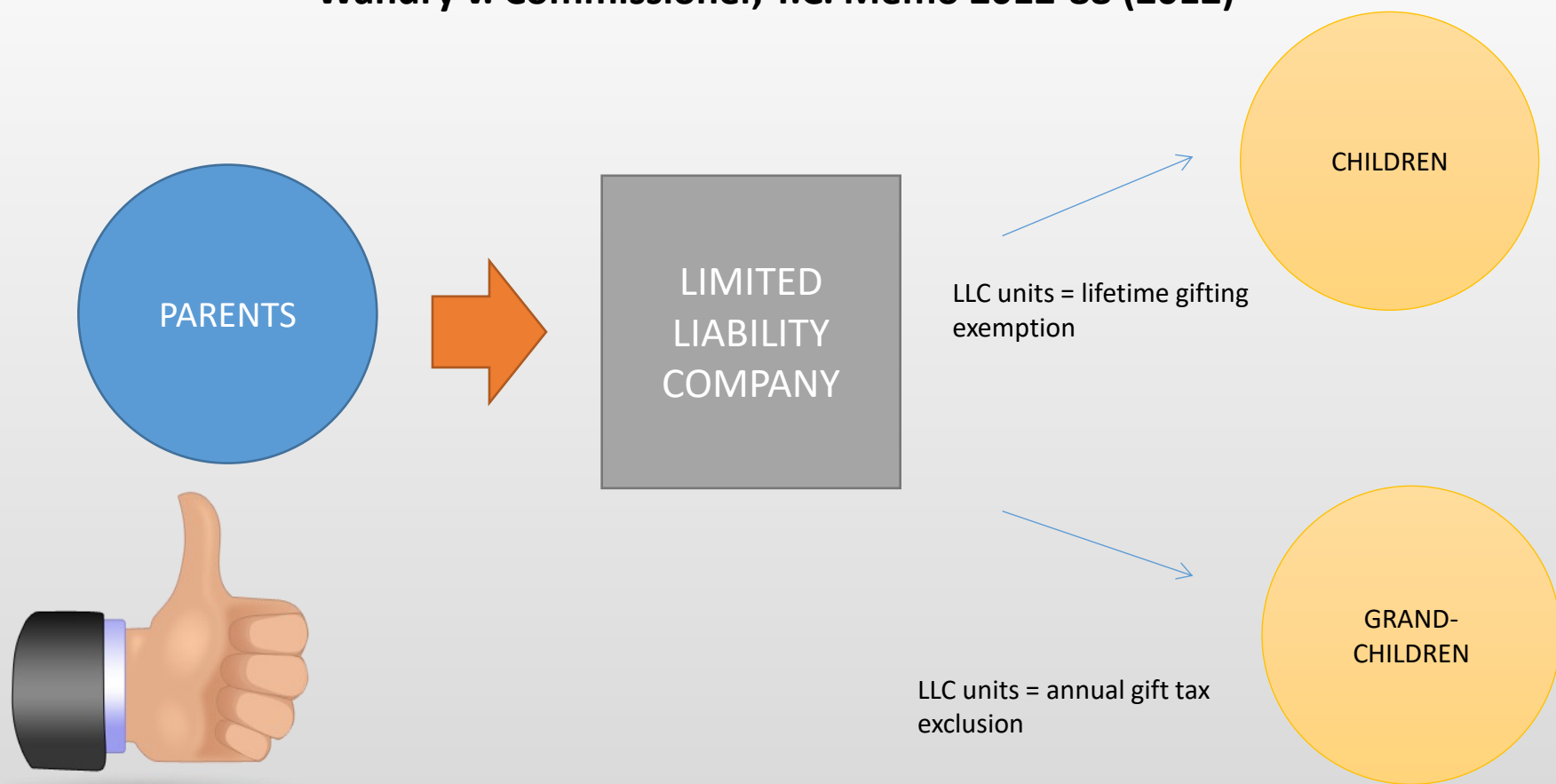
The Court distinguished this case from *Proctor* because the stock was being sold, rather than gifted and the price adjustment clause was a “proper means of overcoming uncertainty in ascertaining the fair market value of the stock.”



I hereby sell stock in X corporation, the current fair market value being \$_____, to Trust For Descendants. Language verbatim from *King*: “If the fair market value of the stock is ever determined by the IRS to be greater or less than the fair market value determined herein, the purchase price shall be adjusted to the fair market value determined by the IRS.”



Wandry v. Commissioner, T.C. Memo 2012-88 (2012)



Language verbatim from *Wandry*: “Although the number of Units gifted is fixed on the date of the gift, that number is based on the fair market value of the gifted Units, which cannot be known on the date of the gift but must be determined after such date based on all relevant information as of that date. Furthermore, the value determined is subject to challenge by the Internal Revenue Service (“IRS”). I intend to have a good-faith determination of such value made by an independent third-party professional experienced in such matters and appropriately qualified to make such a determination. Nevertheless, if, after the number of gifted Units is determined based on such valuation, the IRS challenges such valuation and a final determination of a different value is made by the IRS or a court of law, the number of gifted Units shall be adjusted accordingly so that the value of the number of Units gifted to each person equals the amount set forth above, in the same manner as a federal estate tax formula marital deduction amount would be adjusted for a valuation redetermination by the IRS and/or a court of law.”

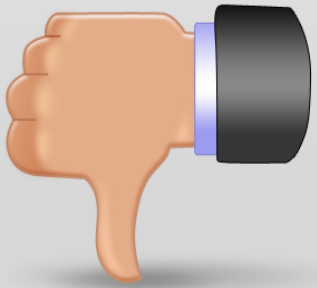


Defined Valuation Allocation Formula versus Defined Value Transfer Formula



Defined valuation allocation formula: allocates the transferred assets among various transferees and defining the dollar amount going to persons who would be treated as donees for gift tax purposes, with any excess passing to charity.

-I give 100 shares of X stock to my child Sally, provided that if the value of the shares is determined to exceed \$1,000,000 then the excess shall pass to My Favorite Charity.

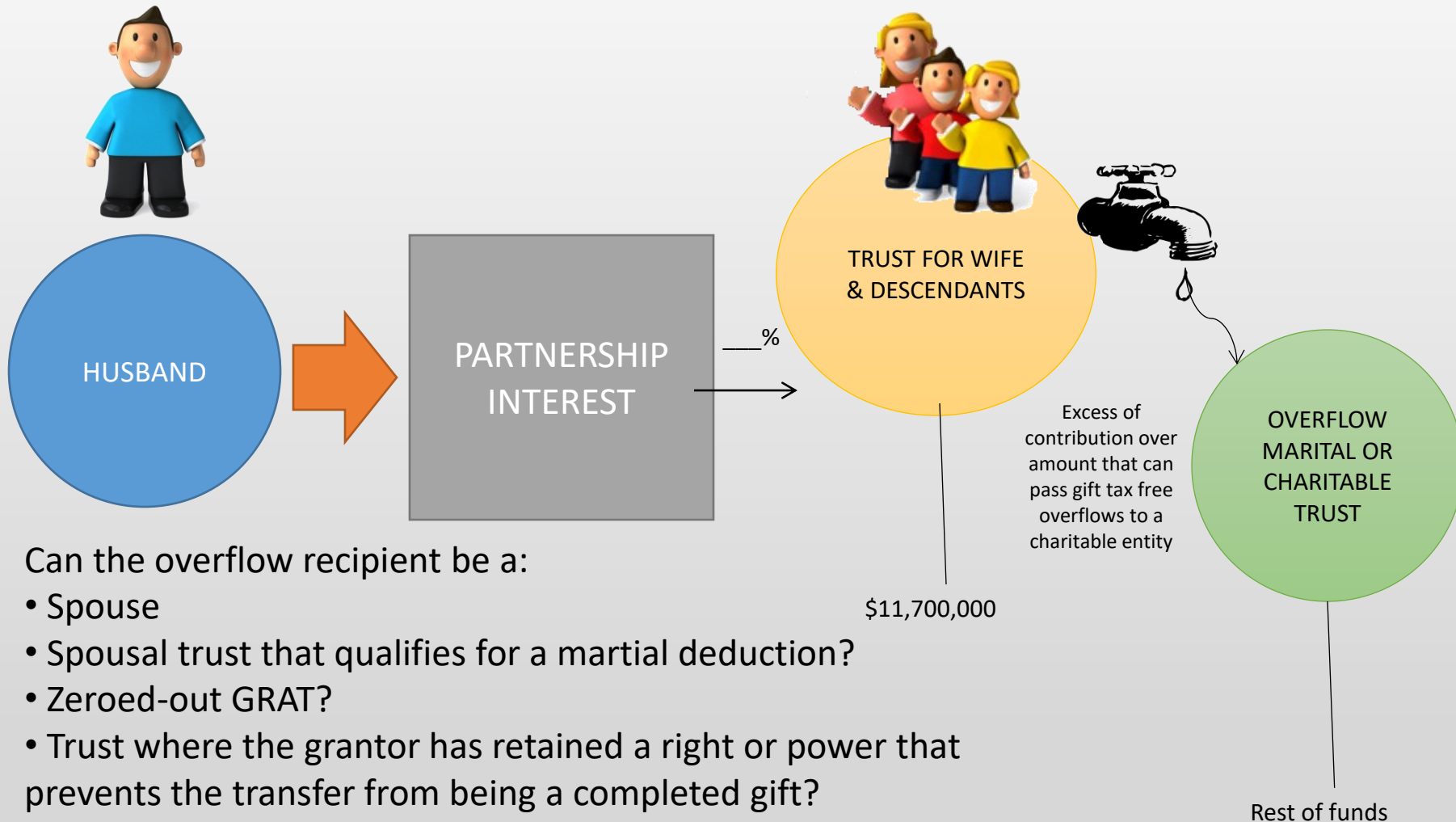


Defined value transfer formula: defines the dollar amount of a transfer that the transferor intends to make. If the value of the assets is determined to be higher than the defined amount, the assets will revert back to the transferor.

- I give 100 shares of X stock to my child Sally, provided that if the value of the shares is determined to exceed \$1,000,000, then the number of shares given shall be reduced so that the total shares given equal \$1,000,000.



OTHER VALUATION SAVINGS TRANSACTIONS



Can the overflow recipient be a:

- Spouse
- Spousal trust that qualifies for a marital deduction?
- Zeroed-out GRAT?
- Trust where the grantor has retained a right or power that prevents the transfer from being a completed gift?



Asset Protection and Asset Protection Trusts



Alan S. Gassman, JD, LL.M. (Taxation), AEP® (Distinguished)
agassman@gassmanpa.com

Giacalone v. Medic West Ambulance Inc.

Actress' family awarded \$29.5M after allergic reaction to peanut butter pretzel caused brain damage

LAS VEGAS - The family of an aspiring actress and model who was left brain-damaged after suffering a serious allergic reaction to a pretzel infused with peanut butter was awarded nearly \$30 million by a Las Vegas jury.

On Feb. 20, 2013, then-27-year-old Chantel Giacalone went into anaphylactic shock after biting into the peanut butter pretzel while modeling clothes at a fashion trade show at the Mandalay Bay South Convention Center, the [Las Vegas Review-Journal](#) reported.

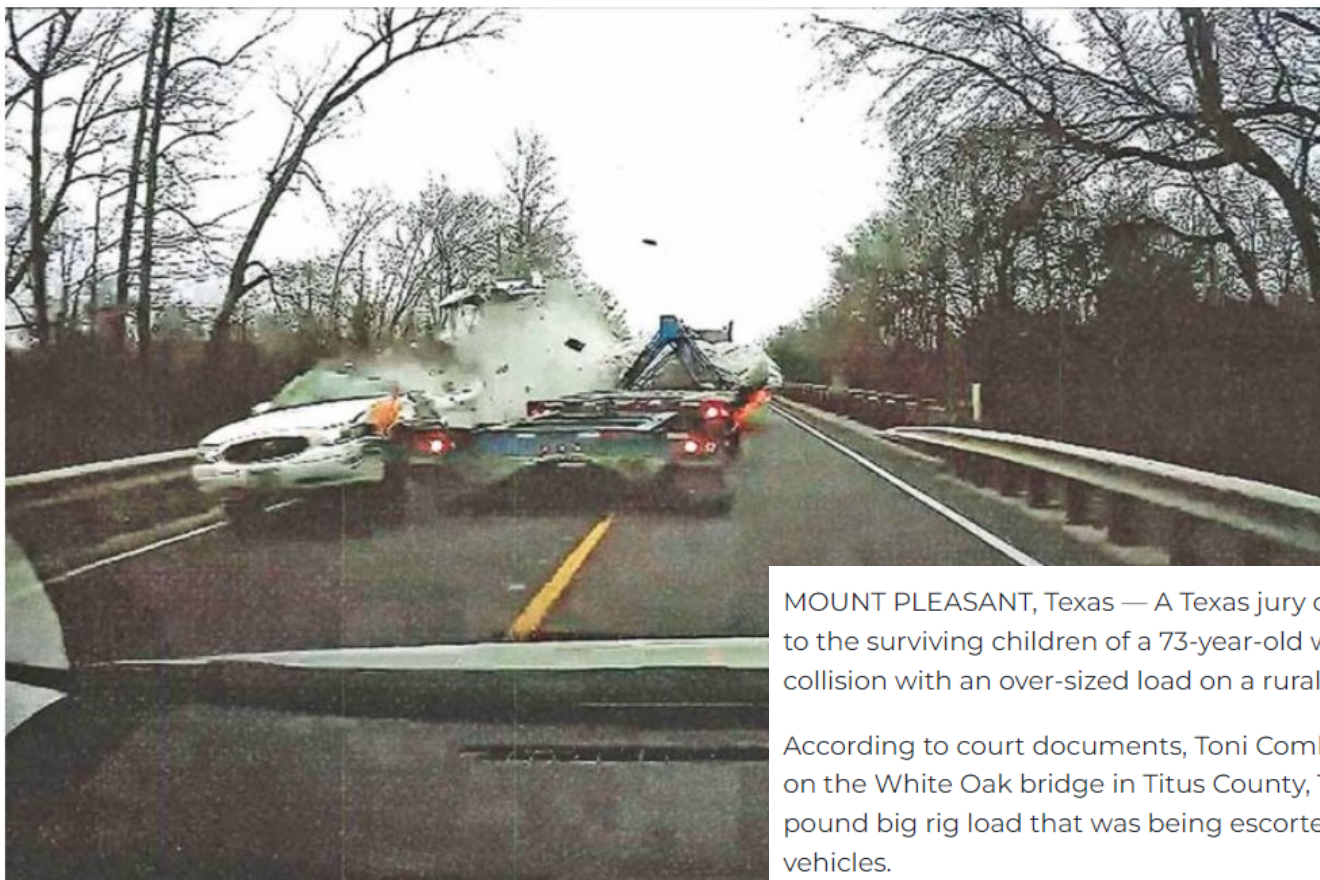
The paper reported that Giacalone's friend brought her a frozen yogurt and put the bite-sized pretzel on top. Giacalone, unaware it contained peanut butter, went into anaphylactic shock after taking a bite.

In a three-week civil trial, her family was awarded \$29.5 million when the jury found that the responding ambulance service negligently treated her allergic reaction.



Texas jury awards \$730 million in oversized load fatality case

By The Trucker News Staff - November 30, 2021



MOUNT PLEASANT, Texas — A Texas jury on Nov. 22 awarded \$730 million to the surviving children of a 73-year-old woman who was killed after a collision with an over-sized load on a rural highway.

According to court documents, Toni Combest was killed on Feb. 21, 2016, on the White Oak bridge in Titus County, Texas, by a nearly 200,000-pound big rig load that was being escorted by front and back pilot escort vehicles.

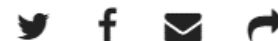
This image still from a dashboard video recorder shows a white Buick driven by Toni Combest being obliterated after striking an over-sized load on a rural Texas highway. She was killed on impact. (Courtesy: Attorney Brent Goudarzi's office)



Monsanto must pay WA teachers \$185M in fluorescent light ‘poisoning’ suit, jury finds

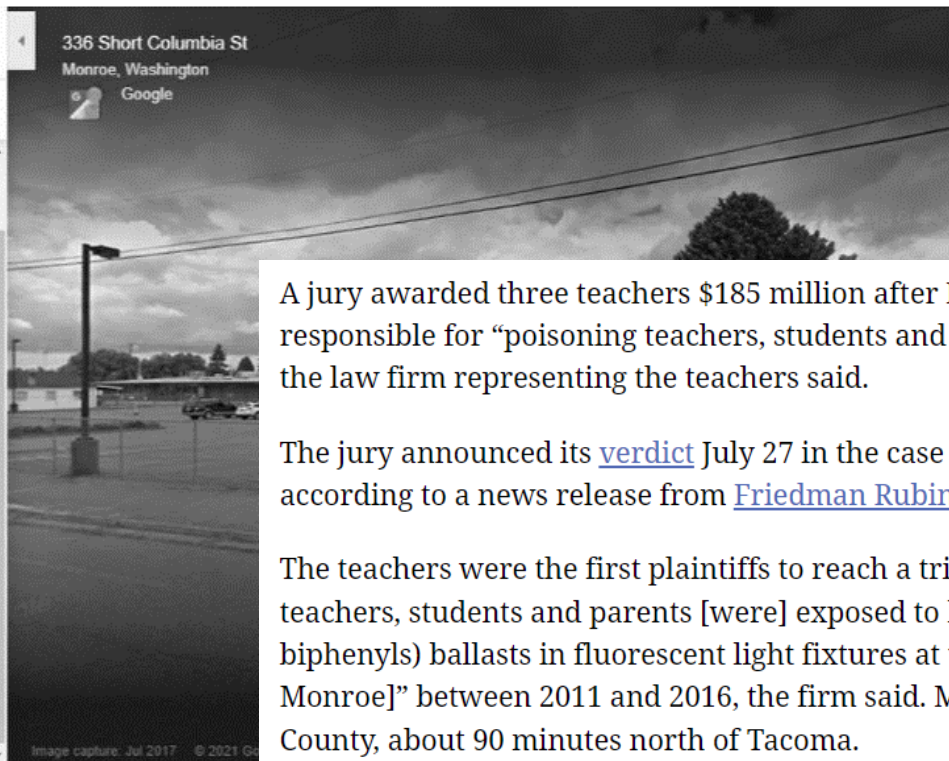
BY BROOKE WOLFORD

JULY 29, 2021 4:28 PM



SKY VALLEY EDUCATION CENTER...

