Private Wealth Management

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Putting it All Together: Some of the Best Estate Planning Strategies We See in the New Frontier That Reduce Both Income and Estate Taxes

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The information herein is provided solely to educate on a variety of topics, including wealth planning, tax considerations, estate, gift and philanthropic planning.

The Primary Importance of Goals-Based Planning for the Successful Succession of the Family Wealth Irrespective of the Status of the Tax Law (See Pages 1 – 3 of the Paper)

- The importance of first determining a client's goals that determine the estate plan's essential strategies.
  - In assisting a client with achieving their goals the state of the tax law and how that affects the plan should not be the "tail that wags the dog."
  - Whenever owners and tax advisors gather to formulate a plan, inevitably their conversations focus extensively on tax issues. Something about the topic of tax planning, the prevalence of tax advisory literature, tax advisors' professional degrees and titles, how the meetings originate, and the expectations of the gathered parties combine to dictate this focus.
  - A danger in tax driven wealth preservation planning is its subtle power to enable money (and its conservation) to become the defining objective.
- Four personal rules for determining a client's goals and concerns with respect to the family's capital: (1) try to ask open ended questions that give the client the opportunity to articulate his or her goals and concerns; (2) listen; (3) listen, and (4) listen.

Estate Plans Developed Around the Stewardship of the Family Wealth

- It is enlightening to contrast conventional *tax driven wealth preservation plans* with plans which have been formulated for owners who were initially asked (perhaps through the vehicle of many open-ended questions): "What is the purpose (or stewardship mission) of your family wealth?" A family's wealth, or capital, is more than its financial capital. A family's social capital and stewardship capital are also very important and interact with the family's financial capital.
- At an introductory stage, a dialogue about purpose or stewardship mission questions might evolve like this:

Question 1:	Do you want to save taxes? Answer: Yes.
Question 2:	Do you want to protect your wealth? Answer: Yes.
Question 3:	Do you want to preserve the same level of consumption? Answer: Yes.
Question 4:	Do you want to empower your children (or favorite charitable causes)? Answer: Yes.
Question 5:	Do you want to give your children (or charitable entities you create) options? Answer: Yes.
Question 6:	Do you want to give your children (or charitable entities you create) incentives? Answer: Yes.
Question 7:	Do you want to maintain control of investment decisions with respect to your wealth? Answer: Yes.
Question 8:	Do you want to maintain your flexibility (control) to change your mind about how and whom should have future stewardship of your wealth? Answer: Yes.
Question 9:	Which of these is most important? Typical Answer: (pause) That is the first time we have been asked that question. We'll need to think about it.

Organizational Pattern of a Purpose-Based Estate Plan

- A hierarchical organizational pattern for a purpose-based estate plan is:

Purpose

The declared principles for the family's capital which determine the plan's essential characteristics

(having priority over)

Strategies

The alternative game plans for implementing the essential characteristics

(having priority over)

Legal Structures

The legal documents which embody and implement the essential characteristics

Once the Purpose and Use of the Family's Capital Has Been Determined, Strategies Should Be Developed to Maximize the Investment Risk-Adjusted, After-Tax Wealth That May be Applied to Those Purposes and Uses (See Pages 4-15 of the Paper)

- Almost all of the US population (estimates are 99.8%) do not have to worry about strategies that reduce transfer taxes. However, around 50% of the US population welcomes strategies that reduce income taxes on investments.
- There are strategies that reduce both the income taxes on capital and the transfer taxes on capital. Planning for those two taxes does not have to be, and should not be, an "either, or" exercise.
- The purpose of this paper is to discuss some of the strategies that reduce both taxes.

If Lifetime Basis Enhancing Strategies Are Not Used, From a Tax Perspective, at What Assumed Growth Rate is it Better to Use a Lifetime Transfer Strategy With a Low Basis Asset in Comparison to Retaining the Asset Until Death?

- Simplistically, if an asset will be sold immediately after a taxpayer's death if the tax result is the only factor (of course, it is rare that the tax result is the only factor), and if lifetime basis enhancing strategies are not used, the decision to subject a low basis asset to a lifetime transfer strategy to a non-grantor trust, in order to save future estate taxes, or to hold the asset in order to receive a step-up in basis, is determined by a taxpayer's assumption of how fast a low basis asset will increase in value in the future.
- There is not an exemption protecting the assessment of a capital gains tax on the sale of an asset. There are substantial exemptions protecting the assessment of a transfer tax.
- The amount of tax that you would pay by gifting the asset now is the gift tax paid now (if any) plus the capital gains tax paid upon a sale at death. The amount of tax that you would pay by bequeathing the low basis asset at death is the estate tax paid at death. There is a growth rate where the taxpayer will pay the same taxes whether the taxpayer gives the asset now, or at the taxpayer's death.
- If the taxpayer assumes a growth rate will be higher than that breakeven growth rate, then it is more tax efficient to gift the asset now. If the taxpayer assumes a growth rate is lower than that breakeven growth rate, then it is more tax efficient to bequeath the asset at death and receive the stepped-up basis. The assumed growth rate is a function of the taxpayer's assumed life expectancy times the assumed annual growth rate of the asset.
- The determination of the breakeven growth rate can be expressed by the following formula:

Breakeven Growth Rate During the Taxpayer's Life Expectancy =

$$\frac{\text{Capital Gain Rate(Gift Value} - \text{Basis)} + \text{Gift Tax Rate(Gift Value} - \text{Remaining Gift Tax Exemption)} - \text{Estate Tax Rate(Gift Value} - \text{Estate Tax Exemption at Death)}}{\text{Value of Gift (Estate Tax Rate} - \text{Capital Gains Rate)}}$$

- Consider the following example:

Is it Better for a Private Investor Who Owns a Low Basis Asset
That Will Not Be Sold During His Lifetime, But Will Be Sold On His Death, to
Give That Asset Away to His Family Now, or Hold That Asset Until His Death?

Danny Lowbasis owns $5,340,000 in shares of a near zero basis stock that he is confident he will not sell during his lifetime, but his family would sell immediately after his death. Danny has $5,340,000 in gift tax exemption remaining. Danny believes he has a 15-year life expectancy. Danny also believes the estate tax exemption will increase to $7,540,000 by the time of his death (because of an assumed inflation rate of 2.5%).

Danny is willing to give his family that amount of the stock that will not generate gift taxes or $5,340,000 of the stock, if it saves future estate taxes greater than the future income taxes and health care taxes that will accrue because of the loss of the step-up in basis at death on the gifted shares. Danny asks his planner, Ima Mathgeek, at what assumed annual rate of appreciation during his lifetime does it make sense to give $5,340,000 of the stock away to his family as opposed to holding the stock and bequeathing the stock to his family.

- Under the above formula, if a gift to a non-grantor trust is contemplated, if a taxpayer has a 15-year life expectancy, if after the gift that taxpayer will not have any other assets in which an increased estate tax exemption could be used, and if the taxpayer lives in a state without an income tax (e.g., Texas), the breakeven growth rate over a 15-year period for gifting a zero basis asset is determined under the above formula is as follows:

$$\frac{.25(\$5{,}340{,}000)+.40(0)-.40(\$5{,}340{,}000-\$7{,}540{,}000)}{\$5{,}340{,}000(.15)} = \frac{\$1{,}335{,}000+\$880{,}000}{\$801{,}000} = 276.54\%$$

If Lifetime Basis Enhancing Strategies Are Not Used, From a Tax Perspective, at What Assumed Growth Rate is it Better to Use a Lifetime Transfer Strategy With a Low Basis Asset in Comparison to Retaining the Asset Until Death? (Continued)

- On a compounded annualized basis 276.54%, over a 15-year period, is equal to a per annum growth rate of 9.24%. If a taxpayer lives in California, under those assumptions, the compounded annualized breakeven growth rate is 21.89% for gifting a zero basis asset.
- However, very few taxpayers can afford to give away all of their assets. If you assume the taxpayer will have enough low basis assets at death to offset the anticipated increase in estate tax exemption, even if a gift is made, this will change the breakeven growth rate.
- To determine the breakeven growth rate under those circumstances, in order to isolate the breakeven growth rate for a particular asset, it may be necessary to assume the projected estate tax exemption will be equal to the current gift tax exemption.
- Under the above assumptions, if you assume the taxpayer could use the estate tax exemption that exists at death against other low basis assets, the Texas breakeven annualized compounded growth rate for gifting a zero basis asset is 6.76% and the California breakeven annualized compounded growth rate for gifting a zero basis asset is 19.12%.
- The above analysis would suggest, to a certain extent, from a tax perspective, current planning should be more specific by asset.

There May Be Non-tax Factors, Such as Risk-adjusted Investment Considerations, Which Make Holding a Low Basis Asset Until Death for the Basis Step-up Disadvantageous

- As noted above, non-tax factors such as asset protection planning, planning for future stewardship considerations, and planning for later years post retirement may override tax considerations.
- Risk adjusted investment considerations may also override the tax considerations. There may be a significant inherent investment risk in not diversifying out of a large single asset that is part of one asset class, into multiple assets held in many different asset classes.

Consider the Following Table That Ranks Ten Asset Classes By Pre-tax Returns, and Risk or Volatility, From the Time Period 2001-2013, and Ranks Each Asset Class By Returns For Each Year From 2004 To 2013

▪ Asset Class Returns – As of December 31, 2013

2001 - 2013		Returns									
Returns (Ann.)	Vol (Std. Dev.)	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
MLPs 16.0%	REITs 24.6%	REITs 33.2%	Emerging Market Equity 34.5%	REITs 36.0%	Emerging Market Equity 39.8%	Investment Grade Munis 4.2%	Emerging Market Equity 79.0%	MLPs 35.9%	MLPs 13.9%	Emerging Market Equity 18.6%	US Small Cap 38.8%
Emerging Market Equity 12.5%	Emerging Market Equity 23.5%	Emerging Market Equity 26.0%	Non-US Equity 14.0%	Emerging Market Equity 32.6%	EM Local Debt 18.1%	EM Local Debt -5.2%	MLPs 76.4%	REITs 28.1%	REITs 9.4%	High Yield Munis 18.1%	US Large Cap 32.4%
EM Local Debt 10.2%	US Small Cap 20.2%	EM Local Debt 23.0%	REITs 13.8%	Non-US Equity 26.9%	MLPs 12.7%	Hedge Funds -21.4%	High Yield Munis 32.7%	US Small Cap 26.9%	High Yield Munis 9.2%	Non-US Equity 17.9%	MLPs 27.6%
REITs 9.7%	Non-US Equity 18.0%	Non-US Equity 20.7%	High Yield Munis 8.7%	MLPs 26.1%	Non-US Equity 11.6%	High Yield Munis -27.0%	Non-US Equity 32.5%	Emerging Market Equity 19.2%	Investment Grade Munis 7.6%	REITs 17.1%	Non-US Equity 23.3%
US Small Cap 8.2%	MLPs 16.0%	US Small Cap 18.3%	Hedge Funds 7.5%	US Small Cap 18.4%	Hedge Funds 10.3%	US Small Cap -33.8%	REITs 28.5%	EM Local Debt 15.7%	US Large Cap 2.1%	EM Local Debt 16.8%	Hedge Funds 8.8%
Non-US Equity 6.5%	US Large Cap 15.3%	MLPs 16.7%	MLPs 6.3%	US Large Cap 15.8%	US Large Cap 5.5%	MLPs -36.9%	US Small Cap 27.2%	US Large Cap 15.1%	EM Local Debt -1.8%	US Small Cap 16.3%	REITs 1.2%
US Large Cap 5.4%	EM Local Debt 12.0%	US Large Cap 10.9%	EM Local Debt 6.3%	EM Local Debt 15.2%	Investment Grade Munis 4.8%	US Large Cap -37.0%	US Large Cap 26.5%	Non-US Equity 8.2%	US Small Cap -4.2%	US Large Cap 16.0%	Investment Grade Munis -0.3%
High Yield Munis 5.3%	High Yield Munis 7.4%	High Yield Munis 10.5%	US Large Cap 4.9%	High Yield Munis 10.7%	US Small Cap -1.6%	REITs -39.2%	EM Local Debt 22.0%	High Yield Munis 7.8%	Hedge Funds -5.7%	MLPs 4.8%	Emerging Market Equity -2.3%
Investment Grade Munis 4.3%	Hedge Funds 5.1%	Hedge Funds 6.9%	US Small Cap 4.6%	Hedge Funds 10.4%	High Yield Munis -2.3%	Non-US Equity -43.1%	Hedge Funds 11.5%	Hedge Funds 5.7%	Non-US Equity -11.7%	Hedge Funds 4.8%	High Yield Munis -5.5%
Hedge Funds 3.7%	Investment Grade Munis 3.3%	Investment Grade Munis 2.9%	Investment Grade Munis 1.7%	Investment Grade Munis 3.7%	REITs -17.6%	Emerging Market Equity -53.2%	Investment Grade Munis 7.2%	Investment Grade Munis 3.1%	Emerging Market Equity -18.2%	Investment Grade Munis 3.6%	EM Local Debt -9.0%

▪ Source: Datastream, Bloomberg, JP Morgan Dataquery.

▪ Annualized Volatility and Returns since July 2001 through December 31, 2013. Indices: Investment Grade Municipal Bonds – Barclays Capital Municipal 1-10; Municipal High Yield – Barclays Capital Municipal High Yield; EM Local Debt – JP Morgan EM Local Debt (GBI EM); US Large Cap – S&P 500; US Small Cap Equity – Russell 2000; Non-US Equity – MSCI EAFE; Emerging Market Equity – MSCI Emerging Markets; Hedge Funds – HFRI Fund of Funds Composite; REITs – Dow Jones Wilshire REITs; MLPs – Alerian MLP.

The Capital Gains Tax Advantage of a Step-up at Death May Be Unimportant, if the Asset is a Legacy Asset That Will Not Be Sold By the Taxpayer’s Heirs

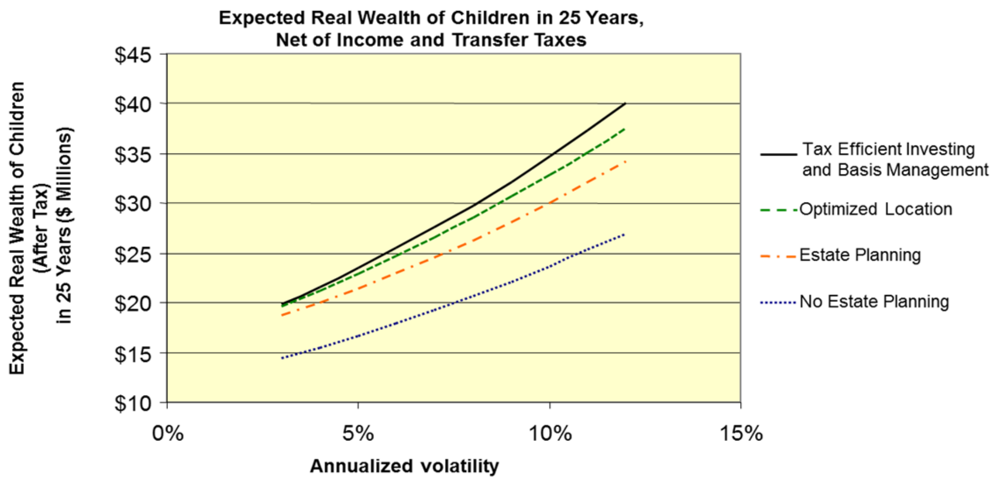
- Another consideration is whether or not a low basis asset will be sold by a taxpayer’s family after the taxpayer’s death.
- If the family views the asset as a “legacy” asset that will never be sold, then income tax considerations are not relevant and transfer tax considerations are paramount.
- Under those circumstances transfer planning for that asset is more important, even if the above formula indicates transfer planning should not be utilized.

Taking All of the Above Factors Into Account, When Should a Gifting Strategy for a Low Basis Asset Be Considered?

- Gift planning should be considered for a low basis asset for a client who is projected to have a taxable estate unless **all** of the following factors exist:
  - The above formula indicates gift planning should not be utilized;
  - The taxpayer thinks it will be unlikely he will ever wish to sell that asset because of its investment risk;
  - Non-tax considerations such as asset protection planning, planning for future stewardship and cash flow planning for retirement do not exist;
  - The taxpayer is convinced that his family will sell that asset immediately after his death; and
  - If it is unlikely a lifetime basis enhancing strategy will be used.
- Those assets and situations do exist, but it is respectfully submitted that those assets and situations are rare (e.g., negative basis real estate that is well positioned to keep its value and the taxpayer's family will sell it immediately after his death.)
- While it may be rare that transfer planning for a wealthy client's low basis assets should not be considered, it is rarer still that a client would also not wish to consider lifetime income tax planning and basis enhancing strategies that are consistent with transfer tax saving strategies.

- Congress gives the private investor significant after tax subsidies for his equity investments in comparison to his fixed income investments.
  - A key income tax factor that affects wealth management strategy of a private investor's portfolio, in comparison to construction of an institutional investor's portfolio, is the significant degree Congress subsidizes an equity investment (which may have a low basis in comparison to value) in comparison to a fixed income investment (which generally has a high basis in comparison to value):
    - Substantially lower rates of taxation;
    - The private investor, under the tax laws, may choose when he realizes taxable income on any equity investment (turnover rate), but cannot when he owns a taxable bond investment; and
    - The private investor may determine how much of an equity investment's unrealized income is ever taxed (e.g., the private investor could bequeath the equity investment to a charity).