Street View & 360°



A jury awarded three teachers \$185 million after Monsanto was found to be responsible for “poisoning teachers, students and parents” at a Washington school, the law firm representing the teachers said.

The jury announced its [verdict](#) July 27 in the case of Erickson et. al. v. Monsanto, according to a news release from [Friedman Rubin](#), a Seattle-based law firm.

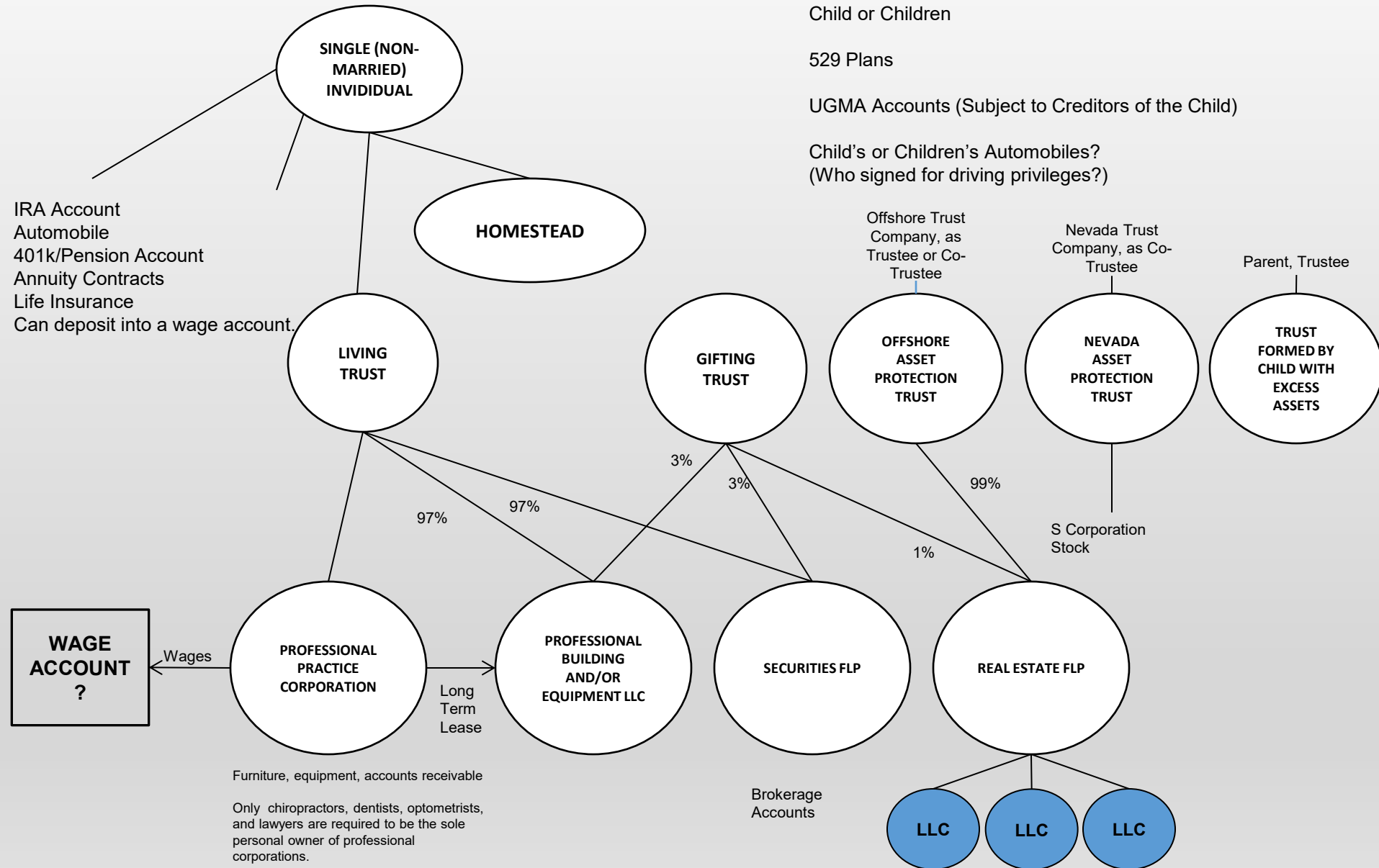
The teachers were the first plaintiffs to reach a trial after “a group of over 200 teachers, students and parents [were] exposed to leaking PCB (Polychlorinated biphenyls) ballasts in fluorescent light fixtures at the [Sky Valley Education Center in Monroe]” between 2011 and 2016, the firm said. Monroe is located in Snohomish County, about 90 minutes north of Tacoma.

Three teachers were awarded \$185 million in a suit against Monsanto for “decisions which led to the poisoning of hundreds of teachers, students and parents” at a school in Monroe, Washington. *Google Maps*



Where Do Trusts Fit In Logistically

ESTATE AND ASSET PROTECTION PLANNING FOR THE SINGLE PROFESSIONAL

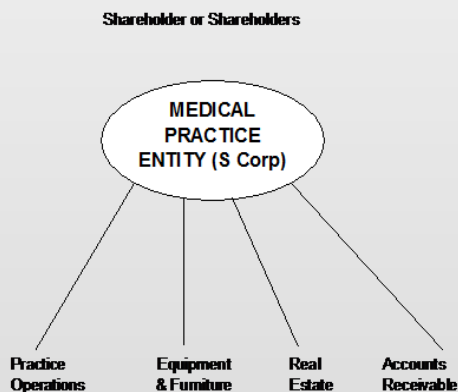


New Parent F Reorganization

Showing Accounts Receivable Factoring Arrangement

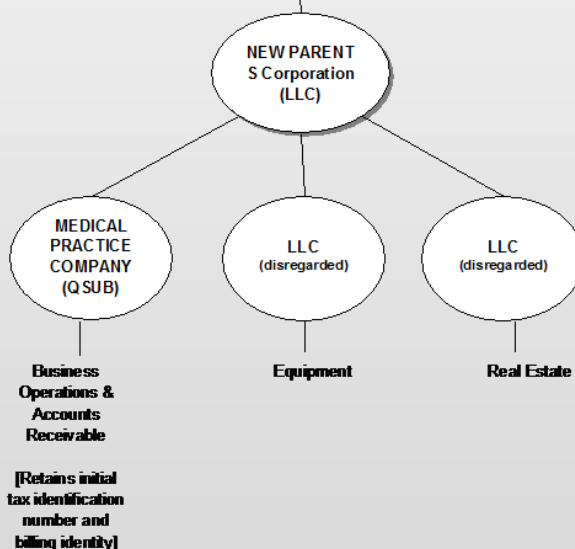
IRC Section 368(a) (1)(F) Allows a Regular Corporation to Divide into Separate Corporations Tax-Free by Having a New Common Parent Company Formed

1. Physician or Physicians Owns Medical Practice Entity



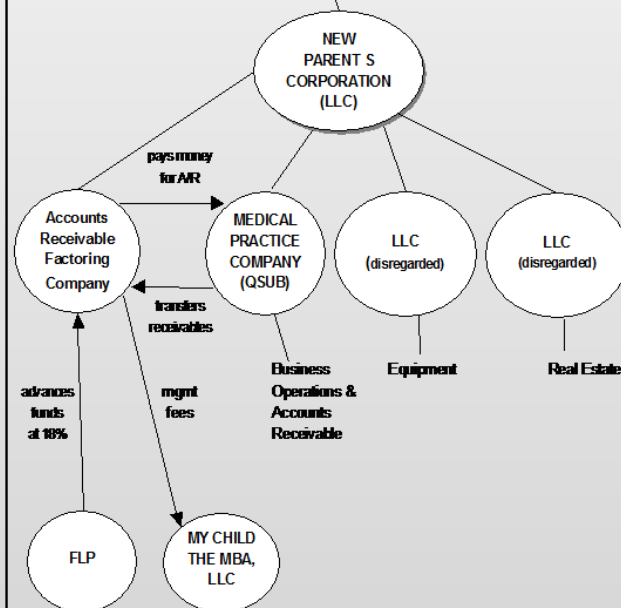
Initially we have a medical practice entity where valuable assets are exposed to potential malpractice and other entity liabilities.

2. Shareholder (S) (and spouses?)



A new S corporation can be established to own the stock of the medical practice entity, which becomes a qualified subchapter S subsidiary. It can then transfer valuable assets income tax free to other LLCs owned by the same new parent company to protect assets from future creditors of the medical practice entity.

3. Shareholder (S) (and spouses?)



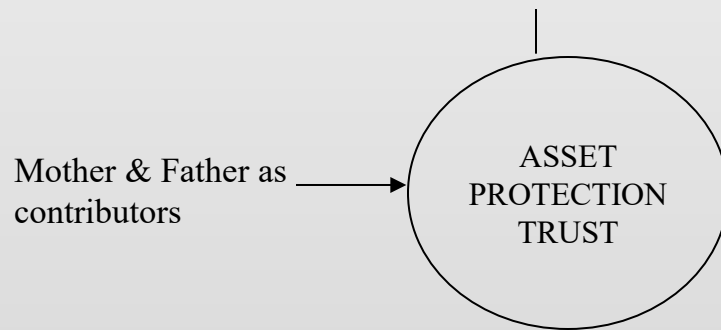
To obtain income tax planning advantages for affiliated family members and entities, a separate accounts receivable factoring company can be established to work along the lines of the Extended Letter of Protection (ELOPE) System shown in other materials.



Limited Liability Trust – Asset Protection Trust

Better than an LLC to hold investment property if liability insurance coverage and rates will be beneficial; Such a trust may also qualify under an individual umbrella policy, whereas an LLC may not

Trust Company in proper jurisdiction = Trustee or Co-Trustee



- Benefits mother, father and children.
- May be disregarded for income tax purposes.
- No tax filing requirements if a domestic asset protection trust jurisdiction is used.
- May need to have subsidiary management trust owned 100% by asset protection trust to hold title, to allow parents to have management powers (preferably one parent who does not have other exposed assets).

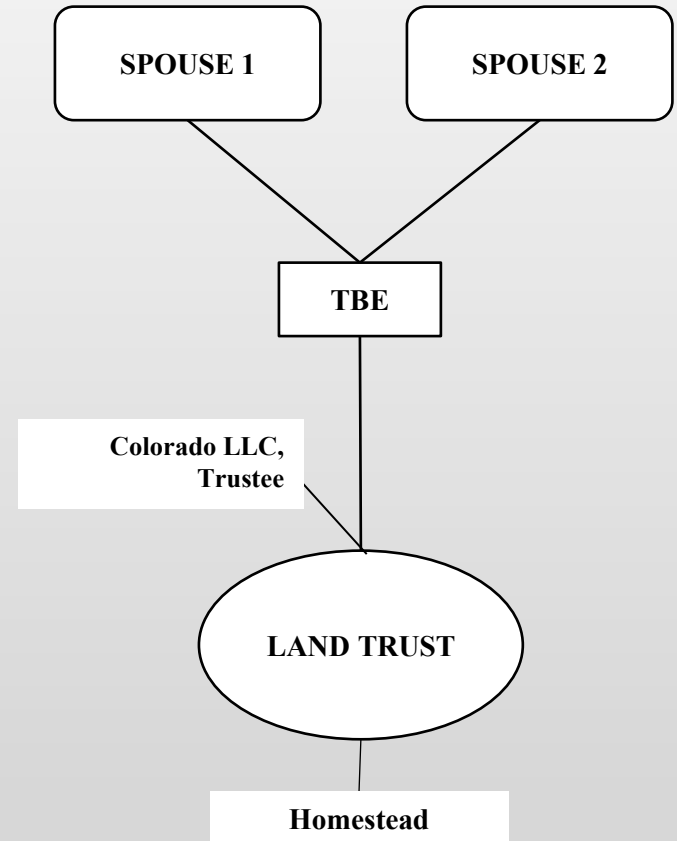
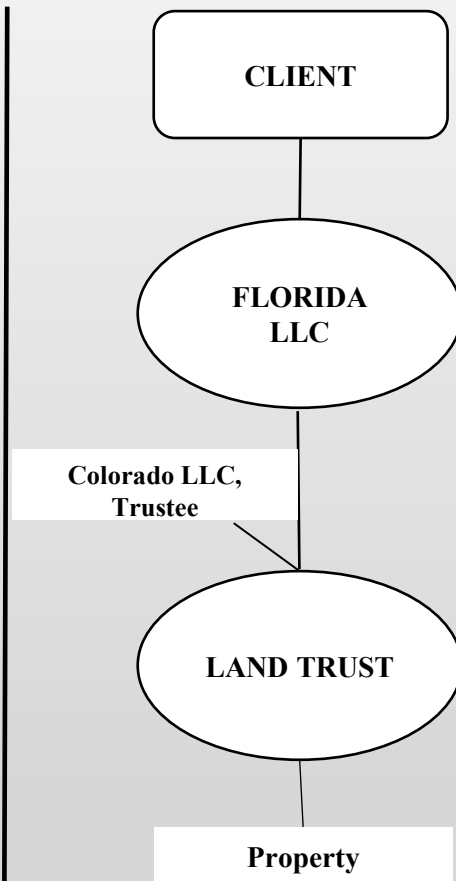
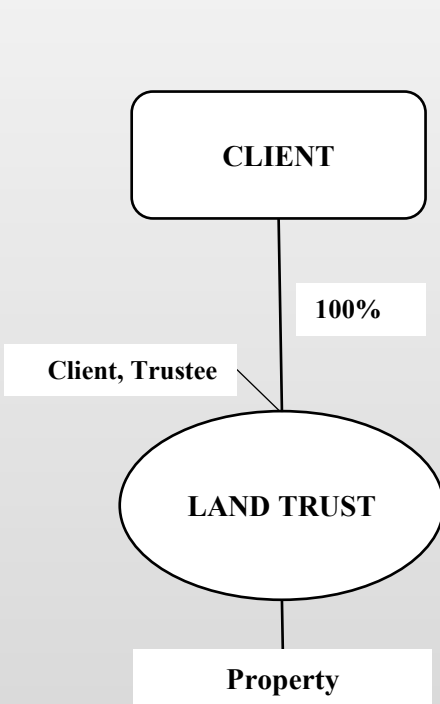
Rental Home(s)

Note: An alternative may be to have a revocable land trust owned by an LLC – some carriers will insure property this way, but not under an irrevocable trust or an LLC.



LAND TRUSTS

HOMESTEAD



Married Couples Trust Decision Chart

	JEST (Joint Exempt Step-Up Trust)	Tenants by the Entireties Trust FL	Joint Trust – Not TBE, JEST, or CPT	Florida Community Property Trust	Tennessee Community Property Trust	South Dakota Community Property Trust	Alaska Community Property Trust	Kentucky Community Property Trust
Step-Up in Basis After First Death	Probably Yes	Only Half of a Step-Up	Depends Upon Drafting and Logistics	Probably Yes	Probably Yes	Probably Yes	Probably Yes	Probably Yes
Creditors of One Spouse Can Reach Trust Assets	Yes – the Debtor Spouse's Share	Protected from Either Spouse's Creditors	Depends Upon Trust Drafting	One-Half of Trust Assets Exposed to One Spouse's Creditors	One-Half of Trust Assets Exposed to One Spouse's Creditors	All of Trust Assets Exposed to One Spouse's Creditors	All of Trust Assets Exposed to One Spouse's Creditors	One-Half of Trust Assets Exposed to One Spouse's Creditors
Can Create Credit Shelter Trust With More Than Half of the Trust Assets	Yes, All Trust Assets May Go Into Credit Shelter Trusts	Up to Half, But Only by Disclaimer or Surviving Spouse Will Not Have a Power of Appointment	Depends Upon Drafting – Be Careful!	Only as to One-Half	Only as to One-Half	Only as to One-Half	Only as to One-Half	Only as to One-Half
May Share Upon Divorce as Set Forth in Pre- or Post- Nuptial Agreement	Yes	Probably Not	Yes	Yes – Spouses can agree on the dissolution of property Fla Stat. 736.1508	Yes – Spouses can agree on the dissolution of property	Yes – Spouses can agree on the dissolution of property	Yes – Spouses can agree on the dissolution of property	Yes – Spouses can agree on the dissolution of property

***Chart continued on next slide**



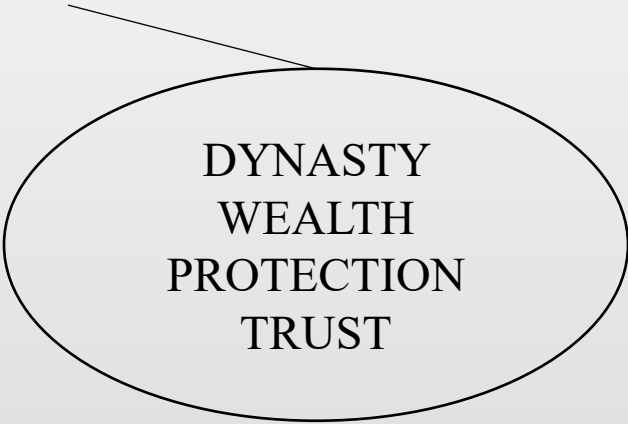
Married Couples Trust Decision Chart, Cont'd

	JEST (Joint Exempt Step-Up Trust)	Tenants by the Entireties Trust FL	Joint Trust – Not TBE, JEST, or CPT	Florida Community Property Trust	Tennessee Community Property Trust	South Dakota Community Property Trust	Alaska Community Property Trust	Kentucky Community Property Trust
May Be Converted from Former Joint or Individual Trust	Yes	Yes	N/A	No – Must Be Created On or After July 1, 2021 as a new Florida Community Property Trust	N/A	Yes	Yes	Yes
Complicated to Draft?	Yes	Simpler than JEST	Will Depend Upon Specifics	Simple to Draft if the Statute is Followed	Simple to Draft if the Statute is Followed	Simple to Draft if the Statute is Followed	Simple to Draft if the Statute is Followed	Simple to Draft if the Statute is Followed
Requires a “Qualified” Trustee	No	No	No	Yes	Requires a Tennessee Trustee	Requires a South Dakota Trustee	Requires an Alaska Trustee	Requires a Kentucky Trustee



Dynasty Wealth Protection Trust

Trustee



DYNASTY
WEALTH
PROTECTION
TRUST

Assets gifted to trust and
growth thereon.

Note: Nevada gets a gold star for having a law that says there cannot be an assumed or an oral agreement between the Grantor and the Trustee of a dynasty trust; because of this, the IRS cannot say that the grantor retains certain control.

1. Grantor can replace the Trustee at any time and for any reason.
2. Protected from creditors of Grantor and family members.
3. Can benefit spouse and descendants as needed for health, education and maintenance.
4. Per Private Letter Ruling 200944002 the Grantor may be a discretionary beneficiary of the trust and not have it subject to estate tax in his or her estate. But be very careful on this! The Trust would need to be formed in an asset protection jurisdiction and there is no Revenue Procedure on this.
5. Should be grandfathered from future legislative restrictions.
6. May loan money to Grantor.
7. May own limited partnership or LLC interests that are managed at arm's-length by the Grantor.
8. May be subject to income tax at its own bracket, or the Grantor may be subject to income tax on the income of the trust, allowing it to grow income-tax free unless or until desired otherwise. If the Grantor is a beneficiary it must remain a disregarded Grantor Trust.



Florida and APT Jurisdiction Trust Varieties

INCOMPLETE GIFT TRUST

To preserve assets for marriage, management, or otherwise.

Grantor retains power to prevent distributions and testamentary power to appoint how assets pass on death - may be limited to not being exercisable in favor of creditors or creditors of estate, and exercisable only with approval of a non-adverse party not acting as a fiduciary.

FLORIDA COMPLETE GIFT TRUST

Use Crummey Power for annual exclusions, or part of Grantor's exemption amount.

Held for health, education, and maintenance of individuals other than the Grantor.

Complete gift to fund - will not be included in Grantor's estate.

Grantor/Contributor cannot be a beneficiary.

APT COMPLETE GIFT TRUST

Use Crummey Power for annual exclusions, or part of Grantor's exemption amount.

Held for health, education, and maintenance of individuals other than the Grantor.

Complete gift to fund - will not be included in Grantor's estate.

Under PLR 200944002, Grantor may be a discretionary beneficiary.

Reciprocal Asset Protection Trusts

TRUST 1

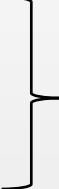
TRUST 2

Beware the reciprocal trust doctrine, both under estate tax law and creditor protection law - see Gideon Rothschild's article entitled *Creditor Protection - - The Reciprocal Issue for Reciprocal Trusts (It's Not Just About Estate Taxes)*.

<http://www.mosessinger.com/site/files/creditorprotectionreciprocaltrusts.pdf>



Irrevocable Funded Domestic and International Wealth Accumulation Trust Categories: Where Will Your Client Best Fit?

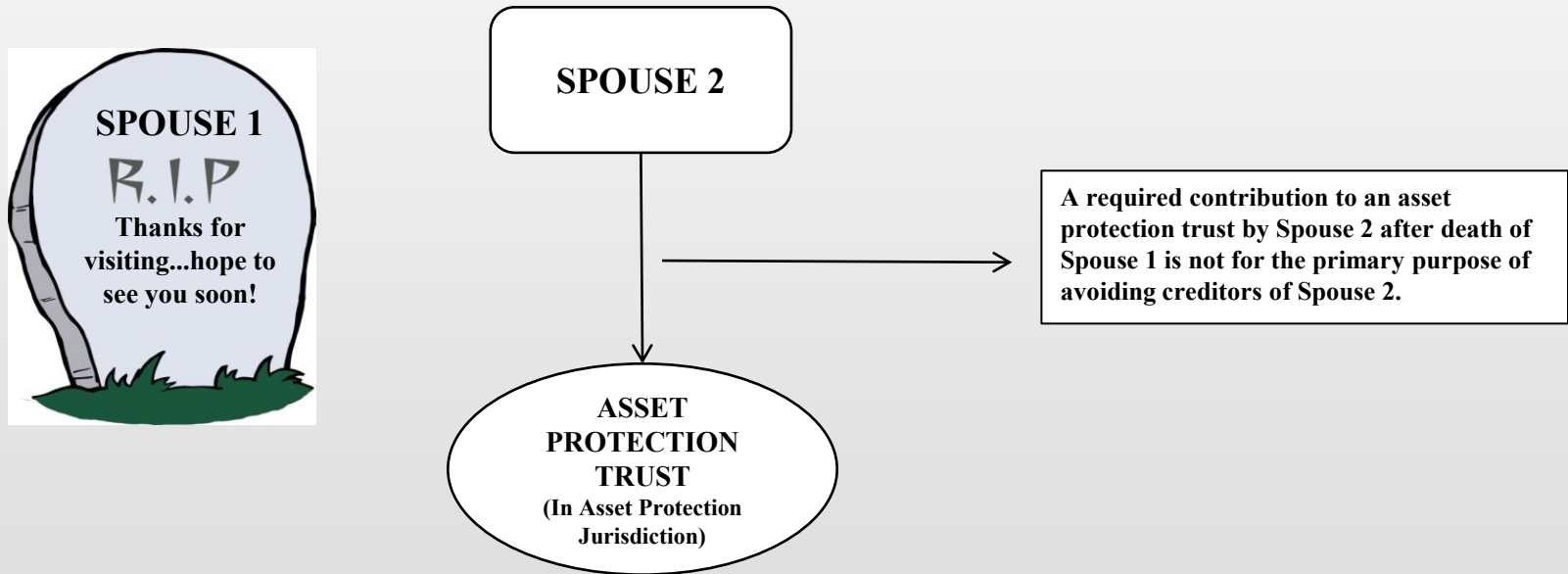
	A	B	C
	Irrevocable, Complete Gift Trust Settlor Not a Beneficiary  Shielded from future estate tax of settlor	Irrevocable, Complete Gift Trust Settlor is a Beneficiary  Shielded from future estate tax of settlor – but in case PLR 200944002 is not correct – empower a third party to deprive the settlor of distribution rights more than 3 years before the settlor dies – IRC §§ 2035 & 2036	Irrevocable Incomplete Gift Trust Treated as if no gift occurred for federal estate and gift tax purposes – business purpose is wealth preservation for family members.
1. Most Domestic States – Including Florida	A1 Protected from creditors of the settlor, and some but not all of the creditors of the beneficiary. Exception Creditors: • Support obligations: beneficiary’s child, spouse or former spouse (i.e., FL, CA, NY, NJ) • Person who has provided services for the protection of the beneficiary’s interest in the trust (i.e., FL) • State or U.S. claim empowered by state or federal law (i.e., public support obligations in CA) • Some states have more exceptions, (i.e., criminal restitution in CA, or punitive damages arising from manslaughter or murder in NJ) • Future legislation – What can they get you on next? NOTE – May benefit spouse but be careful under IRC 2036. If spouse is beneficiary cannot toggle off tax defective status unless an adverse party can approve all distributions to spouse.	B1 Will be subject to estate tax under IRC § 2036 because the settlor may be seen as retaining benefit by having the trust pay his/her creditors – <i>Revenue Ruling 2004-64</i>	C1 If grantor is beneficiary there will be no creditor protection – if grantor is not beneficiary then see A1 for exceptions Any creditor may be able to reach into the trust (unless the trust flees to another jurisdiction – don’t forget the flee clause)
2. Nevada	A2 Protected from all creditors – subject to 2 year Statute of Limitations (Much safer – assuming Nevada law applies)	B2 IRC § 2036 should not be an issue if PLR 200944002	C2 Same as A2: All creditors, 2 yr statute
3. Alaska, Delaware, and Wyoming (WY recently passed amendments to Uniform Trust Code)	A3 Delaware has a 4 year Statute of Limitations and exceptions for divorcing spouse, alimony and child support, as well as for preexisting torts. Alaska has a 4 year Statute of Limitations and an exception only for a divorcing spouse. Wyoming has a 4 year Statute of Limitations and exceptions for child support, property listed on an application to obtain creditor, or for fraudulent transfers.	B3 PLR 200944002 indicates that Alaska is fine – but ex-spouse creditors can get into a trust and may upset the apple cart under present Alaska law. Only single clients should use Alaska? Delaware and Wyoming have more exception creditors and may be more susceptible under PLR 200944002.	C3 Same as A3: Delaware, Alaska, Wyoming have 4 year statutes. Delaware has exceptions for support obligations and preexisting torts. Alaska has an exception only for a divorcing spouse. Wyoming has exceptions for child support, property on an application for creditor, or fraudulent transfer.
4. Offshore – Nevis, Belize, Cook Islands	A4 Completely protected depending on jurisdiction NOTE: Must remain defective for income tax purposes – cannot toggle off except by moving the trust to the United States.	B4 Should be as good as Nevada – Belize has a 1 day statute	C4 Should work fine as in A4 – no full faith and credit clause or state law jurisdiction concerns.

Do Domestic Asset Protection Trusts Work?

- Nevada, Alaska and Delaware have asset protection trust statutes. But the Full Faith and Credit Clause of the U.S. Constitution provides that a judgment issued by the court in one state will be respected by the court in other states.
- There are many questions regarding the effectiveness of domestic APTs. The case law is not yet fully developed on the question of whether the law of a foreign jurisdiction will apply for the determination of whether a creditor protection trust will shield trust assets from creditors of the grantor who is also a beneficiary.
 - *Hanson v. Denckla*, 357 U.S. 235 1958 – the law of the state where the trust administration occurs will be determinative.
 - *In re Portnoy*, 201 B.R. 685 (Bankr. S.D.N.Y. 1996) and *In re Brooks*, 217 B.R. 98 (Bankr. D. Conn. 1998) – assets placed in offshore APTs were not excluded from the debtor's Bankruptcy estates.



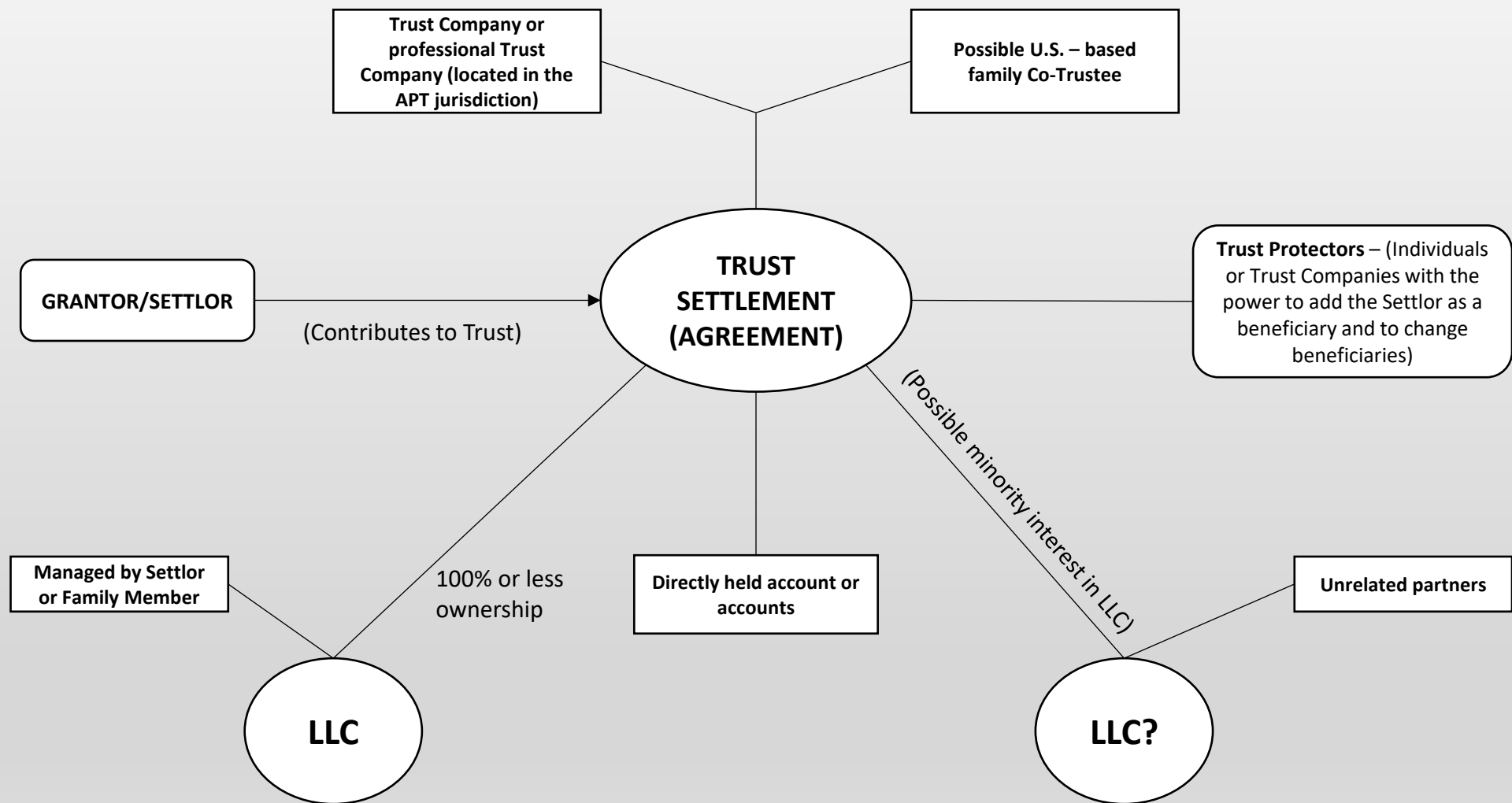
Marital Asset Preservation System (MAPS)



Spouse 1 dies. Spouse 2 is required by written agreement to establish asset protection trust in asset protection jurisdiction with all unprotected assets, and contractual obligation to preserve these for common descendants. A standby unsigned, but trust company approved, Trust Agreement can be approved by both spouses during lifetime of Spouse 1 and/or nominally funded.



The Anatomy of a Typical Offshore or APT State Trust Arrangement



The Anatomy of an Asset Protection Trust

1. Trustee – The Trustee holds the trust assets for the benefit of the beneficiaries pursuant to the terms of the Trust Agreement.
2. Trust Settlement – This is the Trust Agreement, and should be drafted by competent legal counsel with an understanding of:
 - a) The law of the jurisdiction
 - b) United States tax law
 - c) Trust and creditor protection law in general
3. Scheduled Beneficiaries – These are the initial named beneficiaries that the trust is established for. Reputable offshore trust companies will require passports, utility bills, professional letters of reference, and sometimes affidavits from each beneficiary when the trust is established.
4. Trust Protectors – These are individuals and/or trust companies who have certain powers over the trust:
 - a) To change the Trustee or Trustees – commonly any replacement Trustee must be a reputable trust company or a lawyer practicing in an asset protection trust (“APT”) jurisdiction.
 - b) The power to add beneficiaries who are not “excluded persons.”
5. Flee Clause a/k/a Cuba Clause – A provision that requires the Trustee to move the trust and trust assets to another jurisdiction in the event of a governmental change, or if a judicial challenge to the trust makes it possible that the trust assets would be invaded within a short period of time.
6. United States Judgment – A judgment from a United States Court, which means nothing whatsoever in the jurisdiction where the trust is situated (located). In most reputable APT jurisdictions, the creditor will have to file a brand new lawsuit in the jurisdiction and obtain a new judgment against the debtor before then attempting to set aside the trust by proving that the trust is an alter ego of the settlor or a beneficiary, or that the transfer to the trust was for the primary purpose of avoiding creditors.