- What is the efficient investment frontier for the private investor? (hint: it is probably not what you learned in finance class.)
  - The traditional efficient frontier will not work for the private investor, who pays taxes, like it does for the institutional investor that does not pay taxes. This is because gross return does not equal wealth for the taxable private investor due to income taxes, health care taxes and transfer taxes.
  - A wealth management strategy for a private investor involves much more than constructing an investment strategy. A wealth management strategy involves estate and income tax planning that is consistent with the private investor's stewardship goals, optimized location of asset classes in the tax-advantaged entities the private investor has created, and the use of income tax efficient investing and basis enhancing strategies when possible. A sample efficient frontier for the private investor, as a steward of wealth, is illustrated below.



For illustrative purposes only

*Chart reproduced from *Modern Investment Management* by Bob Litterman and the Quantitative Resources Group of Goldman Sachs Asset Management (2003)

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (See Pages 15-40 of the Paper)

- The technique:
  - Contributing and/or selling assets to a grantor trust:
    - A taxpayer could contribute a low basis asset to an intentionally defective grantor trust that does not pay income taxes or health care taxes.
    - The taxpayer will pay the income taxes and health care taxes associated with the trust.
    - If the grantor trust sells a low basis asset, the taxpayer will pay less estate tax, because his estate is liable for the income taxes and health care taxes associated with that sale. A trust that does not pay income taxes and health care taxes will grow much faster than a trust that does pay income taxes and health care taxes. Any growth by the grantor trust's assets will escape future estate taxes.
    - Stated differently, depending on one's tax perspective, when a taxpayer uses grantor trusts, that taxpayer is using income taxes and health care taxes to subsidize the payment of transfer taxes or vice versa.

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (Continued)

- Consider the following example:

<u>Is it Better for a Taxpayer Who Owns a Low Basis Asset: (i) to Engage in Discount and Grantor Trust Planning and Then Sell the Low Basis Stock and Reinvest in a Diversified Portfolio; (ii) to Immediately Sell That Asset and Hold the Diversified Portfolio Until Death Without Any Lifetime Planning; or (iii) to Hold That Low Basis Asset Until the Taxpayer's Death and Diversify After His Death?</u>

Danny Diversified asks his planner, Ima Mathgeek, to assume that he owns $2,500,000 in a diversified portfolio and $45,340,000 in a zero basis marketable stock that pays a 1% dividend. Danny assumes the diversified portfolio will grow at 7.4% pre-tax with 0.6% of the return being taxed at ordinary rates, 2.4% of the return being tax-free and 4.4% of the return being taxed at long-term capital gains rates with a 30% turnover. If Danny engages in estate planning, he will form a single member LLC with 1% managing member interests and 99% non-managing member interests. In the planning alternative it is assumed Danny gifts $5,340,000 of the non-managing interests in the LLC to a grantor trust and sells the rest of the non-managing interests to the grantor trust for a note. It is assumed that the non-managing interests in the LLC will have a valuation discount of 35%. All of the low basis stock owned by the LLC will be sold after the planning is completed. The trustee of the grantor trust will reduce the note with part of the cash proceeds in order that Danny can pay his income taxes.

Secondly, Danny asks Ima to assume the same facts, except Danny sells the zero basis asset and invests in a diversified portfolio, but does not do any further planning.

Finally, Danny asks Ima to assume that he does not sell the zero basis stock, or do any planning, and that his family sells the asset after his death.

Danny will need about $300,000 a year (inflation adjusted) for his consumption needs. Danny assumes that during this 15-year period the diversified portfolio will earn 7.4% before taxes with .6% of the return being taxed at ordinary rates, 2.4% of the return being tax-free and 4.4% of the return will be taxed at long-term rates with a 30% turnover. Danny assumes the single stock, if he does not sell it, will always have a 1% dividend rate.

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (Continued)

- Ima Mathgeek makes the calculations and concludes the following:
  - If Danny lives in Texas, if Danny engages in the estate planning assumed above, if the diversified portfolio performs as assumed above (7.4% annual return before taxes), if Danny and/or the planning entity sells the single stock, and if Danny then lives 15 years, the single stock must earn 7.9% (including dividends) or more annually to outperform the planning and diversification strategy. However, if Danny lives in California, under those same facts, the single stock must earn 6.38% or more annually to outperform the planning and diversification strategy.
  - If Danny lives in Texas, if Danny does **not** engage in any lifetime estate planning, and if the diversified portfolio performs as assumed above (7.4% annual return before taxes) after Danny sells the single stock, and if Danny then lives 15 years, the single stock must earn 4.6% (including dividends) or more annually to outperform the diversification strategy. However, if Danny lives in California, under those same facts, the single stock must earn 3.37% (including dividends) or more annually to outperform the diversification strategy.
- The above example illustrates the power of using a grantor trust, estate freeze and discounting strategy that is a "wrapper" around a diversification wealth management strategy. Even with added immediate capital gains taxes, and the lost investment opportunity cost of those taxes with the lifetime diversification of the zero basis stock, there are **less** overall taxes with the estate planning wrapper (assuming similar pre-tax earnings) than with the hold and sell after death strategy, in a low tax state, unless the single stock has an annual 6.76% ($\frac{7.9-7.4}{7.9}$) **improvement** in pre-tax return performance over the diversified portfolio.

- The advantage of locating income tax inefficient asset classes inside a grantor trust that is not subject to estate taxes.
  - The technique of asset class location in order to improve the after-tax, after-risk adjusted rate of return for an investment portfolio.
    - In order to optimize after-tax risk-adjusted returns, wealth management for the private taxable investor involves: (i) the creation of tax advantaged entities; (ii) the investment in asset classes that produce an optimal after-tax risk-adjusted return; and (iii) asset class location in different tax advantaged entities.
    - Stated differently, not every asset class that an investor and the investor's family would desire in their collective investment portfolios in order to reduce the portfolio's risk, or volatility, lends itself to investment via a tax efficient low turnover fund (i.e., a broad based passive equity fund). For instance, asset classes such as high yield bonds, hedge funds, master limited partnerships, emerging market debt and various forms of private equity are not available in a passive, low turnover (tax efficient) product. An investor and his family may have all of those asset classes in their collective portfolios.
  - Location of tax inefficient investment classes in a grantor trust significantly ameliorates the income income tax inefficiencies of those classes, because transfer taxes are saved when the grantor pays the income taxes of the trust.
    - Engaging in an asset class location strategy of locating income tax inefficient asset classes in grantor trusts, and other family planning vehicles, may greatly ameliorate those tax inefficiencies and lead to an optimal after tax risk adjusted return for the private investor.
    - There exist various techniques for the investor to have direct, or indirect, access to these tax efficient entities.
    - There exist various techniques for the investor to create these tax efficient entities without paying gift taxes.

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (Continued)

- The table below illustrates the annual growth required for an equity fund to double (after both income taxes and transfer taxes) for an investor's beneficiaries, if the investor dies in 10 years, depending upon how a fund is located:

	Annual Growth Rate Required on a $1mm Equity Fund Which Has a 2% Dividend Rate to Achieve $2.06mm (After Tax) for Investor's Beneficiaries for an Investor Who Dies in 10 Years[1], Depending Upon How a Fund is Located, and Percentage Improvement to Equal Equity Fund with 5% Turnover[2] or 50% Turnover[3]																	
	No Estate Planning Fund Owned by Investor						Estate Planning Techniques (Fund is Not Subject to Estate Taxes)											
Equity Fund's Annual Turnover of Assets	Fund is Owned by Investor and Investor's Estate is Not Subject to Estate Tax Because of Existing Exemptions and/or Charitable Bequests			Fund is Owned by Investor and is Fully Taxable in the Investor's Estate			Fund is in a Grantor Trust and Grantor Buys the Assets from the Grantor Trust for Cash Shortly Before Grantor's Death			Fund is in a Grantor Trust at Investor's Death and Remaining Unrealized Income is Taxed in 10 Years Before Grantor Dies			Fund is in a Grantor Trust at Investor's Death and Remaining Unrealized Income is Taxed in 10 Years After Grantor Dies			Fund is Held in a Non-Grantor Trust and Remaining Unrealized Income is Taxed in 10 Years		
	A			B			C			D			E			F		
	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)
Equity Fund with 5% Annual Turnover (4)	6.34%	N/A	N/A	12.21%	N/A	N/A	6.00%	N/A	N/A	6.59%	N/A	N/A	7.06%	N/A	N/A	7.49%	N/A	N/A
Equity Fund with 50% Annual Turnover (5)	8.16%	28.75%	N/A	15.62%	27.99%	N/A	6.91%	15.10%	N/A	7.05%	6.88%	N/A	7.37%	4.42%	N/A	8.48%	13.28%	N/A
Equity Fund with 200% Annual Turnover (6)	10.86%	71.39%	33.12%	21.03%	72.34%	34.65%	7.94%	32.40%	15.03%	7.94%	20.50%	12.75%	7.94%	12.49%	7.73%	10.86%	45.10%	28.09%

(1) These calculations ignore the effect of investment management fees, state income taxes and investment friction costs. These calculations assume the estate planning vehicles are created without paying gift taxes. An equity fund owned by a tax exempt entity would need 5.52% annual growth rate of return over 10 years, assuming a 2% dividend rate, to achieve $2.06mm.
(2) % improvement necessary to equal fund with 5% annual turnover.
(3) % improvement necessary to equal fund with 50% annual turnover.
(4) 100% short-term realized gains in year 1, 0% short-term realized gains in years 2-10; 100% long-term realized gains in years 2-10.
(5) 100% short-tern realized gains in year 1; 25% short-term realized gains and 75% long-term realized gains in years 2-10.
(6) 100% short-term realized gains in years 1-10.