The Anatomy of an Asset Protection Trust

7. APT Legislation – Special laws passed in a number of offshore jurisdictions which make it extremely difficult, if not impossible, for a creditor to pierce an APT:
8. Contingency Fees Not Permitted – In most asset protection jurisdictions, lawyers must charge their clients by the hour, and not on a contingency fee basis.
 - a) Belize has no statute of limitations – unless there is a judgment against the settlor in Belize on the day the trust is formed, Belize law will protect the trust.
 - b) Court Registry deposit requirement – Nevis requires a 100,000 Nevis dollars deposit into the Court Registry before a trust can be challenged. A 100,000 Nevis dollars deposit is also required to challenge an LLC. A Nevis trust and LLC challenge will therefore require a 200,000 Nevis dollars deposit.
9. Conflict of Interest Considerations – Typically, there are between two to six dozen practicing lawyers in a popular asset protection trust jurisdiction. Most or all of these lawyers have done work for the more popular trust companies, and would therefore have a conflict of interest in pursuing a trust for a creditor – lawyers from outside of the country must therefore come in as “foreigners before the court” to be admitted to practice law there to challenge the trust.
10. Judicial Bias - The asset protection trust jurisdictions derive significant income and lawyer work, not too mention governmental fees that support the local economy. The last thing an asset protection trust jurisdiction economy needs would be a judicial decision that lets creditors into a well intended asset protection trust that was structured in advance.
11. Having Your Cake and Protecting it, Too - The Trustee of the APT can own a 99% limited partnership interest or the ownership of an LLC, with the entity being managed responsibly and transparently by the general partner or manager, which may be the settlor. If and when a challenge might occur, the settlor may transfer control of the subsidiary entity to the Trustee of the trust.



Considering Offshore or Domestic Creditor Protection Trusts

Should I Stay or Should I Go?

FACTOR	NEVADA	ALASKA	ISLE OF MAN/JERSEY (Channel Island)	NEVIS	BELIZE
Asset protection law – Statute of Limitations	See Page 46 Strong/2 years – BUT full faith and credit issue	Strong/4 years – BUT full faith and credit issue	No statutory limitation on fraudulent transfer – unless import law of jurisdiction of a Co-Trustee	Strong/2 years	Strong/1 day statute!
Approximate minimal cost to open trust and annual fees.	\$250 to open \$1,500 per year thereafter	\$750 to open \$3,000 per year thereafter	\$1,600 to open \$1,600 - \$3,300 per year thereafter	\$1,750 min to open \$2,500-\$5,000 per year thereafter depending on value of trust	\$700 fee to register; \$1,100 - \$2,300 per year thereafter
Risk of theft.	Very low.	Very low.	Should be very low.	Low, if you use a safe trust company.	Not sure.
Use of subsidiary entities permitted-settlor can be Manager of entity.	YES	YES	YES	YES	YES
Reputation with US courts.	Does the judge gamble?	Does the judge like cruises?	Does the judge know European history?	Does the judge like Four Seasons Hotels or Alexander Hamilton (born there).	Has the judge read <u>SEC v. Banner Fund International</u> , or like barrier reefs?
Commonality of use of Swiss or Bermuda depositories.	New concept	Not common	Common in these islands for centuries	Common	Common



Considering Offshore or Domestic Creditor Protection Trusts

Should I Stay or Should I Go?

FACTOR	NEVADA	ALASKA	ISLE OF MAN/JERSEY (Channel Island)	NEVIS	BELIZE
Use of Trust Protectors.	New concept	New concept	Since the 1700s	Normal	Normal
Quality of service.	High	High- time zone difference	British-style/time zone difference	Small town- usually good.	Mayberry RFD
Allows importation with statute of limitations tolling from inception of trust at where it was imported from?	YES if original situs has substantially similar spendthrift laws	YES	The Statute of Elizabeth provides that fraudulent transfers should be void, not subject to any limitation period	YES	YES
Toggling off is possible?	YES	YES	NOT unless there is one or more U.S. beneficiaries	NOT unless there is one or more U.S. beneficiaries	NOT unless there is one or more U.S. beneficiaries
Provides for contingency fee payments? - Number of lawyers	YES About 10,000 attorneys	YES About 4,000 attorneys	NO, about 170 attorneys in Isle of Man, and 150 in Jersey Most lawyers are conflicted	NO, about 100 attorneys Most lawyers are conflicted	NO, about 150 attorneys Most lawyers are conflicted
Rule Against Perpetuities	365 years	1,000 years	150 years	Does not apply	Abolished



Common Offshore Trust Mistakes



1. **Not reporting the trust and trust activities on a Form 3520, upon inception, Form 3520A each year thereafter, TD F 90-22.1 (FBAR) forms annually, and compliance with FATCA (Foreign Account Tax Compliance Act) reporting requirements.**
2. **Not reporting trust income or not reporting income that goes into the trust.**
3. **Being dishonest with any potential creditor, the IRS or any taxing authority with respect to the trust or its underlying operations.**
4. **Not reporting the funding of the trust as a completed gift for gift tax purposes if the grantor has not retained a power with respect to the trust that would cause its funding to be an incomplete gift (such as the testamentary power to appoint trust assets) even if the trust will be subject to estate tax by reason of such power.**
5. **Failure to provide that upon death, any marital deduction devise must override any discretionary power of the trustee or trust protectors to deprive the grantor's spouse of sole lifetime beneficiary/QTIP trust or outright payment rights.**
6. **Getting the trust assets stolen by the trustee.**
7. **Being dishonest with any court with respect to the trust or its operations.**



Avoid Theft

- It is vital that clients utilize reputable trust companies and structures that assure that the assets they place under an APT will not be stolen.
- Sometimes two trust companies from different jurisdictions will serve as Co-Trustees under the trust agreement, or a lawyer or other fiduciary may serve so that two signatures and collusion would be required before monies held in an offshore account could ever be stolen.
- Some jurisdictions, like the Isle of Man and Jersey in the Channel Islands allow for the law of a co-trustee's jurisdiction to apply.
 - There are many well-funded and reputable trust companies in the Isle of Man and Jersey willing to serve as managing Co-Trustee of APT formed under the laws of a more recognized APT jurisdiction.



The Very Best Creditor Protection Technique

(Give Significant Assets to a Private Foundation)



1. **Tax deduction for contribution, which is controlled by the donors, and earmarked for eventual use for charity.**
2. **Creditors cannot reach it.**
3. **Family members can receive reasonable compensation for charitable services rendered on behalf of the Foundation.**
4. **Organization provisions can require that only family members will control the organization for up to 360 years.**
5. **The organization can be set up as a trust, with the donors as Trustees, to avoid state filings and annual filing costs that would apply for a charitable corporation.**
6. **The organization can be the beneficiary of a Charitable Lead Annuity Trust, but there will have to be a Chinese wall on management for a separate identical organization, so that the Grantor cannot manage what ends up going to charity from the CLAT.**



Charitable Planning – CRTs, CLATs, Private Foundations



Alan S. Gassman, JD, LL.M. (Taxation), AEP® (Distinguished)
agassman@gassmanpa.com



Estate Planning Masterclass #3—Leveraging Trusts | Financial
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Charitable Remainder Trusts

- A Charitable Remainder Trust allows a donor to transfer assets into an irrevocable trust and receive annuity payments for a period not to exceed 20 years.
- At the end of the term of the Charitable Remainder Trust, the remaining assets are contributed to a charitable of the donor's choice.
- The donor is entitled to a charitable income tax deduction in the year the contribution is made based upon the present value of the assets that will pass to charity at the end of the term of the Charitable Remainder Trust.
- There are two main types of Charitable Remainder Trusts, the Charitable Remainder Unitrust and the Charitable Remainder Annuity Trust. The Charitable Remainder Annuity Trust pays a fixed amount to the non-charitable beneficiary each year while the Charitable Remainder Unitrust pays a fixed percentage of the trust's assets each year.
- A Charitable Remainder Trust is not a 501(c)(3) entity but is tax exempt.
- The Charitable Remainder Trust is subject to the rules that are generally applicable to private foundations, including the self-dealing restrictions, unless no charitable deduction is taken at the time of contribution or during the life of the Charitable Remainder Trust.



Charitable Remainder Trusts, Cont'd

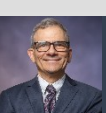
Internal Revenue Code Section 4947:

- (2) **SPLIT-INTEREST TRUSTS** In the case of a trust which is not exempt from tax under section 501(a), not all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B), and which has amounts in trust for which a deduction was allowed under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, section 507 (relating to termination of private foundation status), section 508(e) (relating to governing instruments) to the extent applicable to a trust described in this paragraph, section 4941 (relating to taxes on self-dealing), section 4943 (relating to taxes on excess business holdings) except as provided in subsection (b)(3), section 4944 (relating to investments which jeopardize charitable purpose) except as provided in subsection (b)(3), and section 4945 (relating to taxes on taxable expenditures) shall apply as if such trust were a private foundation. This paragraph shall not apply with respect to—
 - (A) any amounts payable under the terms of such trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B),
 - (B) any amounts in trust other than amounts for which a deduction was allowed under section 170, 545(b)(2), 642(c), 2055, 2106(a)(2), or 2522, if such other amounts are segregated from amounts for which no deduction was allowable, or
 - (C) any amounts transferred in trust before May 27, 1969.



Charitable Remainder Trusts, Cont'd

- A Charitable Remainder Trust must provide for at least 10% of the assets initially contributed to pass to charity at the end of the term, based upon actuarial calculations.
- A Charitable Remainder Annuity Trust (CRAT) can provide for a fixed dollar amount of no less than 5% (but no more than 50%) of the initial net fair market value of the property contributed to the trust to be paid at least annually for up to 20 years, or based upon the life of one or more non-charitable beneficiaries.
- Additionally, a CRAT based upon a lifetime payout must meet the “5% Probability Test” whereby there must be less than a 5% chance that the Trust assets will be exhausted before the end of the term. If the CRAT fails this Test, then no charitable deduction is allowed.
- A Charitable Remainder Unitrust (CRUT) provides for payments of a fixed percentage of the net fair market value of the property under the trust, valued annually, to be made to one or more non-charitable beneficiaries. The percentage must be at least 5% per year, but can be no more than 50%.
- Either a CRAT or a CRUT can be established during the lifetime of the settlor, or upon his or her death.
- The annuity or unitrust payments received by the non-charitable beneficiary generally are subject to income tax on a “worst first” basis (i.e., ordinary income of the trust first, then capital gains etc.).



Charitable Remainder Trusts, Cont'd

- The charitable deduction is based upon the actuarial value of the remainder interest that will pass to charity.
- The value of assets that actually pass to the charity at the end of the term do not matter in determining the charitable deduction.
- The Section 7520 Rate issued by the IRS monthly is used in running the actuarial calculations associated with a Charitable Remainder Trust. The Section 7520 rate for the month of funding of the Trust, or the Section 7520 rate for the two months prior, can be used.
- As a rule of thumb, a longer term will result in a smaller charitable deduction, and a shorter term will result in a larger charitable deduction.
- Further, a lower interest rate will result in a smaller charitable deduction under a CRAT, and a higher interest rate will result in a larger charitable deduction CRAT. CRUTs are not affected by the interest rate.
- The settlor can reserve the right to change the charity who will receive the remainder interest at the end of the term.
- Note that there could be gift tax consequences if the annuity or unitrust interest is payable to someone other than the settlor.



The Self-Policing Charitable Remainder Trust

- Oftentimes a parent would like to provide a large gift for a child, in order to assure that the child has a sense of security, and asset or assets to manage, and limitations on what can be done and amounts that can be withdrawn therefrom.
- While giving a gift with such strings attached may seem somewhat awkward and domineering, it can be in the best interests of the child and the child's descendants, especially if there are good reasons for the limitations so that the child does not feel that rules and regulations on investing and spending are based upon a lack of confidence or trust for the child and those who may influence the child.
- Parents may also wish to provide a benefit for charity, and to have the child feel and effectuate a duty to charity, and also possibly a relationship with a particular charitable organization.
- The Charitable Remainder Uni-Trust can be the best arrangement to achieve the above objectives.
- For example, a mother and father may wish to give \$100,000 to each of their children, with the expectation that the children will manage the investments prudently and withdraw 7% of the value of trust assets each year for whatever purposes the child likes.



The Self-Policing Charitable Remainder Trust, Cont'd

- Such an arrangement could go on for the life of the child, with the remainder of the assets left in the trust to go to charity, instead of the child's spouse or other family members.
- A simple Charitable Remainder Uni-Trust can be established to facilitate this.
- Now the Internal Revenue Service, the Attorney General of the state where the Trustee resides, and a particular charity or charities are the “bad guys” that the child would need to answer to, if proper rules are not followed.
- The Grantor or child may have the right to change the charity.
- The Grantor can retain the right to change the Trustee, or to appoint a successor Trustee, if the child cannot serve.



Charitable Remainder Trust Distribution Percentages

Assumes \$100,000 Contribution to Charitable Remainder Trusts

	A	B	C	D	E	F
1						
2		Maximum Distribution % Allowed for Lifetime Payout	Charitable Deduction Assuming Maximum Distribution %	Charitable Deduction for 6.92% Uni-Trust	Percentage, if used 20-Year Term Payout	Charitable Deduction Assuming 20-Year Term Payout
3	GEORGE JONES - 55	11.84%	\$10,000	\$21,669	10.87%	\$10,000
4	JAMES JONES - 50	9.64%	\$10,000	\$16,872	10.87%	\$10,000
5	PEGGY JONES - 48	8.96%	\$10,000	\$15,238	10.87%	\$10,000
6	KATHY JONES - 40	6.92%	\$10,000	\$10,000	10.87%	\$10,000



CRUT Distribution Percentages

The below charts show the maximum amount a CRUT could payout to the non-charitable beneficiary while still qualifying based upon the individual's age, how many lives the payout is based on, and the June 2020 7520 Rates.

Length	Percentage
20 year term of years	10.87%
30-year-old's life	5.31%
40-year-old's life	6.92%
50-year-old's life	9.64%
60-year-old's life	14.90%

ON THE LIFE OF TWO PEOPLE	
Two 30-year-old individuals	Cannot distribute at least 5%
Two 40-year-old individuals	5.13%
Two 50-year-old individuals	6.60%
Two 60-year-old individuals	9.1%

ON THE LIFE OF THREE PEOPLE	
Three 30-year-old individuals	Cannot distribute at least 5%
Three 40-year-old individuals	Cannot distribute at least 5%
Three 50-year-old individuals	5.92%
Three 60-year-old individuals	7.91%



Flip-NIMCRUT

- It is possible for a Charitable Remainder Unitrust to be set up where payments only need to be made in years that the Charitable Remainder Unitrust receives income.
- In the event that the Charitable Remainder Unitrust does not receive income and does not pay its annual disbursement amount, the amount that was not distributed must be paid in future years.
- Income for the Charitable Remainder Unitrust is based on fiduciary accounting income so it is possible to set up a disregarded LLC that essentially blocks the income from being received by the Charitable Remainder Unitrust.
- Once the Charitable Remainder Unitrust is ready to start paying its annuity amount, it can release the income by making a distribution from the “blocker LLC” triggering fiduciary accounting income at the trust level to make up for the payments it missed.
- This allows the Flip-NIMCRUT to build value tax free, until the individuals controlling the disregarded entity decide it is time to start paying out the distribution amount.



Flip-NIMCRUT Requirements

- The Charitable Remainder Unitrust can “flip” to a regular Charitable Remainder Unitrust upon a “triggering event,” and thereafter simply pay out a annual percentage of the trust assets. The triggering event must be stated in the trust agreement.
- A triggering event could be a set date or an event, and the occurrence of such event must not be discretionary or under the control of the trustee or another person.
- A triggering event could be the sale of unmarketable securities. This would allow a CRUT to hold a subsidiary that holds unmarketable securities. When the donor or another person is ready to flip the NIMCRUT, it can sell the unmarketable securities or a portion thereof.
- The Final Regulations list 7 permissible triggering events as described on the next slide.



Possible Triggering Events For The Flip-NIMCRUT

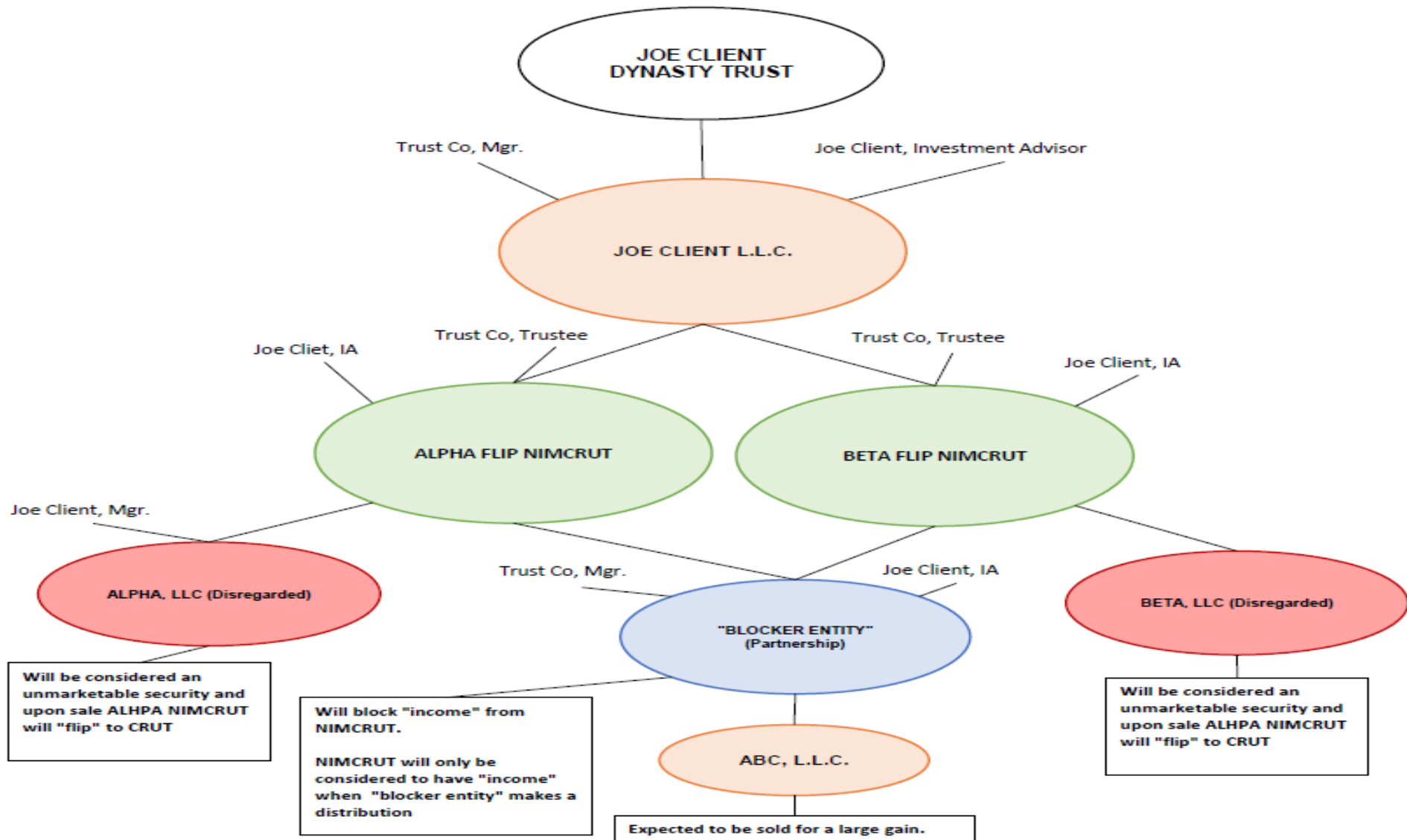
1. The sale of a non-marketable security - such as a corporation or a limited liability company that may own a promissory note from an unrelated party, real estate, or possibility even marketable securities.
2. Upon the donor's divorce.
3. Upon the donor's marriage.
4. When the income recipient has his or her first child.
5. When the income recipient's father passes away.
6. The sale of the donor's personal residence.
7. Upon the income recipient reaching a certain age.

It does not appear that these are the only possible triggering events, but these are the only ones listed, so it is safest to stick with the ones that are specifically provided for.

If a donor wants to use a triggering event that is not listed in the Final Regulations the donor should be careful to make sure that no person has control of whether the event is going to happen.



Flip NIMCRUT



Charitable Remainder Trust Scenario

A is considering funding a Charitable Trust with stock of his closely held business, ABC Company, prior to the sale of ABC Company in order to defer the gain on the sale.

ABC Company is worth \$1,000,000 and A has \$200,000 of basis in ABC Company. A expects that he can receive an 8% rate of return after receiving the cash proceeds from the sale of ABC Company, consisting of 1% ordinary income and 7% capital gains.

A has asked whether the tax deferral under a NIMCRUT or a CRUT will leave him in a better position than if A just invests the after tax proceeds of the sale of ABC Company.



NIMCRUT

Summary Columns

23	24	25	26	27	28	29	30
Year	Total Received By Family Under NIMCRUT (Column 9)	Total Received by Family Under Hypothetical Investment Account (Column 15)	Total Received by Family Under Hypothetical Investment Account with Charitable Contributions (Column 22)	Difference in Amount Family Receives if No Charitable Planning (Column 25-24)	Difference in Amount Family Receives if Charitable Distributions Made Each Year (Column 26-24)	Total Amount Charity Receives Under NIMCRUT at End of 20 Year Term	Total Tax Savings if NIMCRUT is Used
1	\$ 5,920	\$ 865,624	\$ 862,484	\$ 859,704	\$ 856,564	\$ -	\$ 195,064
2	\$ 12,547	\$ 924,511	\$ 917,864	\$ 911,964	\$ 905,317	\$ -	\$ 199,888
3	\$ 19,944	\$ 986,398	\$ 975,852	\$ 966,453	\$ 955,907	\$ -	\$ 204,876
4	\$ 28,182	\$ 1,051,430	\$ 1,036,565	\$ 1,023,248	\$ 1,008,383	\$ -	\$ 210,027
5	\$ 37,334	\$ 1,119,759	\$ 1,100,126	\$ 1,082,424	\$ 1,062,792	\$ -	\$ 215,343
6	\$ 47,481	\$ 1,191,540	\$ 1,166,661	\$ 1,144,059	\$ 1,119,179	\$ -	\$ 220,824
7	\$ 58,711	\$ 1,266,939	\$ 1,236,300	\$ 1,208,228	\$ 1,177,589	\$ -	\$ 226,468
8	\$ 71,118	\$ 1,346,127	\$ 1,309,179	\$ 1,275,009	\$ 1,238,061	\$ -	\$ 232,275
9	\$ 84,803	\$ 1,429,282	\$ 1,385,439	\$ 1,344,479	\$ 1,300,636	\$ -	\$ 238,243
10	\$ 99,876	\$ 1,516,588	\$ 1,465,225	\$ 1,416,712	\$ 1,365,349	\$ -	\$ 244,368
11	\$ 116,455	\$ 1,608,241	\$ 1,548,685	\$ 1,491,785	\$ 1,432,230	\$ -	\$ 250,646
12	\$ 134,669	\$ 1,704,440	\$ 1,635,976	\$ 1,569,771	\$ 1,501,307	\$ -	\$ 257,072
13	\$ 154,654	\$ 1,805,394	\$ 1,727,256	\$ 1,650,740	\$ 1,572,602	\$ -	\$ 263,639
14	\$ 176,561	\$ 1,911,322	\$ 1,822,690	\$ 1,734,761	\$ 1,646,130	\$ -	\$ 270,339
15	\$ 200,548	\$ 2,022,449	\$ 1,922,448	\$ 1,821,901	\$ 1,721,900	\$ -	\$ 277,162
16	\$ 226,788	\$ 2,139,009	\$ 2,026,702	\$ 1,912,221	\$ 1,799,914	\$ -	\$ 284,097
17	\$ 255,468	\$ 2,261,246	\$ 2,135,631	\$ 2,005,778	\$ 1,880,163	\$ -	\$ 291,129
18	\$ 286,789	\$ 2,389,413	\$ 2,249,420	\$ 2,102,624	\$ 1,962,631	\$ -	\$ 298,244
19	\$ 320,965	\$ 2,523,770	\$ 2,368,254	\$ 2,202,805	\$ 2,047,289	\$ -	\$ 305,423
20	\$ 3,121,984	\$ 2,664,589	\$ 2,492,327	\$ (457,396)	\$ (629,658)	\$ 242,711	\$ (550,574)



NIMCRUT w/ Charitable Deduction

\$1,000,000 Contribution, With Only 1% Per Year In Distributable Income – Distributions received are used to pay income taxes thereon, and then invested at a 6% rate of return. Charitable Deduction taken.

Analysis of Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT) (20 Year Term 8% Return)								
1	2	3	4	5	6	7	8	9
Year	NIMCRUT Balance (Assumes 8% Growth)	Distribution to Family (Lesser of Trust Income or Unitrust Amount with Make Up Distributions in Years in Which Trust Income Exceeds Unitrust Amount)	Taxes on Distribution	Net Distribution to Family	Charitable Tax Deduction Benefit	Total Value Family Receives (Includes Tax Deduction Benefit)	Total Amount Charity Receives at End of Twenty Year Term	Total Amount Received Under NIMCRUT if Distributions are Reinvested at 6% Rate of Return
1	\$ 1,000,000	\$ 10,000	\$ (4,080)	\$ 5,920	\$ 51,924	\$ 57,844	\$ -	\$ 5,920
2	\$ 1,070,000	\$ 10,700	\$ (4,366)	\$ 6,334	\$ -	\$ 64,179	\$ -	\$ 12,547
3	\$ 1,144,900	\$ 11,449	\$ (4,671)	\$ 6,778	\$ -	\$ 70,956	\$ -	\$ 19,944
4	\$ 1,225,043	\$ 12,250	\$ (4,998)	\$ 7,252	\$ -	\$ 78,209	\$ -	\$ 28,182
5	\$ 1,310,796	\$ 13,108	\$ (5,348)	\$ 7,760	\$ -	\$ 85,968	\$ -	\$ 37,334
6	\$ 1,402,552	\$ 14,026	\$ (5,722)	\$ 8,303	\$ -	\$ 94,272	\$ -	\$ 47,481
7	\$ 1,500,730	\$ 15,007	\$ (6,123)	\$ 8,884	\$ -	\$ 103,156	\$ -	\$ 58,711
8	\$ 1,605,781	\$ 16,058	\$ (6,552)	\$ 9,506	\$ -	\$ 112,662	\$ -	\$ 71,118
9	\$ 1,718,186	\$ 17,182	\$ (7,010)	\$ 10,172	\$ -	\$ 122,834	\$ -	\$ 84,803
10	\$ 1,838,459	\$ 18,385	\$ (7,501)	\$ 10,884	\$ -	\$ 133,717	\$ -	\$ 99,876
11	\$ 1,967,151	\$ 19,672	\$ (8,026)	\$ 11,646	\$ -	\$ 145,363	\$ -	\$ 116,455
12	\$ 2,104,852	\$ 21,049	\$ (8,588)	\$ 12,461	\$ -	\$ 157,824	\$ -	\$ 134,669
13	\$ 2,252,192	\$ 22,522	\$ (9,189)	\$ 13,333	\$ -	\$ 171,157	\$ -	\$ 154,654
14	\$ 2,409,845	\$ 24,098	\$ (9,832)	\$ 14,266	\$ -	\$ 185,423	\$ -	\$ 176,561
15	\$ 2,578,534	\$ 25,785	\$ (10,520)	\$ 15,265	\$ -	\$ 200,688	\$ -	\$ 200,548
16	\$ 2,759,032	\$ 27,590	\$ (11,257)	\$ 16,333	\$ -	\$ 217,021	\$ -	\$ 226,788
17	\$ 2,952,164	\$ 29,522	\$ (12,045)	\$ 17,477	\$ -	\$ 234,498	\$ -	\$ 255,468
18	\$ 3,158,815	\$ 31,588	\$ (12,888)	\$ 18,700	\$ -	\$ 253,198	\$ -	\$ 286,789
19	\$ 3,379,932	\$ 33,799	\$ (13,790)	\$ 20,009	\$ -	\$ 273,208	\$ -	\$ 320,965
20	\$ 3,616,528	\$ 3,663,139	\$ (877,975)	\$ 2,785,163	\$ -	\$ 3,058,371	\$ 242,711	\$ 3,173,908



NIMCRUT

No Planning - Investment of Sales Proceeds in Hypothetical Investment Account and Receive Distribution Each Year

10	11	12	13	14	15
Balance of Hypothetical Investment Account (Assumes 8% Growth)	Distribution (Distribution Net of Taxes Equals After Tax CRUT Payment each year)	Taxes (1.00% of Assets)	Ending Balance of Hypothetical Investment Account	Cummulative Net Distribtuions With 6% Growth	Total Amount Received by Family (Net account + Cummulative Net Distributions) (Columns 13+14= Column 15)
\$ 809,600	\$ 14,664	\$ (8,744)	\$ 850,961	\$ 14,664	\$ 865,624
\$ 850,961	\$ 15,525	\$ (9,190)	\$ 894,322	\$ 30,188	\$ 924,511
\$ 894,322	\$ 16,436	\$ (9,659)	\$ 939,773	\$ 46,625	\$ 986,398
\$ 939,773	\$ 17,402	\$ (10,150)	\$ 987,403	\$ 64,027	\$ 1,051,430
\$ 987,403	\$ 18,424	\$ (10,664)	\$ 1,037,308	\$ 82,451	\$ 1,119,759
\$ 1,037,308	\$ 19,506	\$ (11,203)	\$ 1,089,584	\$ 101,957	\$ 1,191,540
\$ 1,089,584	\$ 20,652	\$ (11,768)	\$ 1,144,331	\$ 122,608	\$ 1,266,939
\$ 1,144,331	\$ 21,865	\$ (12,359)	\$ 1,201,654	\$ 144,473	\$ 1,346,127
\$ 1,201,654	\$ 23,150	\$ (12,978)	\$ 1,261,659	\$ 167,623	\$ 1,429,282
\$ 1,261,659	\$ 24,510	\$ (13,626)	\$ 1,324,456	\$ 192,133	\$ 1,516,588
\$ 1,324,456	\$ 25,950	\$ (14,304)	\$ 1,390,158	\$ 218,082	\$ 1,608,241
\$ 1,390,158	\$ 27,474	\$ (15,014)	\$ 1,458,883	\$ 245,557	\$ 1,704,440
\$ 1,458,883	\$ 29,089	\$ (15,756)	\$ 1,530,749	\$ 274,646	\$ 1,805,394
\$ 1,530,749	\$ 30,798	\$ (16,532)	\$ 1,605,878	\$ 305,444	\$ 1,911,322
\$ 1,605,878	\$ 32,608	\$ (17,343)	\$ 1,684,397	\$ 338,052	\$ 2,022,449
\$ 1,684,397	\$ 34,525	\$ (18,191)	\$ 1,766,432	\$ 372,577	\$ 2,139,009
\$ 1,766,432	\$ 36,554	\$ (19,077)	\$ 1,852,115	\$ 409,132	\$ 2,261,246
\$ 1,852,115	\$ 38,703	\$ (20,003)	\$ 1,941,578	\$ 447,835	\$ 2,389,413
\$ 1,941,578	\$ 40,978	\$ (20,969)	\$ 2,034,957	\$ 488,813	\$ 2,523,770
\$ 2,034,957	\$ 2,175,776	\$ (21,978)	\$ (0)	\$ 2,664,589	\$ 2,664,589



NIMCRUT

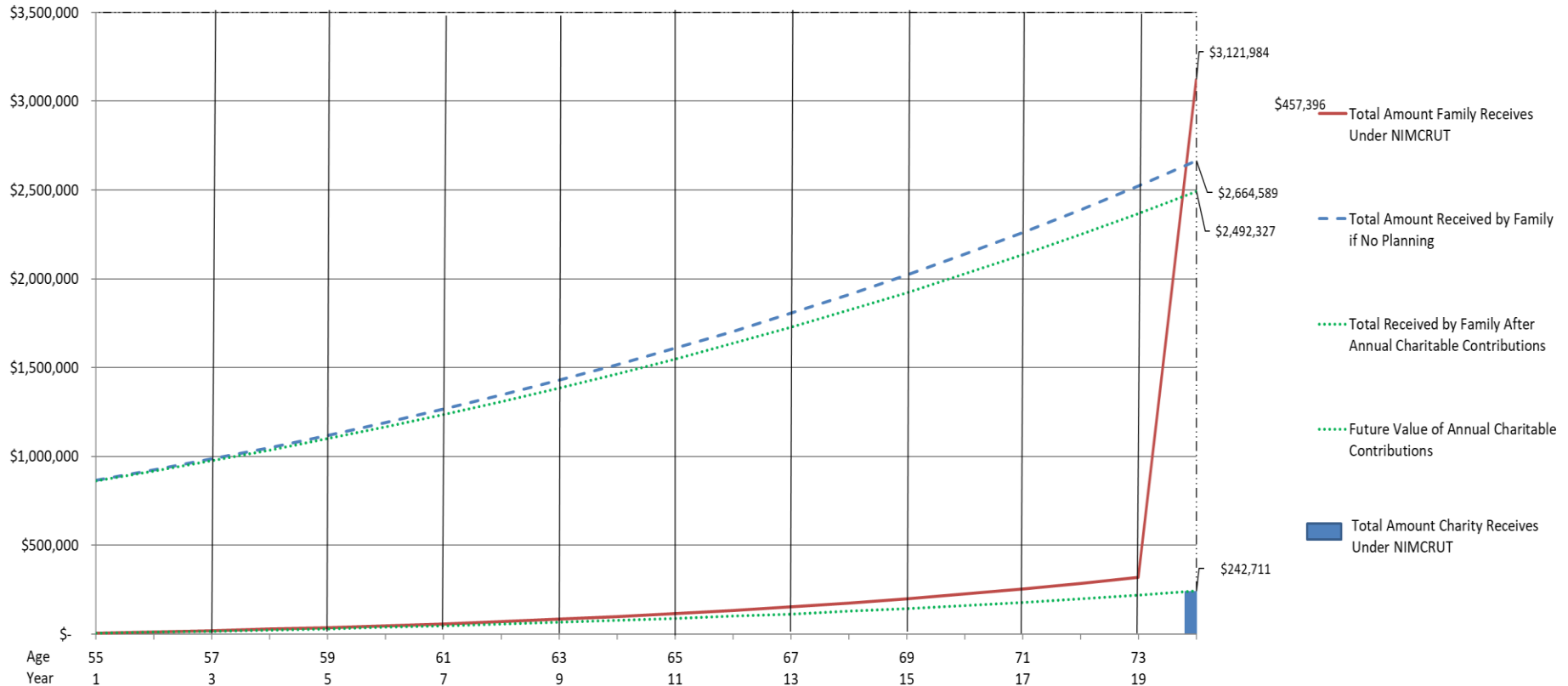
Investment of Net Sales Proceeds in Hypothetical Investment Account and Receive Distributions Each Year Plus Make Charitable Contributions of Equal Present Value