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (Continued)

- The asset location of a tax inefficient investment is particularly important. There is a much more modest differential on what is needed to earn pre-tax for a tax inefficient investment, in comparison to a tax efficient investment, in order to double the investment over a 10-year period, if the investment is located in an estate tax protected grantor trust, as opposed to being taxed in the taxpayer's estate.

- For instance, if a fund is located in an estate tax protected grantor trust, a 200% turnover fund (e.g., certain hedge funds) needs to earn 7.94% before taxes to double the value of the investment after taxes in 10 years and a 5% turnover fund (e.g., S&P 500 index fund) needs to earn 7.06% before taxes to double the investment after taxes in 10 years.

- Stated differently, a 12.49% improvement in annual pre-tax return is necessary for a 200% turnover fund to equal a 5% annual turnover fund, if the fund is located in a grantor trust and sold after the grantor's death (see column E(2)). Contrast this result with those same funds being held in the taxpayer's estate, if the two different types of funds are subject to estate taxes. If the funds are subject to estate taxes, a 5% turnover will need to earn 12.21% before taxes to double the investment after taxes in 10 years, and the high 200% turnover fund will need to earn 21.03% before taxes to double the investment after taxes in 10 years. A 72.34% annual pre-tax improvement in return is necessary for a 200% turnover fund to equal a 5% annual turnover fund, if the fund is fully taxable in the investor's estate.

- The difference between 12.49% annual pre-tax needed improvement and 72.34% annual pre-tax needed improvement is obviously significant.

Wealth Management Strategies That Use Grantor Trusts to Lower a Taxpayer's Total Net Income and Transfer Taxes (Continued)

- Considerations of the technique:
  - There may need to be substantive equity in the trust from prior gifts (is 10% equity enough?) before the sale is made.
  - State income tax considerations.
  - The IRS could be successful in the argument, that because of the step transaction doctrine, a valuation discount is not appropriate in valuing the transferred entity interest.
  - If the assets decrease in value, the gift tax exemption equivalent may not be recoverable.
  - There may be capital gains consequences with respect to the note receivables and/or note payables that may exist at death.
  - The IRS may contest the valuation of any assets that are hard to value that are donated to a grantor trust or are sold to such a trust.
    - The problem and the probable solution: defined allocation transfers.
    - Defined value allocation clauses involving a defined dollar transfer by the donor.
    - Defined value allocation clauses involving both a defined dollar transfer by the donor and a parallel formula qualified disclaimer by the donee.

- The technique:
  - All wealthy taxpayers should consider an estate freeze estate planning technique that does not use any of their unified credit, even those taxpayers who have low basis assets. In all states, the marginal transfer tax rate is higher than the marginal federal and state capital gains rate. Thus, removing future growth of a taxpayer's assets, while preserving the taxpayer's unified credit to be used at the taxpayer's death, always results in lower net transfer and capital gains taxes, even for zero basis assets that are not sold during the taxpayer's lifetime.
- Consider the following example:

Contribution of a Leveraged FLLC Member Interest to a GRAT

Neal Navigator approaches his attorney, Lenny Leverage, and tells him that he would like to transfer, through the use of a GRAT, the maximum amount that he can transfer using a three-year GRAT that will terminate in favor of a grantor trust for his wife and children. Neal tells Lenny that he has around $32,000,000 in financial and private equity assets. Neal is willing to have a significant portion of his assets subject to a three-year GRAT.

Lenny likes many of the aspects of a GRAT, including its built-in revaluation clause. Lenny also likes using FLPs, or FLLCs, because of the substantive non-tax investment and transfer tax advantages that are sometimes associated with these entities (e.g., they may effectively deal with qualified purchasers and accredited investor requirements for alternative investments and because of the possibility of valuation discounts with FLLCs).

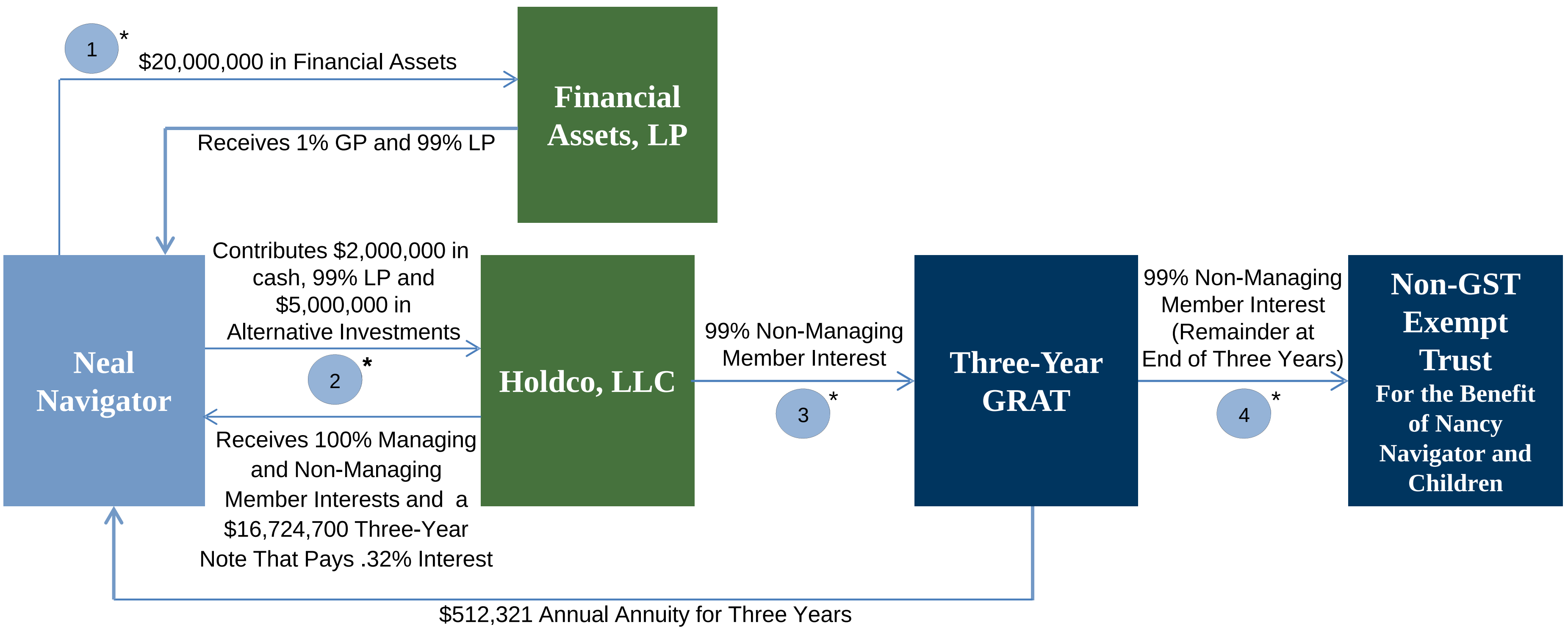
Despite the advantages of GRATs and the possibility of valuation discounts of FLPs and FLLC's, Lenny, feels that there are certain disadvantages with contributing FLP interests and FLLC member interests to a GRAT in comparison to a sale of partnership interests to a grantor trust, including the disadvantage of the higher Statutory Rate and the potential difficulties in paying the retained annuity amounts in a GRAT with hard to value FLP or FLLC interests.

Lenny assumes Neal's limited partnership interest will have a 35% valuation discount and Neal's non-managing member interest in Holdco will have a 20% valuation discount.

Lenny proposes to eliminate those disadvantages by having a part sale/part contribution of Neal's assets to a single member FLLC in exchange for a note equal to $16,724,700 (which is 90% of the assumed value of $2,000,000 cash, the limited partnership interest and the alternative investments that are contributed to the single member LLC).

The Advantages and Considerations for a Taxpayer to Contribute and Sell the Taxpayer's Investments to a Single Member FLLC and Then Contributing Non-Managing Member Interests in That FLLC to a GRAT (Continued)

- Lenny's proposed technique is illustrated below:



* These transactions need to be separate, distinct and independent.