16	17	18	19	20	21	22
Year	Distribution Received By Family	Payment to Charity	Charitable Deduction Benefit	Cummulative Net Distributions Received by Family	Future Value of Distributions to Charity (Assumes 8% Growth Rate)	Total Benefit Received by Family (Net account + Cummulative Net Distributions - Charity Payment + Value of Charitable Deduction)
1	\$ 14,664	\$ (5,304)	\$ 2,164	\$ 14,664	\$ 5,304	\$ 862,484
2	\$ 15,525	\$ (5,304)	\$ 2,164	\$ 30,188	\$ 11,032	\$ 917,864
3	\$ 16,436	\$ (5,304)	\$ 2,164	\$ 46,625	\$ 17,218	\$ 975,852
4	\$ 17,402	\$ (5,304)	\$ 2,164	\$ 64,027	\$ 23,899	\$ 1,036,565
5	\$ 18,424	\$ (5,304)	\$ 2,164	\$ 82,451	\$ 31,115	\$ 1,100,126
6	\$ 19,506	\$ (5,304)	\$ 2,164	\$ 101,957	\$ 38,908	\$ 1,166,661
7	\$ 20,652	\$ (5,304)	\$ 2,164	\$ 122,608	\$ 47,325	\$ 1,236,300
8	\$ 21,865	\$ (5,304)	\$ 2,164	\$ 144,473	\$ 56,414	\$ 1,309,179
9	\$ 23,150	\$ (5,304)	\$ 2,164	\$ 167,623	\$ 66,231	\$ 1,385,439
10	\$ 24,510	\$ (5,304)	\$ 2,164	\$ 192,133	\$ 76,833	\$ 1,465,225
11	\$ 25,950	\$ (5,304)	\$ 2,164	\$ 218,082	\$ 88,284	\$ 1,548,685
12	\$ 27,474	\$ (5,304)	\$ 2,164	\$ 245,557	\$ 100,650	\$ 1,635,976
13	\$ 29,089	\$ (5,304)	\$ 2,164	\$ 274,646	\$ 114,006	\$ 1,727,256
14	\$ 30,798	\$ (5,304)	\$ 2,164	\$ 305,444	\$ 128,431	\$ 1,822,690
15	\$ 32,608	\$ (5,304)	\$ 2,164	\$ 338,052	\$ 144,009	\$ 1,922,448
16	\$ 34,525	\$ (5,304)	\$ 2,164	\$ 372,577	\$ 160,833	\$ 2,026,702
17	\$ 36,554	\$ (5,304)	\$ 2,164	\$ 409,132	\$ 179,004	\$ 2,135,631
18	\$ 38,703	\$ (5,304)	\$ 2,164	\$ 447,835	\$ 198,628	\$ 2,249,420
19	\$ 40,978	\$ (5,304)	\$ 2,164	\$ 488,813	\$ 219,822	\$ 2,368,254
20	\$ 1,960,235	\$ (5,304)	\$ 2,164	\$ 2,449,048	\$ 242,711	\$ 2,492,327



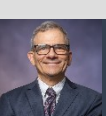
NIMCRUT

Comparison of NIM-CRUT vs. No Planning



Self-Dealing and Flip-NIMCRUTs

- A number of Private Letter Rulings state that “allowed” really means “taken” in the context of the charitable deduction.
- Despite issuing Private Letter Rulings on this as recent as 2017, the IRS is now reluctant to issue Private Letter Rulings on this topic, and it is unclear whether the IRS will take the position that “allowed” really means “taken.”
- Thus, if the donor wants to avoid the application of the self-dealing rules, the donor should contribute funds through an entity that is not required to take a charitable deduction, such as a dynasty trust that specifically authorizes the creation of a charitable remainder trust.
- Due to the fact that the private foundation rules generally apply to charitable remainder trusts, it is important to make sure that disqualified persons do not transact with the entity directly. It may be possible to create subsidiaries that are controlled by specially designed trusts that have less than 35% of the beneficial interest being held or made available to disqualified persons.



IRA Beneficiary/The Stretch CRUT

- While most beneficiaries that inherit an interest in an IRA will not be able to stretch payments over their lifetimes, it is possible to stretch the disbursements from an IRA over the beneficiary's lifetime using a Charitable Remainder Unitrust ("CRUT").
- The CRUT must be expected to provide the charitable remainder beneficiary with at least 10% of the initial value of the assets contributed to the CRUT.
- The CRUT can continue for the longer of the non-charitable beneficiary's lifetime or a fixed 20 year term.
- The assets held by the CRUT will continue to grow tax-free and may be distributed to the non-charitable beneficiary as capital gain.
- PLR 9237020 provides that the CRUT will not have to pay income taxes when it receives the IRA assets because CRUTs do not pay income taxes on income, unless the income constitutes unrelated business taxable income.



10 Year Rule vs. Charitable Remainder Trust

- Facts
 - Taxpayer will die with a \$1,000,000 IRA, with his child as the intended beneficiary, who is taxed at the 37% tax bracket. Both the Taxpayer and his child are charitably inclined.
 - The examples assume a 7% rate of return inside the IRA and CRUT, that the child will re-invest distributions from the IRA and CRUT into an account earning a 6% after tax rate of return.
 - Assumes that distributions from CRUT consist of ordinary income until IRA has been distributed at which point distributions will be taxed at capital gain rates.
 - Assumes AFR rate of 2.0%.



Ten Year Rule

Year	Initial Balance of IRA	Growth (7%)	Distribution	Ending Balance	Tax	Net to Beneficiary	Balance of Reinvestment Account	Growth (6%)	Ending Balance
1	\$ 1,000,000	\$ 70,000	\$ -	\$ 1,070,000	\$ -		\$ -	\$ -	\$ -
2	\$ 1,070,000	\$ 74,900	\$ -	\$ 1,144,900	\$ -		\$ -	\$ -	\$ -
3	\$ 1,144,900	\$ 80,143	\$ -	\$ 1,225,043	\$ -		\$ -	\$ -	\$ -
4	\$ 1,225,043	\$ 85,753	\$ -	\$ 1,310,796	\$ -		\$ -	\$ -	\$ -
5	\$ 1,310,796	\$ 91,756	\$ -	\$ 1,402,552	\$ -		\$ -	\$ -	\$ -
6	\$ 1,402,552	\$ 98,179	\$ -	\$ 1,500,730	\$ -		\$ -	\$ -	\$ -
7	\$ 1,500,730	\$ 105,051	\$ -	\$ 1,605,781	\$ -		\$ -	\$ -	\$ -
8	\$ 1,605,781	\$ 112,405	\$ -	\$ 1,718,186	\$ -		\$ -	\$ -	\$ -
9	\$ 1,718,186	\$ 120,273	\$ -	\$ 1,838,459	\$ -		\$ -	\$ -	\$ -
10	\$ 1,838,459	\$ 128,692	\$ 1,967,151	\$ -	\$ 727,846	\$ 1,239,305	\$ -	\$ -	\$ 1,239,305
11	\$ -	\$ -	\$ -	\$ -			\$ 1,239,305	\$ 74,358	\$ 1,313,664
12	\$ -	\$ -	\$ -	\$ -			\$ 1,313,664	\$ 78,820	\$ 1,392,483
13	\$ -	\$ -	\$ -	\$ -			\$ 1,392,483	\$ 83,549	\$ 1,476,033
14	\$ -	\$ -	\$ -	\$ -			\$ 1,476,033	\$ 88,562	\$ 1,564,594
15	\$ -	\$ -	\$ -	\$ -			\$ 1,564,594	\$ 93,876	\$ 1,658,470
16	\$ -	\$ -	\$ -	\$ -			\$ 1,658,470	\$ 99,508	\$ 1,757,978
17	\$ -	\$ -	\$ -	\$ -			\$ 1,757,978	\$ 105,479	\$ 1,863,457
18	\$ -	\$ -	\$ -	\$ -			\$ 1,863,457	\$ 111,807	\$ 1,975,264
19	\$ -	\$ -	\$ -	\$ -			\$ 1,975,264	\$ 118,516	\$ 2,093,780
20	\$ -	\$ -	\$ -	\$ -			\$ 2,093,780	\$ 125,627	\$ 2,219,407
21	\$ -	\$ -	\$ -	\$ -			\$ 2,219,407	\$ 133,164	\$ 2,352,572
22	\$ -	\$ -	\$ -	\$ -			\$ 2,352,572	\$ 141,154	\$ 2,493,726
23	\$ -	\$ -	\$ -	\$ -			\$ 2,493,726	\$ 149,624	\$ 2,643,349
24	\$ -	\$ -	\$ -	\$ -			\$ 2,643,349	\$ 158,601	\$ 2,801,950
25	\$ -	\$ -	\$ -	\$ -			\$ 2,801,950	\$ 168,117	\$ 2,970,067

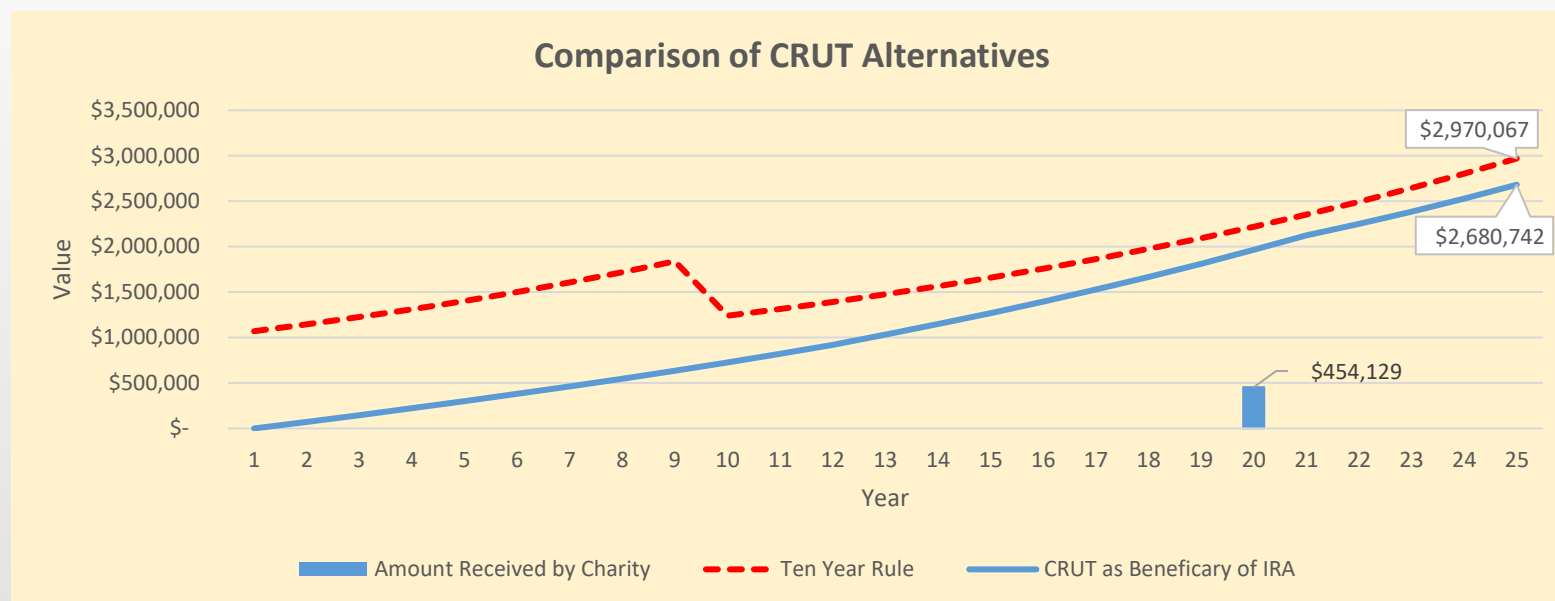


Charitable Remainder Trust Beneficiary of IRA

Year	Initial Balance of CRUT	Growth (7%)	Distribution (10.87% of Account)	Ending Balance	Tax	Net Distribution	Balance of Reinvestment Account	Growth (6%)	Ending Balance
1	\$ 1,000,000	\$ 70,000	\$ 108,700	\$ 961,300	\$ 40,219	\$ 68,481	\$ -	\$ -	\$ -
2	\$ 961,300	\$ 67,291	\$ 104,493	\$ 924,098	\$ 38,663	\$ 65,831	\$ 68,481	\$ 4,109	\$ 72,590
3	\$ 924,098	\$ 64,687	\$ 100,449	\$ 888,335	\$ 37,166	\$ 63,283	\$ 138,421	\$ 8,305	\$ 146,726
4	\$ 888,335	\$ 62,183	\$ 96,562	\$ 853,957	\$ 35,728	\$ 60,834	\$ 210,009	\$ 12,601	\$ 222,610
5	\$ 853,957	\$ 59,777	\$ 92,825	\$ 820,908	\$ 34,345	\$ 58,480	\$ 283,444	\$ 17,007	\$ 300,450
6	\$ 820,908	\$ 57,464	\$ 89,233	\$ 789,139	\$ 33,016	\$ 56,217	\$ 358,930	\$ 21,536	\$ 380,466
7	\$ 789,139	\$ 55,240	\$ 85,779	\$ 758,600	\$ 31,738	\$ 54,041	\$ 436,682	\$ 26,201	\$ 462,883
8	\$ 758,600	\$ 53,102	\$ 82,460	\$ 729,242	\$ 30,510	\$ 51,950	\$ 516,924	\$ 31,015	\$ 547,940
9	\$ 729,242	\$ 51,047	\$ 79,269	\$ 701,020	\$ 29,329	\$ 49,939	\$ 599,890	\$ 35,993	\$ 635,883
10	\$ 701,020	\$ 49,071	\$ 76,201	\$ 673,891	\$ 28,194	\$ 48,007	\$ 685,822	\$ 41,149	\$ 726,972
11	\$ 673,891	\$ 47,172	\$ 73,252	\$ 647,811	\$ 27,103	\$ 46,149	\$ 774,978	\$ 46,499	\$ 821,477
12	\$ 647,811	\$ 45,347	\$ 70,417	\$ 622,741	\$ 16,759	\$ 53,658	\$ 867,625	\$ 52,058	\$ 919,683
13	\$ 622,741	\$ 43,592	\$ 67,692	\$ 598,641	\$ 16,111	\$ 51,581	\$ 973,341	\$ 58,400	\$ 1,031,741
14	\$ 598,641	\$ 41,905	\$ 65,072	\$ 575,473	\$ 15,487	\$ 49,585	\$ 1,083,322	\$ 64,999	\$ 1,148,322
15	\$ 575,473	\$ 40,283	\$ 62,554	\$ 553,203	\$ 14,888	\$ 47,666	\$ 1,197,907	\$ 71,874	\$ 1,269,781
16	\$ 553,203	\$ 38,724	\$ 60,133	\$ 531,794	\$ 14,312	\$ 45,821	\$ 1,317,447	\$ 79,047	\$ 1,396,494
17	\$ 531,794	\$ 37,226	\$ 57,806	\$ 511,213	\$ 13,758	\$ 44,048	\$ 1,442,316	\$ 86,539	\$ 1,528,855
18	\$ 511,213	\$ 35,785	\$ 55,569	\$ 491,429	\$ 13,225	\$ 42,343	\$ 1,572,903	\$ 94,374	\$ 1,667,277
19	\$ 491,429	\$ 34,400	\$ 53,418	\$ 472,411	\$ 12,714	\$ 40,705	\$ 1,709,620	\$ 102,577	\$ 1,812,198
20	\$ 472,411	\$ 33,069	\$ 51,351	\$ 454,129	\$ 12,222	\$ 39,130	\$ 1,852,902	\$ 111,174	\$ 1,964,077
21	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,003,206	\$ 120,192	\$ 2,123,398
22	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,123,398	\$ 127,404	\$ 2,250,802
23	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,250,802	\$ 135,048	\$ 2,385,851
24	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,385,851	\$ 143,151	\$ 2,529,002
25	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,529,002	\$ 151,740	\$ 2,680,742

Distributed to Charity at end of Year 20





Year	Ten Year Rule	CRUT as Beneficiary of IRA	CRUT Total Payout (Beneficiary and Charity Combined)
10	\$ 1,239,305	\$ 774,978	\$ 774,978
15	\$ 1,658,470	\$ 1,317,447	\$ 1,317,447
20	\$ 2,219,407	\$ 2,003,206	\$ 2,457,335
25	\$ 2,970,067	\$ 2,680,742	\$ 3,134,871

Total Amount Received by Charity Under CRUT - \$454,129



Comparing Characteristics of an IRA CRUT and an Accumulation Trust

	CHARITABLE REMAINDER UNITRUST ADVANTAGES		ACCUMULATION TRUST ADVANTAGES
1	Longer Stretch	1	Simpler
2	No limit on what can go to charity	2	Families with no charitable intent do not have to worry about what goes to charity
3	Forces heirs to take money out slower	3	Over in between 10 and 11 years
4	Family recognition and examples set for charitable purposes in the community	4	Less in professional fees
5	No multiple trust rule, so that a separate Equalization Trust can be used without income tax problems		
6	Low income bracket family members may serve as Trustees to have the family receive more – can count as earned income for a young adult to allow her to provide more than half of her support under the Kiddie Tax		



Example 1:

- Age 65, 19.2523% unitrust rate. Contributed asset, basis zero, value of \$10,000,000. Florida resident (no state income tax).
- Using projections over 25 years, one is leaving very little to a charity as the mortality tables understate one's life expectancy.