The Advantages and Considerations for a Taxpayer to Contribute and Sell the Taxpayer's Investments to a Single Member FLLC and Then Contributing Non-Managing Member Interests in That FLLC to a GRAT (Continued)

- Advantages of the technique:
  - If leverage is used in creating the FLLC that is contributed to the GRAT, much more wealth will be transferred to the remainderman of the GRAT than through the use of a conventional GRAT.
    - The calculations below assume different rates of returns, as noted. The assumed IRC Sec. 7520 rate is 2.2%:

Hypothetical Techniques: Assets Earn 2.20% Annually	Neal Navigator	Navigator Children	% Improvement Over Hypothetical Technique #1a	% Improvement Over Hypothetical Technique #2a
Holdco, FLLC Distributes about 2% of the value of assets it owns directly and indirectly.				
No Further Planning	$33,987,889	$0	N/A	N/A
Hypothetical Technique #1a (Conventional GRAT): Contribution of Assets to a Three-Year GRAT that Does Not Use Discounted Entities or Leverage; Remaindermen of GRAT is a Non-GST Grantor Trust	$33,987,745	$144	N/A	N/A
Hypothetical Technique #2a (Contributing Non-Leveraged Family Entities to a Conventional GRAT): Formation of Discounted Entities Without Leverage, Contribution to a Three-Year GRAT	$32,512,758	$1,475,131	1022800.97%	N/A
Hypothetical Technique #3a (Contributing Leveraged Family Entities to a Conventional GRAT): Formation of a Leveraged Entity that Can be Discounted; Contribution to a Three-Year GRAT	$26,216,640	$7,771,249	5388721.62%	426.82%

The Advantages and Considerations for a Taxpayer to Contribute and Sell the Taxpayer's Investments to a Single Member FLLC and Then Contributing Non-Managing Member Interests in That FLLC to a GRAT (Continued)

Hypothetical Techniques: Assets Earn 7.40% Annually	Neal Navigator	Navigator Children	% Improvement Over Hypothetical Technique #1b	% Improvement Over Hypothetical Technique #2b
Holdco, FLLC Distributes about 2% of the value of assets it owns directly and indirectly.				
No Further Planning	$38,774,953	$0	N/A	N/A
Hypothetical Technique #1b (Conventional GRAT): Contribution of Assets to a Three-Year GRAT that Does Not Use Discounted Entities or Leverage; Remaindermen of GRAT is a Non-GST Grantor Trust	$35,891,596	$2,883,358	N/A	N/A
Hypothetical Technique #2b (Contributing Non-Leveraged Family Entities to a Conventional GRAT): Formation of Discounted Entities Without Leverage, Contribution to a Three-Year GRAT	$33,985,022	$4,789,931	66.12%	N/A
Hypothetical Technique #3b (Contributing Leveraged Family Entities to a Conventional GRAT): Formation of a Leveraged Entity that Can be Discounted; Contribution to a Three-Year GRAT	$26,883,832	$11,891,122	312.41%	148.25%

- Under all rates of return, the leveraged GRAT substantially outperforms the other techniques.
- The reason for the improved performance with the contribution of member interests in a leveraged FLLC is (i) the average hurdle rate is lower with leverage and (ii) the GRAT annuity amount is paid with the normal distributable cash flow of the FLLC instead of discounted FLLC member interests. The chief reason for the outperformance is the second reason. A significant arbitrage is created when a heavily discounted asset is contributed to a GRAT and undiscounted cash is used to pay the annuity.

- Other advantages of the technique:
  - The technique has many of the same advantages as the sale to the grantor trust.
  - Valuation advantage of a GRAT.
  - Ability of grantor to pay for income taxes associated with Holdco, the GRAT and remainder grantor trust gift tax-free and substitute assets of Holdco, the GRAT and remainder grantor trust income tax-free.
  - Synergy with other techniques.
  - Comparatively low hurdle rate.
  - High leverage.
  - Non-recourse risk to remaindermen.
  - The "Atkinson" worry about paying a GRAT annuity with a hard-to-value asset may be eliminated.
  - The taxpayer's unified credit does not have to be used with this technique as it would with most other freeze techniques, which could save capital gains taxes on the death of the taxpayer.
  - There may be less danger that the retained note will be recharacterized as a deemed retained interest in a trust with this technique than with a sale to a grantor trust.

The Advantages and Considerations for a Taxpayer to Contribute and Sell the Taxpayer's Investments to a Single Member FLLC and Then Contributing Non-Managing Member Interests in That FLLC to a GRAT (Continued)

- Considerations of the technique:
  - Part (but not all) of the FLLC interests could be taxable in the grantor's estate if the grantor does not survive the term of the GRAT.
  - It is more complex than the other GRAT techniques.
  - Care must be taken if the underlying asset that is sold or contributed to the single member LLC is stock in a Subchapter S corporation.

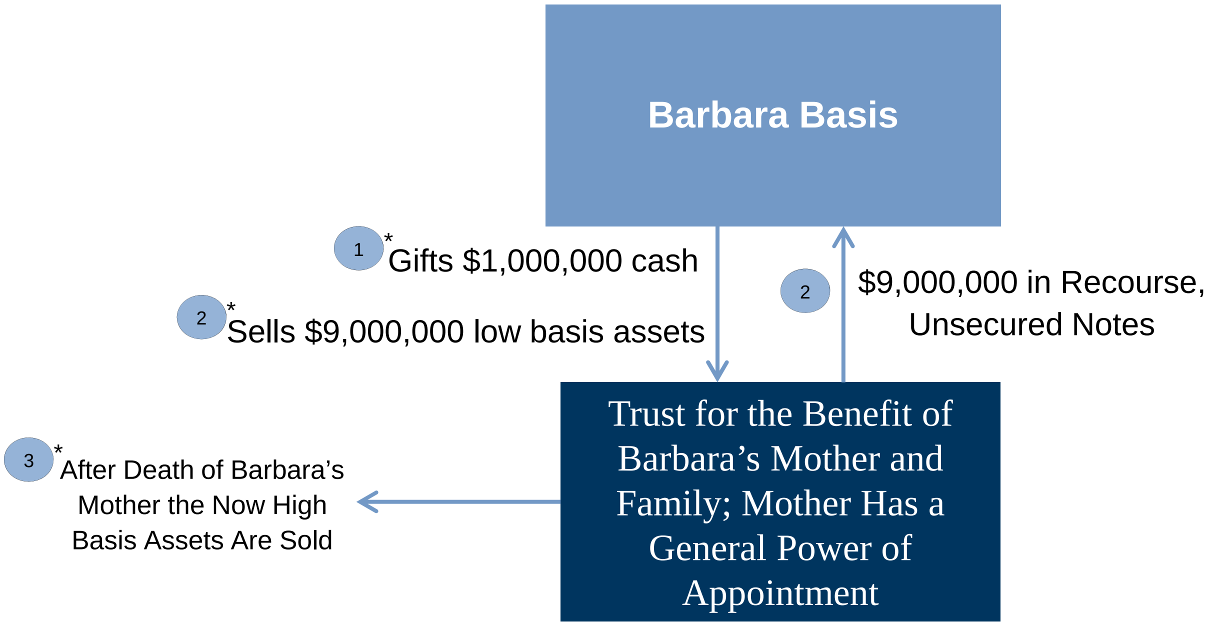
Swapping Assets Inside a Grantor Trust, or a Disregarded Single Member LLC, Before the Death of the Grantor (See Pages 54-55 of the Paper)

- Advantages of the Technique:
  - The low basis assets, if retained by the grantor, will receive a basis step-up on the grantor's death.
  - If the low basis assets are sold by the grantor before his or her death the cost of the capital gains taxes will be borne by the grantor (just as they would have been if the assets had been sold by the grantor trust or a disregarded single member LLC.)
- Considerations of the Technique:
  - The grantor may not have any high basis assets, or cash, to swap.
  - To the extent, after the swap of assets, "swapped" low basis assets grow more than the "swapped" high basis assets in the grantor trust, the grantor's estate taxes will increase.

The Gift and Sale of Low Basis Assets to a Grantor Trust That is Subject to an Older Generation's General Power of Appointment and Estate Taxes (See Pages 55-58 of the Paper)

Private
Wealth
Management

- The technique:
  - A taxpayer could gift cash and then later sell some of his low basis assets (for adequate and full consideration) to a grantor trust in independent transactions. The beneficiaries of the trust could be the taxpayer's descendants and an older generation beneficiary, such as a parent. The older generation beneficiary could be given a general power of appointment that will be structured to include those trust assets in his or her estate. If the grantor first gifts high basis cash to the trust, IRC Sec. 1014(e) should not apply to that gift of cash because it is not a low basis asset.
  - The technique is illustrated below:



* These transactions need to be separate, distinct and independent.

The Gift and Sale of Low Basis Assets to a Grantor Trust That is Subject to an Older Generation's General Power of Appointment and Estate Taxes (Continued)

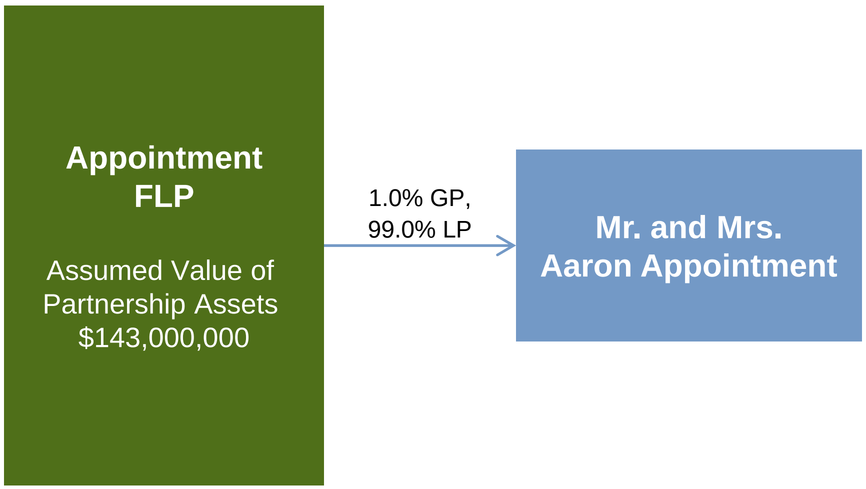
- Advantages of the technique:
  - This technique has the same advantages as a sale to a grantor trust.
  - The assets of the trust will receive a step-up in basis on the older generation beneficiary's death equal to the fair market value of the assets, if net value rule of Treas. Reg. §2053-7 does not apply.
  - The assets of the trust may be generation skipping tax protected
  - The older generation beneficiary may not have to pay estate taxes because of her general power of appointment, if her then available unified credit exceeds the net value of the trust.
- Considerations of the technique:
  - The grantor of the trust will still have a low basis in his or her note upon the death of the older generation beneficiary.
    - Under the logic of Revenue Ruling 85-13, the note does not exist as long as the grantor status of the trust is maintained.
    - The note may be satisfied before the grantor's death without tax consequences.
    - There is an absence of authority, and a split among certain commentators, as to whether satisfaction of the note after the grantor's death will cause capital gains consequences
  - The older generation beneficiary could exercise his or her general power of appointment in an unanticipated way.
  - Many of the same considerations for the use of a grantor trust and a sale to a grantor trust would also be present for this technique.

- The effect of IRC Sec. 1014(e) must be considered, if cash is not given and low basis assets are used to capitalize the trust.
- The effect of Treas. Reg. §20.2053-7 needs to be considered.
- Is grantor trust status lost for the original grantor when the older generation beneficiary dies and the trust assets are included in the beneficiary's estate?
  - Treas. Reg. §1.671-2(e)(6) contains an example that would seem to indicate that the grantor trust status would not change, if the older generation does not exercise his or her general power of appointment:

    Example 8. G creates and funds a trust, T1, for the benefit of B. G retains a power to revest the assets of T1 in G within the meaning of section 676. Under the trust agreement, B is given a general power of appointment over the assets of T1. B exercises the general power of appointment with respect to one-half of the corpus of T1 in favor of a trust, T2, that is for the benefit of C, B's child. Under paragraph (e)(1) of this section, G is the grantor of T1, and under paragraphs (e)(1) and (5) of this section, B is the grantor of T2.

The Advantages and Considerations of a Transferor Selling Assets to a Trust Created By the Transferor's Spouse That Names the Transferor as a Beneficiary, Gives the Transferor a Special Power of Appointment, and Under Which the Transferor's Spouse is Considered the Income Tax Owner ("Spousal Grantor Trust") (See Pages 59-63 of the Paper)

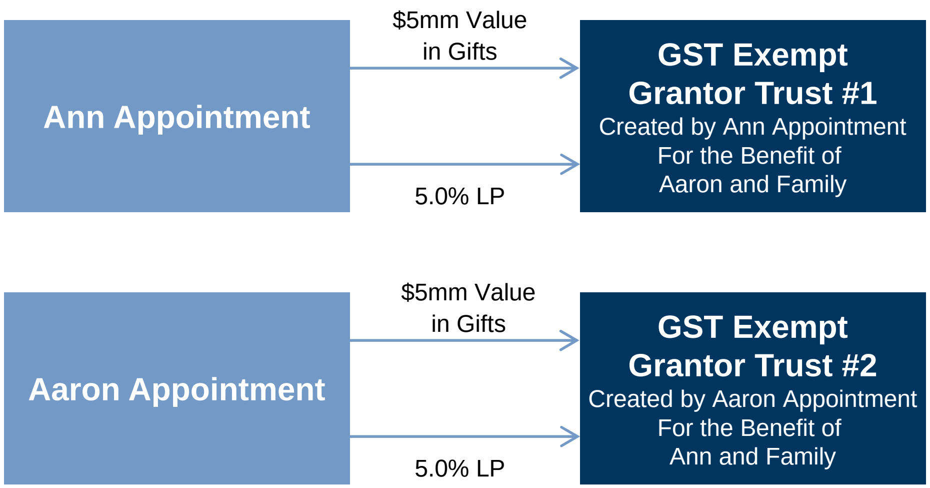
- Sales to a spousal grantor trust may constitute effective estate planning. Consider the following example:
  - The ownership of the FLP is illustrated below:



Partner	Ownership %
Aaron Appointment (or affiliates)	1.0% GP, 94.0% LP
Ann Appointment	5.0% LP

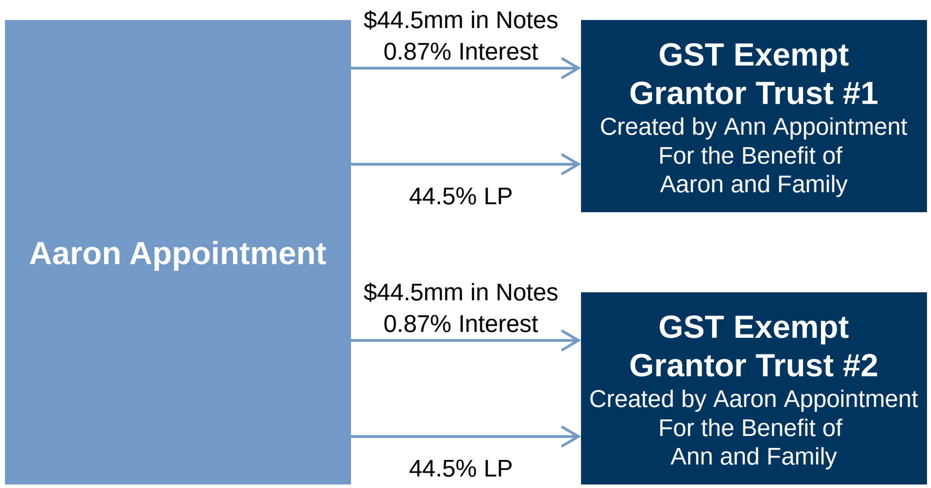
The Advantages and Considerations of a Transferor Selling Assets to a Trust Created By the Transferor's Spouse That Names the Transferor as a Beneficiary, Gives the Transferor a Special Power of Appointment, and Under Which the Transferor's Spouse is Considered the Income Tax Owner ("Spousal Grantor Trust") (Continued)

– The proposed gift to create the proposed trusts is illustrated below:



Partner	Ownership %
Aaron Appointment (or affiliates)	1.0% GP, 89.0% LP
GST Exempt Grantor Trust #1 Created by Ann Appointment	5.0% LP
GST Exempt Grantor Trust #2 Created by Aaron Appointment	5.0% LP

– The proposed sale of the remaining 89% limited partnership interests by Aaron is illustrated below:

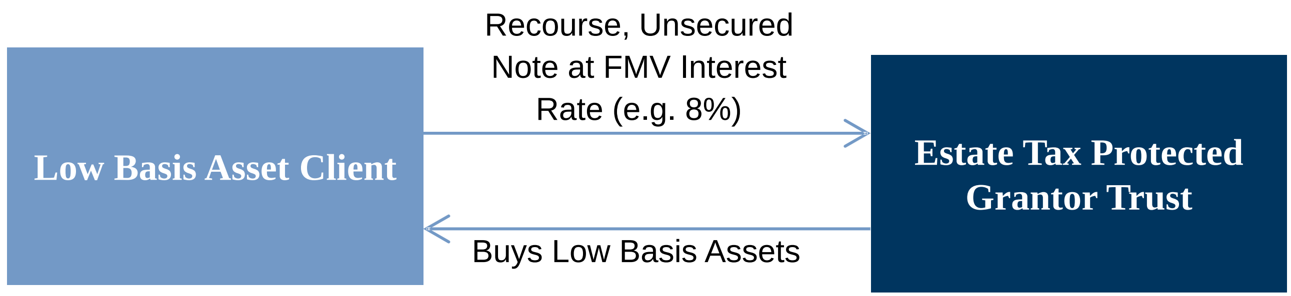


Partner	Ownership %
Aaron Appointment (or affiliates)	1.0% GP, 89.0% LP $89,000,000 Notes Receivable
GST Exempt Grantor Trust #1 Created by Ann Appointment	49.5% LP $45,500,000 Note Payable
GST Exempt Grantor Trust #2 Created by Aaron Appointment	49.5% LP 45,500,000 Note Payable

- Advantages of the technique:
  - There will be no capital gains consequence on the original sale of the assets to the trust.
  - The technique, with respect to a sale to the trust in which the seller has a power of appointment, has the potential of mitigating gift tax surprises.
  - It has the advantage of allowing the transferor to be a beneficiary of the trust and have a power of appointment over the trust.
  - The technique has many of the other advantages of the sale to a grantor trust technique.
- Considerations of the technique:
  - This technique has many of the considerations of the sale to a grantor trust technique.
  - Additional federal income tax considerations.
  - Additional estate tax considerations.
    - It is important that any sale by a beneficiary of a trust be for "fair and adequate consideration" and also be considered a "bona fide sale".
    - If the sale is not for "adequate and full consideration," or if the sale is not considered to be a "bona fide sale," the value of the assets of the trust at the time of the beneficiary's death will be brought back into the beneficiary's estate under IRC Secs. 2036 and/or 2038 because the seller obviously has a retained interest in the trust (unlike a conventional sale to a grantor trust in which the seller does not have a retained interest in the trust).