<u>Input Summary</u>	
<u>**TO UPDATE GO TO "INPUT" TAB**</u>	
<u>DO NOT CHANGE HERE</u>	
FMV of Trust	10,000,000
Income Rate	5.00%
Percentage Payout	19.25%
Term	25
Cap Gain Rate	23.80%
Income Tax Rate	40.80%

Summary	
<u>Tax Planning</u>	
Total Amount to Taxpayer	17,298,886
Total Amount to Charity	214,073
<u>No Tax Planning</u>	
Total Amount to Taxpayer	15,346,162
Total Amount to Charity	0



Example 1:

Year	Beginning	Income	Distribution	Remainder	Capital Gain	Tax on Cap Gain	Tax on Income	Annual Net
	Principal				Reported			After Tax
1	10,000,000	500,000	1,925,230	8,574,770	1,425,230	339,205	204,000	1,382,025
2	8,574,770.00	428,739	1,650,840	7,352,668	1,222,102	290,860	174,925	1,185,055
3	7,352,668.06	367,633	1,415,558	6,304,744	1,047,924	249,406	149,994	1,016,157
4	6,304,743.75	315,237	1,213,808	5,406,173	898,571	213,860	128,617	871,332
5	5,406,172.75	270,309	1,040,813	4,635,669	770,504	183,380	110,286	747,147
6	4,635,668.79	231,783	892,473	3,974,979	660,689	157,244	94,568	640,661
7	3,974,979.37	198,749	765,275	3,408,453	566,526	134,833	81,090	549,352
8	3,408,453.39	170,423	656,206	2,922,670	485,783	115,616	69,532	471,057
9	2,922,670.38	146,134	562,681	2,506,123	416,548	99,138	59,622	403,920
10	2,506,122.63	125,306	482,486	2,148,943	357,180	85,009	51,125	346,352
11	2,148,942.52	107,447	413,721	1,842,669	306,274	72,893	43,838	296,989
12	1,842,668.78	92,133	354,756	1,580,046	262,623	62,504	37,590	254,661
13	1,580,046.10	79,002	304,195	1,354,853	225,193	53,596	32,233	218,366
14	1,354,853.19	67,743	260,840	1,161,755	193,098	45,957	27,639	187,244
15	1,161,755.45	58,088	223,665	996,179	165,577	39,407	23,700	160,558
16	996,178.58	49,809	191,787	854,200	141,978	33,791	20,322	137,674
17	854,200.22	42,710	164,453	732,457	121,743	28,975	17,426	118,053
18	732,457.04	36,623	141,015	628,065	104,392	24,845	14,942	101,227
19	628,065.06	31,403	120,917	538,551	89,514	21,304	12,813	86,800
20	538,551.35	26,928	103,684	461,795	76,756	18,268	10,986	74,429
21	461,795.39	23,090	88,906	395,979	65,816	15,664	9,421	63,821
22	395,978.93	19,799	76,235	339,543	56,436	13,432	8,078	54,725
23	339,542.82	16,977	65,370	291,150	48,393	11,517	6,927	46,926
24	291,150.16	14,558	56,053	249,655	41,496	9,876	5,939	40,238
25	249,654.57	12,483	48,064	214,073	35,582	8,468	5,093	34,503
Summary		3,433,104.46	13,219,031.41	214,073.05	9,785,926.95	2,329,050.61	1,400,706.62	9,489,274.18



Example 1:

<u>Income on</u> <u>Balance</u>	<u>Taxes on</u> <u>Balance</u> <u>Income</u>	<u>Accumulated</u> <u>Year End</u> <u>Balance</u>
-	-	1,382,025
69,101	28,193	2,607,988
130,399	53,203	3,701,342
185,067	75,507	4,682,233
234,112	95,518	5,567,974
278,399	113,587	6,373,447
318,672	130,018	7,111,453
355,573	145,074	7,793,009
389,650	158,977	8,427,603
421,380	171,923	9,023,412
451,171	184,078	9,587,494
479,375	195,585	10,125,946
506,297	206,569	10,644,040
532,202	217,138	11,146,348
557,317	227,385	11,636,837
581,842	237,391	12,118,962
605,948	247,227	12,595,736
629,787	256,953	13,069,797
653,490	266,624	13,543,463
677,173	276,287	14,018,779
700,939	285,983	14,497,556
724,878	295,750	14,981,409
749,070	305,621	15,471,785
773,589	315,624	15,969,987
798,499	325,788	16,477,202
11,803,931.31	4,816,003.98	16,477,202

Growth on Savings From Charitable Deduction			
<u>Income on Charitable</u> <u>Deduction Savings</u>	<u>Tax on Income</u>	<u>Accunulated YE Balance</u>	
			408,000
20,400	8,323		420,077
21,004	8,570		432,511
21,626	8,823		445,313
22,266	9,084		458,495
22,925	9,353		472,066
23,603	9,630		486,039
24,302	9,915		500,426
25,021	10,209		515,239
25,762	10,511		530,490
26,524	10,822		546,192
27,310	11,142		562,359
28,118	11,472		579,005
28,950	11,812		596,144
29,807	12,161		613,790
30,689	12,521		631,958
31,598	12,892		650,664
32,533	13,274		669,924
33,496	13,666		689,753
34,488	14,071		710,170
35,508	14,487		731,191
36,560	14,916		752,834
37,642	15,358		775,118
38,756	15,812		798,062
39,903	16,280		821,684
698,791	285,107		821,684



Example 1:

No Tax Planning		
<u>Income on money</u>		<u>Accunulated YE</u>
<u>invested</u>	<u>Tax on Income</u>	<u>Balance</u>
		7,620,000
381,000	155,448	7,845,552
392,278	160,049	8,077,780
403,889	164,787	8,316,883
415,844	169,664	8,563,062
428,153	174,686	8,816,529
440,826	179,857	9,077,498
453,875	185,181	9,346,192
467,310	190,662	9,622,840
481,142	196,306	9,907,676
495,384	202,117	10,200,943
510,047	208,099	10,502,891
525,145	214,259	10,813,776
540,689	220,601	11,133,864
556,693	227,131	11,463,426
573,171	233,854	11,802,744
590,137	240,776	12,152,105
607,605	247,903	12,511,807
625,590	255,241	12,882,157
644,108	262,796	13,263,469
663,173	270,575	13,656,067
682,803	278,584	14,060,287
703,014	286,830	14,476,471
723,824	295,320	14,904,975
745,249	304,061	15,346,162
13,050,950	5,324,787	15,346,162



Example 2:

- Age 55, 11.938% unitrust rate. Contributed asset, basis zero, value of \$10,000,000. Florida resident (no state income tax).
- Using projections over 25 years, one is leaving very little to a charity as the mortality tables understate one's life expectancy.

<u>Input Summary</u>	
<u>**TO UPDATE GO TO "INPUT" TAB**</u>	
<u>DO NOT CHANGE HERE</u>	
FMV of Trust	10,000,000
Income Rate	5.00%
Percentage Payout	11.94%
Term	25
Cap Gain Rate	23.80%
Income Tax Rate	40.80%

Summary	
<u>Tax Planning</u>	
Total Amount to Taxpayer	16,717,389
Total Amount to Charity	1,656,951
<u>No Tax Planning</u>	
Total Amount to Taxpayer	15,346,162
Total Amount to Charity	0



Example 2:

Year	Beginning	Income	Distribution	Remainder	Capital Gain	Tax on Cap Gain	Tax on Income	Annual Net After Tax
	Principal				Reported			
1	10,000,000	500,000	1,193,800	9,306,200	693,800	165,124	204,000	824,676
2	9,306,200.00	465,310	1,110,974	8,660,536	645,664	153,668	189,846	767,460
3	8,660,535.84	433,027	1,033,895	8,059,668	600,868	143,007	176,675	714,213
4	8,059,667.87	402,983	962,163	7,500,488	559,180	133,085	164,417	664,661
5	7,500,488.11	375,024	895,408	6,980,104	520,384	123,851	153,010	618,547
6	6,980,104.25	349,005	833,285	6,495,825	484,280	115,259	142,394	575,632
7	6,495,824.61	324,791	775,472	6,045,144	450,680	107,262	132,515	535,695
8	6,045,144.30	302,257	721,669	5,625,732	419,412	99,820	123,321	498,528
9	5,625,732.19	281,287	671,600	5,235,419	390,313	92,895	114,765	463,940
10	5,235,418.89	261,771	625,004	4,872,186	363,233	86,450	106,803	431,752
11	4,872,185.53	243,609	581,642	4,534,153	338,032	80,452	99,393	401,797
12	4,534,153.30	226,708	541,287	4,219,574	314,580	74,870	92,497	373,921
13	4,219,573.74	210,979	503,733	3,926,820	292,754	69,675	86,079	347,978
14	3,926,819.71	196,341	468,784	3,654,377	272,443	64,841	80,107	323,835
15	3,654,376.96	182,719	436,260	3,400,836	253,541	60,343	74,549	301,368
16	3,400,836.29	170,042	405,992	3,164,886	235,950	56,156	69,377	280,459
17	3,164,886.27	158,244	377,824	2,945,306	219,580	52,260	64,564	261,000
18	2,945,306.46	147,265	351,611	2,740,961	204,345	48,634	60,084	242,892
19	2,740,961.10	137,048	327,216	2,550,793	190,168	45,260	55,916	226,040
20	2,550,793.21	127,540	304,514	2,373,819	176,974	42,120	52,036	210,358
21	2,373,819.18	118,691	283,387	2,209,124	164,696	39,198	48,426	195,763
22	2,209,123.61	110,456	263,725	2,055,855	153,269	36,478	45,066	182,181
23	2,055,854.61	102,793	245,428	1,913,219	142,635	33,947	41,939	169,541
24	1,913,219.42	95,661	228,400	1,780,480	132,739	31,592	39,030	157,779
25	1,780,480.25	89,024	212,554	1,656,951	123,530	29,400	36,322	146,832
Summary		6,012,575.28	14,355,624.75	1,656,950.53	8,343,049.47	1,985,645.77	2,453,130.72	9,916,848.26



Example 2:

<u>Income on</u> <u>Balance</u>	<u>Taxes on</u> <u>Balance</u> <u>Income</u>	<u>Accumulated</u> <u>Year End</u> <u>Balance</u>
-	-	824,676
41,234	16,823	1,616,546
80,827	32,978	2,378,609
118,930	48,524	3,113,677
155,684	63,519	3,824,388
191,219	78,018	4,513,222
225,661	92,070	5,182,509
259,125	105,723	5,834,439
291,722	119,023	6,471,079
323,554	132,010	7,094,375
354,719	144,725	7,706,166
385,308	157,206	8,308,189
415,409	169,487	8,902,089
445,104	181,603	9,489,426
474,471	193,584	10,071,681
503,584	205,462	10,650,261
532,513	217,265	11,226,510
561,325	229,021	11,801,706
590,085	240,755	12,377,077
618,854	252,492	12,953,797
647,690	264,257	13,532,992
676,650	276,073	14,115,750
705,787	287,961	14,703,117
735,156	299,944	15,296,108
764,805	312,041	15,895,705
10,099,419.42	4,120,563.12	15,895,705

Growth on Savings From Charitable Deduction		
<u>Income on Charitable</u> <u>Deduction Savings</u>	<u>Tax on Income</u>	<u>Accunulated YE Balance</u>
		408,000
20,400	8,323	420,077
21,004	8,570	432,511
21,626	8,823	445,313
22,266	9,084	458,495
22,925	9,353	472,066
23,603	9,630	486,039
24,302	9,915	500,426
25,021	10,209	515,239
25,762	10,511	530,490
26,524	10,822	546,192
27,310	11,142	562,359
28,118	11,472	579,005
28,950	11,812	596,144
29,807	12,161	613,790
30,689	12,521	631,958
31,598	12,892	650,664
32,533	13,274	669,924
33,496	13,666	689,753
34,488	14,071	710,170
35,508	14,487	731,191
36,560	14,916	752,834
37,642	15,358	775,118
38,756	15,812	798,062
39,903	16,280	821,684
698,791	285,107	821,684

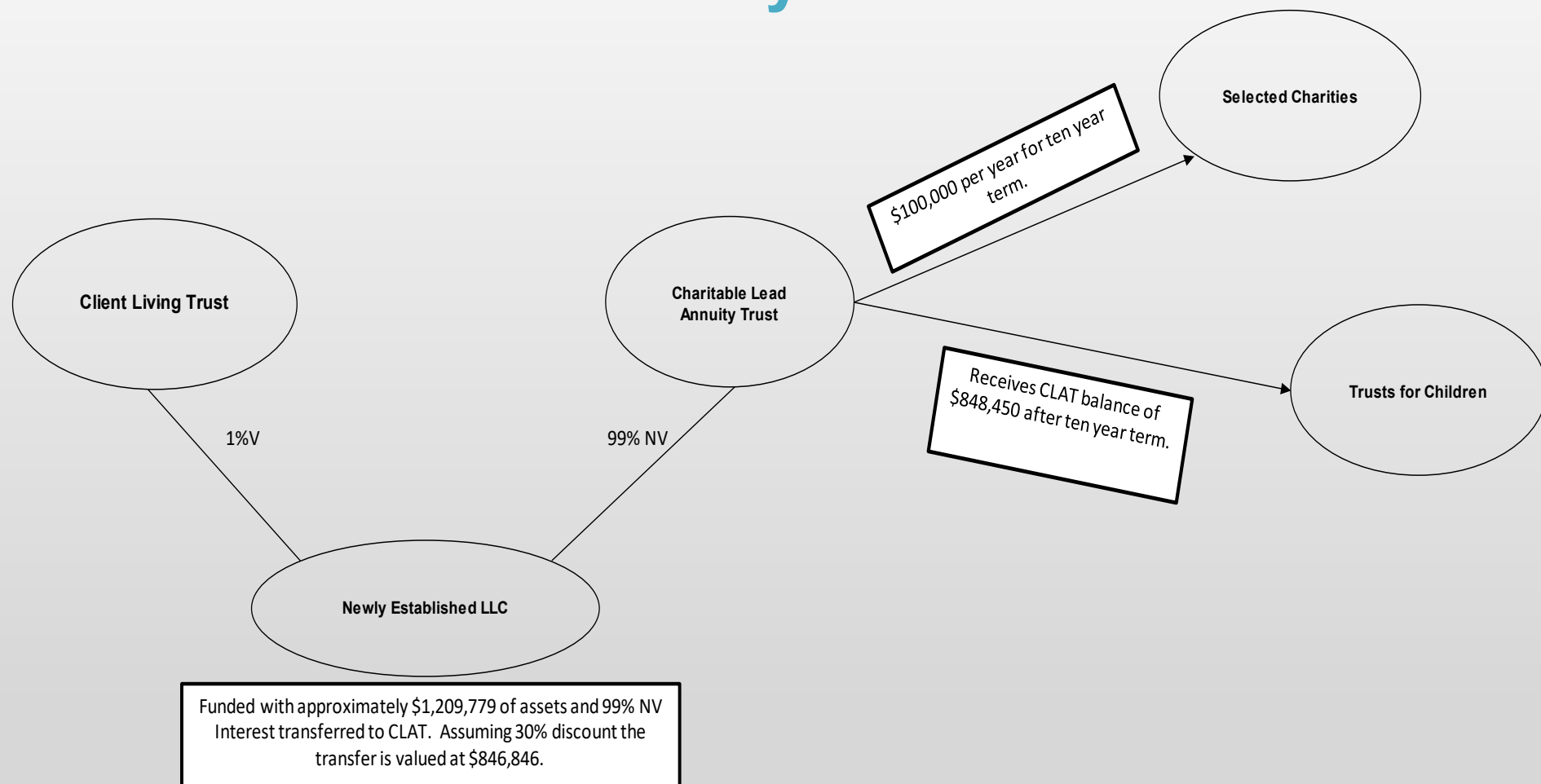


Example 2:

No Tax Planning		
<u>Income on money</u>		<u>Accunulated YE</u>
<u>invested</u>	<u>Tax on Income</u>	<u>Balance</u>
		7,620,000
381,000	155,448	7,845,552
392,278	160,049	8,077,780
403,889	164,787	8,316,883
415,844	169,664	8,563,062
428,153	174,686	8,816,529
440,826	179,857	9,077,498
453,875	185,181	9,346,192
467,310	190,662	9,622,840
481,142	196,306	9,907,676
495,384	202,117	10,200,943
510,047	208,099	10,502,891
525,145	214,259	10,813,776
540,689	220,601	11,133,864
556,693	227,131	11,463,426
573,171	233,854	11,802,744
590,137	240,776	12,152,105
607,605	247,903	12,511,807
625,590	255,241	12,882,157
644,108	262,796	13,263,469
663,173	270,575	13,656,067
682,803	278,584	14,060,287
703,014	286,830	14,476,471
723,824	295,320	14,904,975
745,249	304,061	15,346,162
13,050,950	5,324,787	15,346,162



Charitable Lead Annuity Trust



CHARITABLE LEAD ANNUITY TRUST

Ten (10) Year Term Charitable Lead Annuity Trust - Grantor Trust
(Receives Upfront Charitable Deduction)

A	B	C	D	E	F	G	H
Year	Value of CLAT	Reported Value of CLAT for Gift Tax Purposes	Growth of CLAT (6%)	Annuity Payment to Charity	Estimated Charitable Deduction Benefit	Taxes Paid by Grantor (1% of Assets)	Ending Balance of CLAT
1	\$ 1,209,779	\$ 846,845	\$ 72,587	\$ (100,000)	\$ 313,333	\$ (12,824)	\$ 1,182,365
2	\$ 1,182,365		\$ 70,942	\$ (100,000)		\$ (12,533)	\$ 1,153,307
3	\$ 1,153,307		\$ 69,198	\$ (100,000)		\$ (12,225)	\$ 1,122,506
4	\$ 1,122,506		\$ 67,350	\$ (100,000)		\$ (11,899)	\$ 1,089,856
5	\$ 1,089,856		\$ 65,391	\$ (100,000)		\$ (11,552)	\$ 1,055,247
6	\$ 1,055,247		\$ 63,315	\$ (100,000)		\$ (11,186)	\$ 1,018,562
7	\$ 1,018,562		\$ 61,114	\$ (100,000)		\$ (10,797)	\$ 979,676
8	\$ 979,676		\$ 58,781	\$ (100,000)		\$ (10,385)	\$ 938,456
9	\$ 938,456		\$ 56,307	\$ (100,000)		\$ (9,948)	\$ 894,764
10	\$ 894,764		\$ 53,686	\$ (100,000)		\$ (9,484)	\$ 848,450
Totals							

Taxable Gift on Funding to CLAT \$0.00

Estate Tax Savings Over No Planning (Assuming 40% Estate Tax Rate) \$ 339,380

Amount Passing to Beneficiaries Estate Tax Free \$ 848,450

Total Gifts to Charity at End of Year 20 \$ 1,000,000



CLAT Result Illustration

Assumes a \$10,000,000 contribution of assets that will grow at 6% per year – no discounts – zeroed out using the 1.86% October 2019 Section 7520 Rate.