Borrowing Strategies That Lower the Net Total Income Tax and Transfer Tax
(See Pages 63-71 of the Paper)

- The technique:



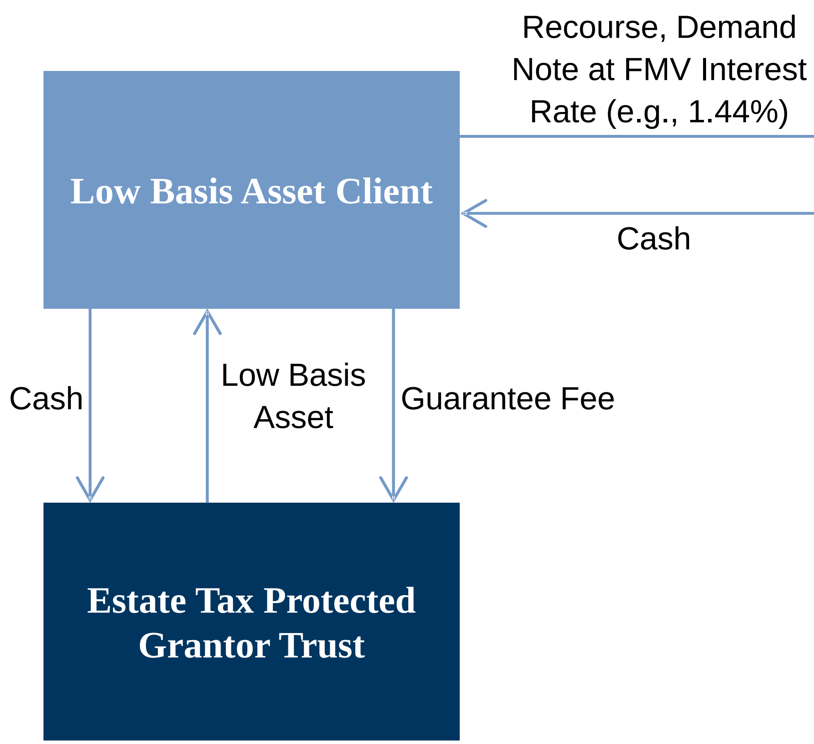
- Advantages of the technique:
  - The low basis asset will receive a step-up in basis on the grantor's death.
  - Estate taxes will be saved if the interest carry on the note owed to the grantor trust exceeds the growth of the purchased low basis note.
  - As long as the trust is a grantor trust, the interest payments on the note could be made in-kind without any income tax consequences.

Borrowing Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

- Considerations of the technique:
  - An independent appraisal will be necessary to determine that the interest rate on the recourse, unsecured note is a fair market value interest rate. If the interest rate is too high, there may be gift tax consequences.
  - If the note is paid back after the grantor's death, there may be capital gains consequences to the trust. Stated differently, the trust's basis in the note may be equal to the basis of the low basis asset that is exchanged for the note. That result may not change on the death of the grantor, when the trust becomes a complex trust.
    - One way to remove this consideration may be to borrow cash from an independent third party bank. Consider the following additional hypothetical transactions.

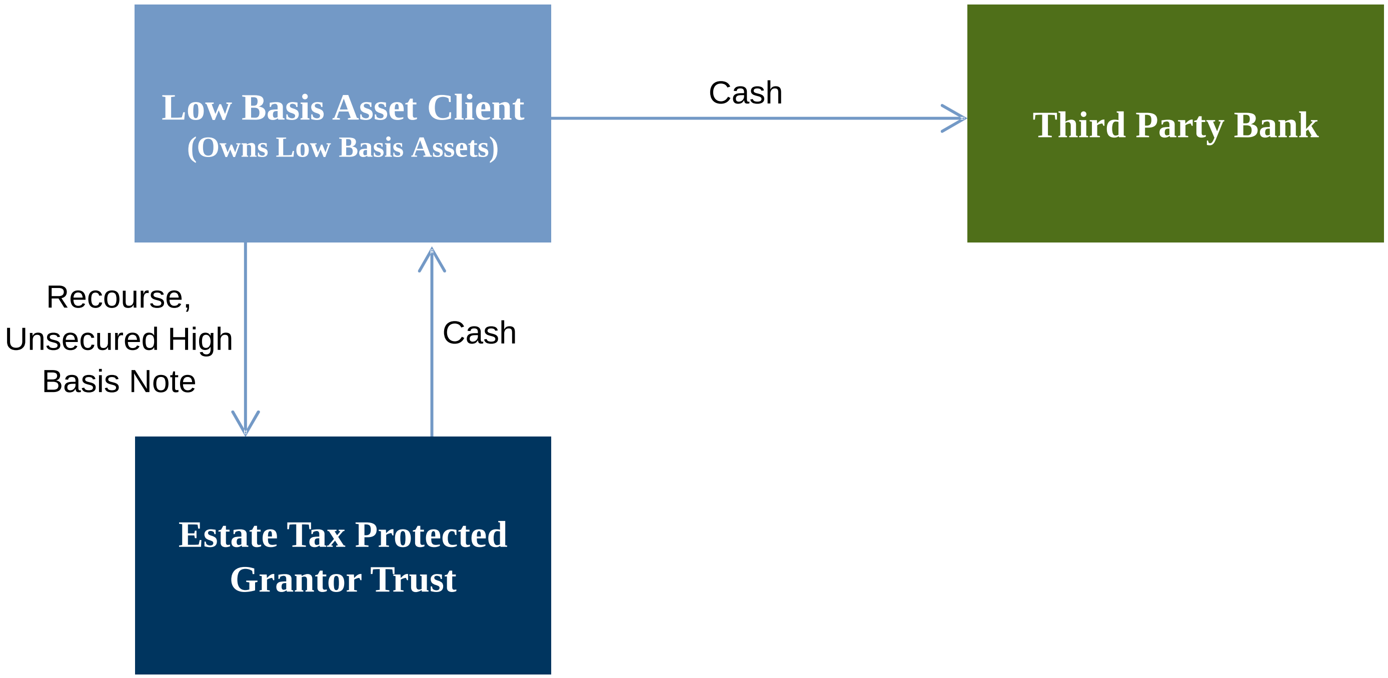
Involvement of a Third Party Lender May Ameliorate the Capital Gains at Death Question

- Hypothetical Transaction #1:



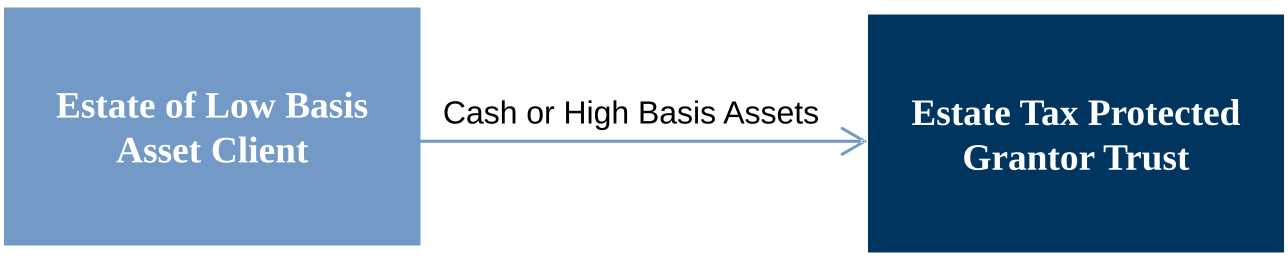
Involvement of a Third Party Lender May Ameliorate the Capital Gains at Death Question (Continued)

- Hypothetical Transaction #2:



Involvement of a Third Party Lender May Ameliorate the Capital Gains at Death Question (Continued)