	12-Year / Same Annual Payment Each Year	12-Year / 20% Increasing Payment Year Over Year	20-Year / Same Annual Payment Each Year	20-Year / 20% Increasing Payment Year Over Year
Total amount to charity, not taking into account growth on assets	\$11,209,238	\$11,209,238	\$11,999,371	\$11,999,371
Total amount to charity, assuming a 6% rate of return	\$15,758,265	\$13,965,661	\$22,070,198	\$16,128,647
Total to Children after CLAT term	\$ 4,363,700	\$ 6,156,304	\$10,001,157	\$15,942,708
Percentage to Children	28%	35%	45%	57%
Percentage to Charity	72%	65%	55%	43%

*A 20% increasing CLAT may have income tax liability if the annuity payment to charity is less than the gain the CLAT recognizes.



CLAT Result Illustration

Assuming 33% Discount and a 6% Annual Growth Rate

	12-Year / Same Annual Payment Each Year with 33% Discount	12-Year / 20% Increasing Payment Year Over Year with 33% Discount	20-Year / Same Annual Payment Each Year with 33% Discount	20-Year / 20% Increasing Payment Year Over Year with 33% Discount
Total amount to charity, not taking into account growth on assets	\$ 7,510,164	\$ 8,038,660	\$ 7,512,379	\$ 8,038,785
Total amount to charity, assuming a 6% rate of return	\$10,558,002	\$14,785,343	\$ 9,359,721	\$10,805,127
Total to Children after CLAT term	\$ 9,563,963	\$17,286,012	\$10,762,243	\$21,266,228
Percentage to Children	56%	59%	61%	73%
Percentage to Charity	44%	41%	29%	27%

*A 20% increasing CLAT may have income tax liability if the annuity payment to charity is less than the gain the CLAT recognizes.

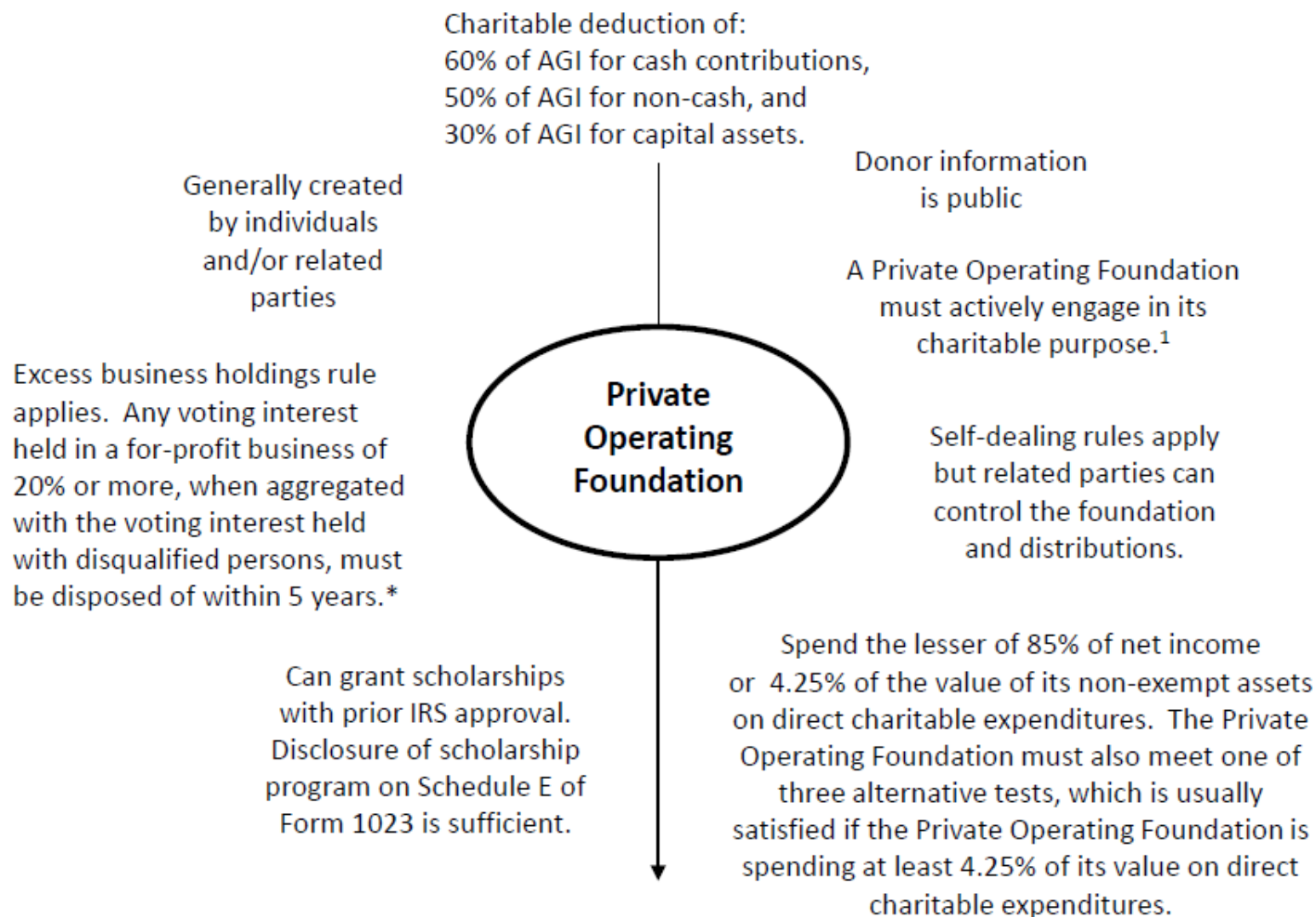


Private Operating Foundations – Now More Than Ever!

***It is simple* to establish an irrevocable trust to qualify as a Section 501(c)(3) Private Operating Foundation, which can be treated in the same manner as a Public Charity for most purposes.**



Private Operating Foundations



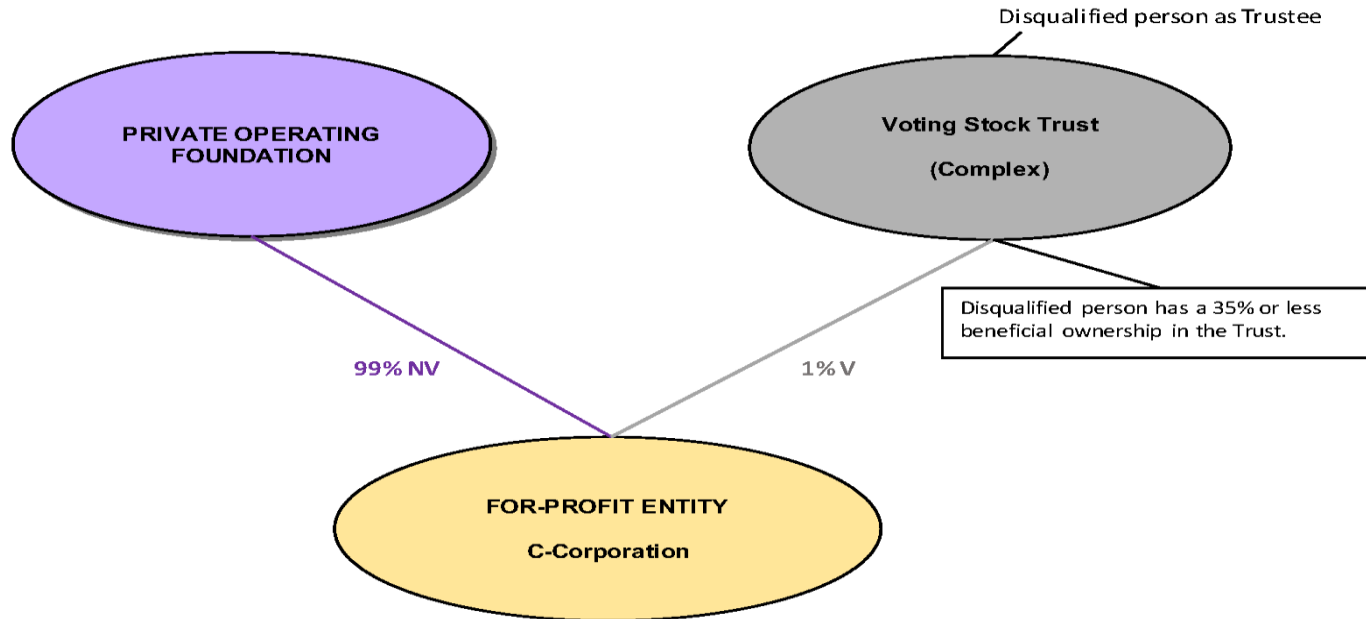
Private Operating Foundations and Scholarship Programs

- Generally, providing scholarships and doing nothing more does not meet the active conduct of a charitable purpose requirement for private operating foundations.
- There are exceptions to this rule as provided under Treasury Regulations Section 53.4942(b)-1(b)(2).
- The private operating foundation must do more than merely provide scholarships. The private operating foundation must:
- Actively contribute more than money such as providing direct educational services, mentoring recipients, hosting events that further the recipient's education, analyzing data from the operations of the scholarship program and assisting impoverished individuals.
- The Regulations states that it is easier to meet the standard when the foundation has a main goal of reducing poverty.
- Scholarship programs should be disclosed on Schedule H of the Form 1023 Application for preapproval.



Non-Profit Entity Owning For-Profit Business

Permitted - Voting Trust Strategy



A Private Operating Foundation ("POF") will be deemed to have excess business holdings in the event that the POF holds more than 20% of the voting stock of a for profit company, as aggregated with disqualified persons. Section 4943(c)(2)(A). A trust will not be considered to be a disqualified person as long as a disqualified person does not hold more than a 35% beneficial interest in the trust. Section 4946(a)(1)(G).

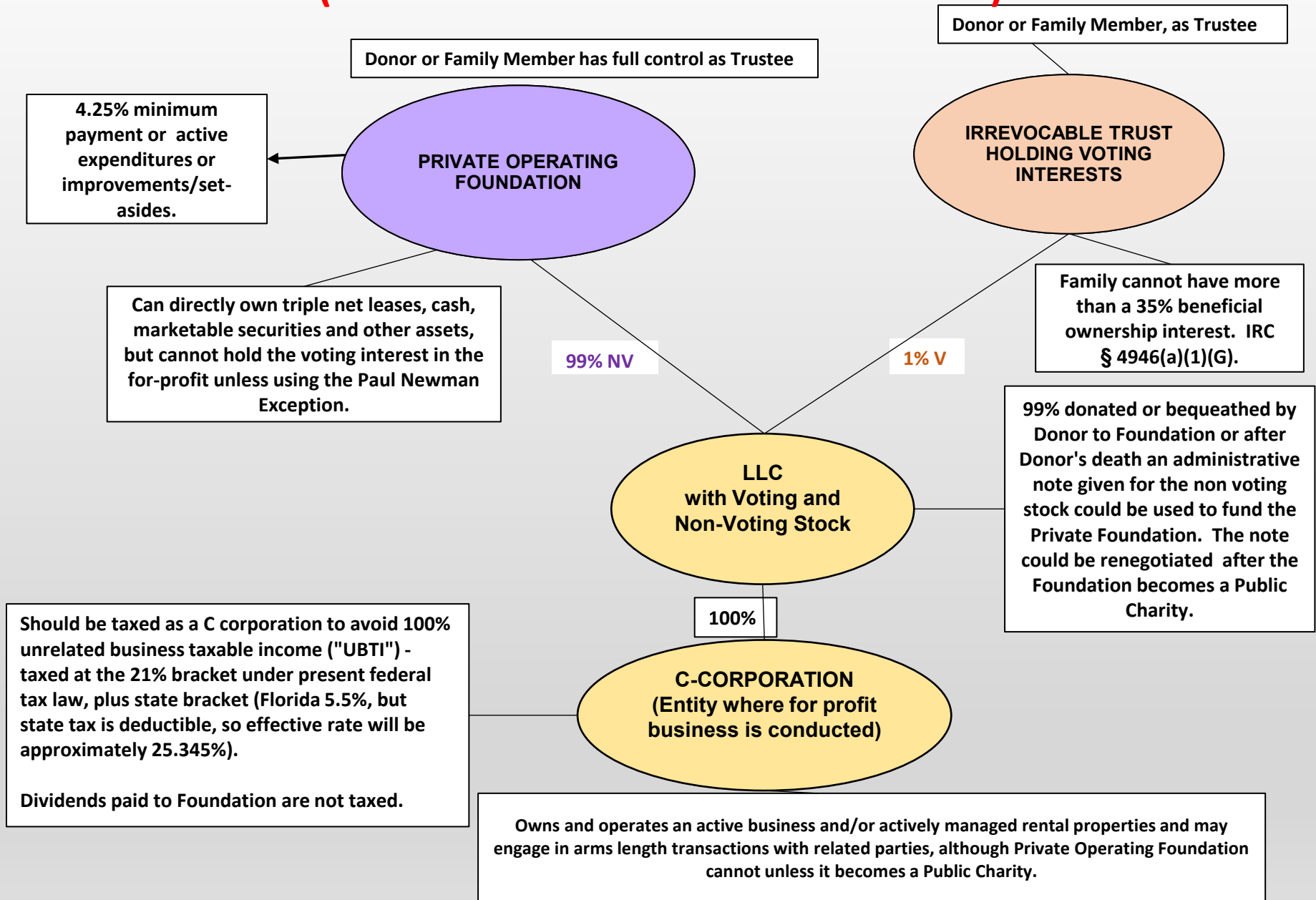
In the above diagram, the disqualified person does not have more than a 35% beneficial interest in the Voting Stock Trust, so the Voting Stock Trust is not considered to be a disqualified person. The disqualified person can serve as the Trustee of the Voting Stock Trust controlling 100% of the voting interest in the for profit entity because such person is acting in his capacity as Trustee of the Voting Stock Trust and not individually.

The POF can maintain ownership in the 99% non-voting interest in the for profit without causing any excess business holding issues because the POF is not treated as owning over 20% of the voting stock of the for profit entity.

The best entity to use for this strategy, in most cases, is a C-corporation because it would not automatically pass Unrelated Business Taxable Income ("UBTI") up to the POF and dividends paid to the POF are not taxable.



(PRIVATE OPERATING FOUNDATION)



(PRIVATE OPERATING FOUNDATION)

Private Operating Foundation Rules:

1. Must expend at least 4.25% of its total value each year on active charitable purposes, or construction of charitable facilities that will be used for active charitable purposes.
2. The Private Operating Foundation can be solely managed by the Family Member as Trustee of the Foundation while the corporation can be managed by the Family Member as President, and as the voting stockholder as Trustee of the stock that holds the voting stock trust. The Family Member can receive reasonable compensation from the Foundation for services rendered to the Foundation and from the Company for services rendered to the Company.
3. The Private Operating Foundation does not need to satisfy Public Charity requirements.
4. The Private Operating Foundation cannot lend directly to a disqualified person or related party, but the Corporation would be able to lend money to disqualified persons and related companies at arm's-length and could exchange goods or services with a disqualified person at arm's-length.
5. The Family Member cannot be a beneficiary of more than 35% of the Voting Stock Trust's assets.
6. The Trust is not able to purchase the 99% interest in the Company for a promissory note from the Donor during Donor's lifetime because there would be a self-dealing issue if that promissory note was going to be transferred to the Private Operating Foundation at the Donor's death. After the Donor's death, a note meeting the requirements of the "Administrative Note Exception" (no more than 25-years, interest only) could be given for the non voting stock that is owned by the Donor's revocable trust at the time of the Donor's death.

Such note cannot be negotiated or changeable as long as the note owed to the Foundation unless or until the Foundation becomes a Public Charity.



THANK YOU FOR PARTICIPATING!

Estate Planning Masterclass:

Leveraging Wealth Transfer Strategies

Wednesday, April 2, 2025

12:00 PM to 2:00 PM EST

(120 minutes)

Moderated by: Tom Dickson



Alan Gassman, JD, LL.M. (Taxation), AEP®
(Distinguished)
agassman@gassmanpa.com