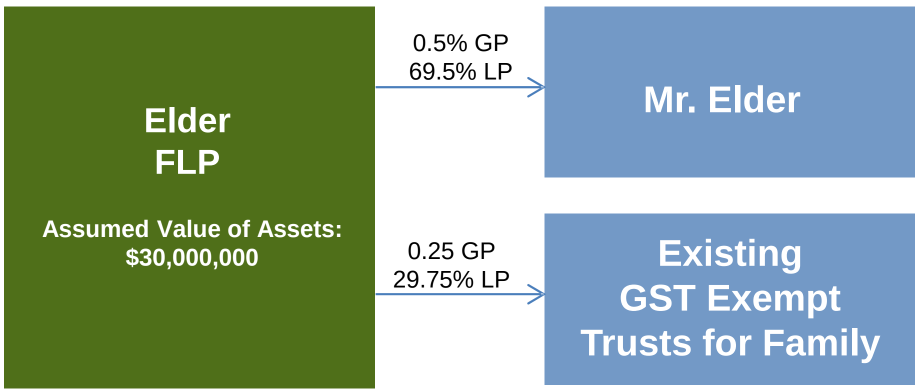
- Hypothetical Transaction #3:
  - Upon the death of Low Basis Asset Client, the estate satisfies the note to the Estate Tax Protected Grantor Trust with the now high basis assets or cash (if the high basis assets are sold after the death of Low Basis Asset Client):



  - Is the basis of the note received for cash loaned by the Estate Tax Protected Grantor Trust equal to the cash's fair market value?
  - It is difficult to imagine that when the Estate Tax Protected Grantor Trust loans cash its basis in the resulting note is anything less than the value of the cash. Stated differently, may cash ever have a basis lower that the amount of that cash? Perhaps in the different world of grantor trusts it may.
  - If that is a concern, consider converting the grantor trust to a complex trust before the loan of the cash is made. If the conversion is made before the trust makes a loan to the grantor there would not appear to be any tax consequences to that conversion (because there are not any outstanding loans owed to or by the grantor). The loan of cash from the now, complex trust, should be treated like any loan of cash from a complex trust.

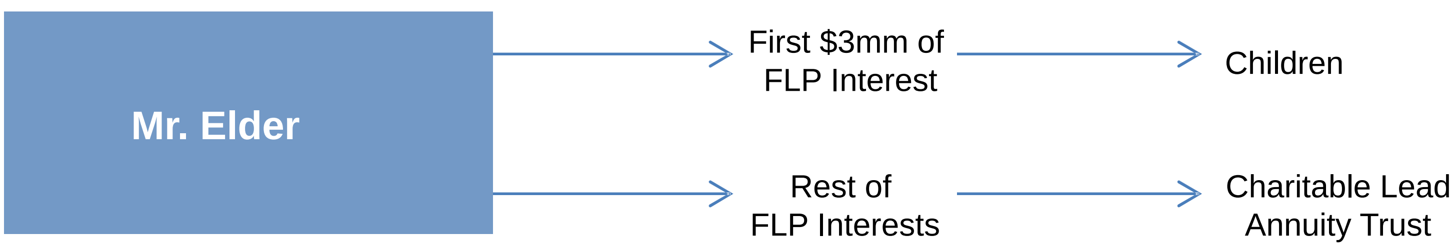
Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (See Pages 71-81 and See Pages 126-129 of the Paper)

- The technique:
  - Use of a leveraged buy-out of a testamentary charitable lead annuity trust ("CLAT")
  - During Ed's lifetime he creates a FLP with his family:



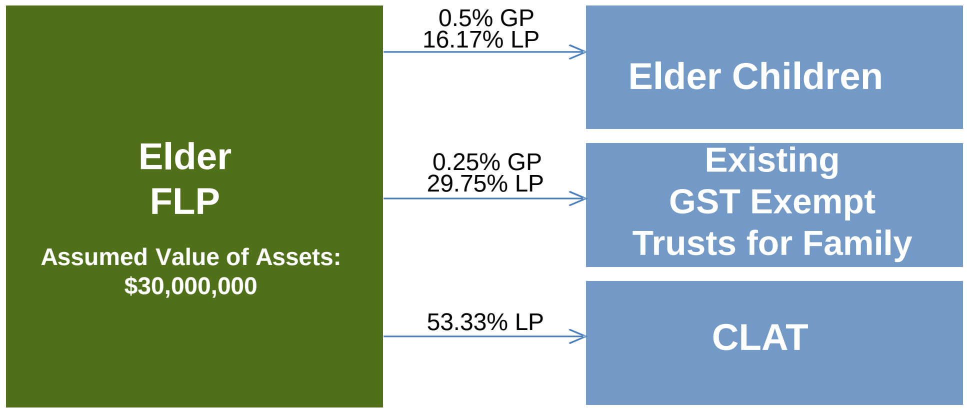
Elder, LP Partner	Ownership (%)
Mr. Elder	0.5% GP; 69.5% LP
Existing GST Exempt Trusts for Family	0.25% GP; 29.75% LP

  - After Ed's death his will conveys his partnership interest as follows:

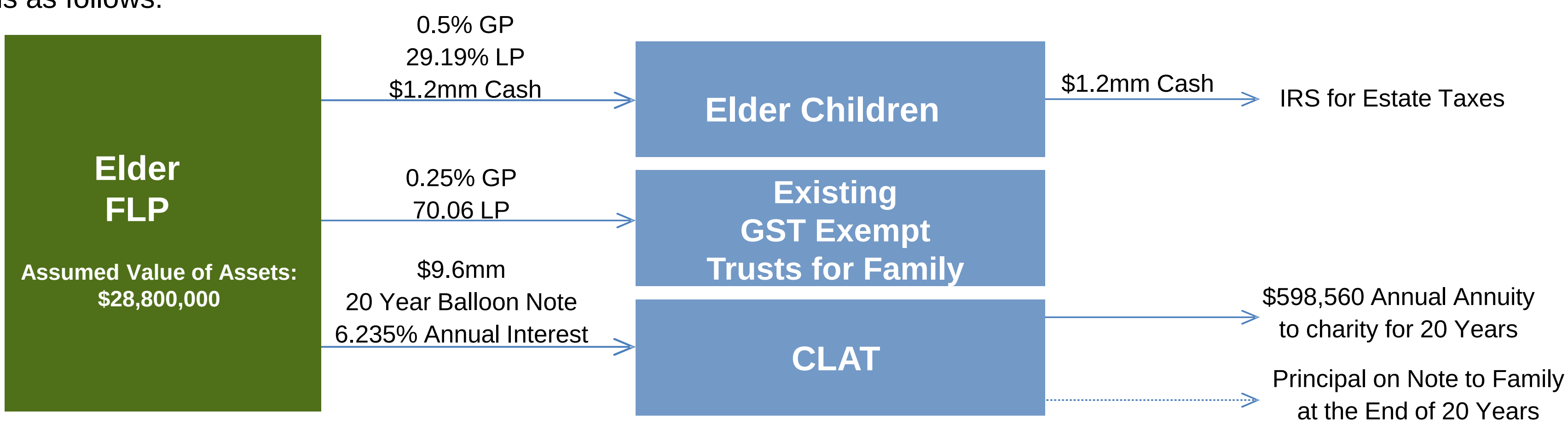


Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

– The percentage ownership of Elder Family Limited Partnership before any redemption pursuant to a probate court hearing is as follows:



– The percentage ownership of Elder Family Limited Partnership before any redemption pursuant to a probate court hearing is as follows:



Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

- Advantages of the technique:
  - No estate taxes have to be paid with a gift to a properly structured and implemented zeroed-out CLAT.
  - There is a partial step-up in basis in the decedent's partnership interest that is bequeathed to a zeroed-out CLAT.
  - If the decedent bequeaths a dollar gift to his family and the rest of his estate to a zeroed-out CLAT, his will acts like a defined value allocation clause.
  - The family does not have to wait 20 years to access the investments, if the investments are successful.
  - Significant improvement in the after tax net worth for both the family of the decedent and the decedent's favorite charitable causes will accrue because of this technique.

Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

Summary of Results For $30 Million of Assets Growing at 3% Per Year (Pre Tax) – No Further Planning vs. 20 Year Testamentary CLAT Technique; 20 Year Future Values; Post-Death Scenarios (assuming Mr. Elder dies in year 1)

Technique	Elder Children	Elder GST Exempt Trust	Charity	IRS Taxes on Investment Income	IRS Investment Opportunity Cost	IRS Estate Tax	Total
No Further Planning - No Charitable Gift No Discount Allowed	$18,333,733	$15,073,672	$0	$5,253,849	$7,522,083	$8,000,000	$54,183,337
No Further Planning - No Charitable Gift Discount Allowed	$23,059,178	$15,073,672	$0	$5,956,415	$5,294,072	$4,800,000	$54,183,337
Hypothetical Technique - CLAT Redemption Discount Allowed - $3mm to Family	$16,818,670	$17,096,849	$16,083,531	$1,747,005	$1,237,281	$1,200,000	$54,183,337
Hypothetical Technique - CLAT Redemption Discount Allowed - $10mm to Family	$22,778,999	$14,337,710	$4,355,956	$4,501,200	$4,209,472	$4,000,000	$54,183,337

Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

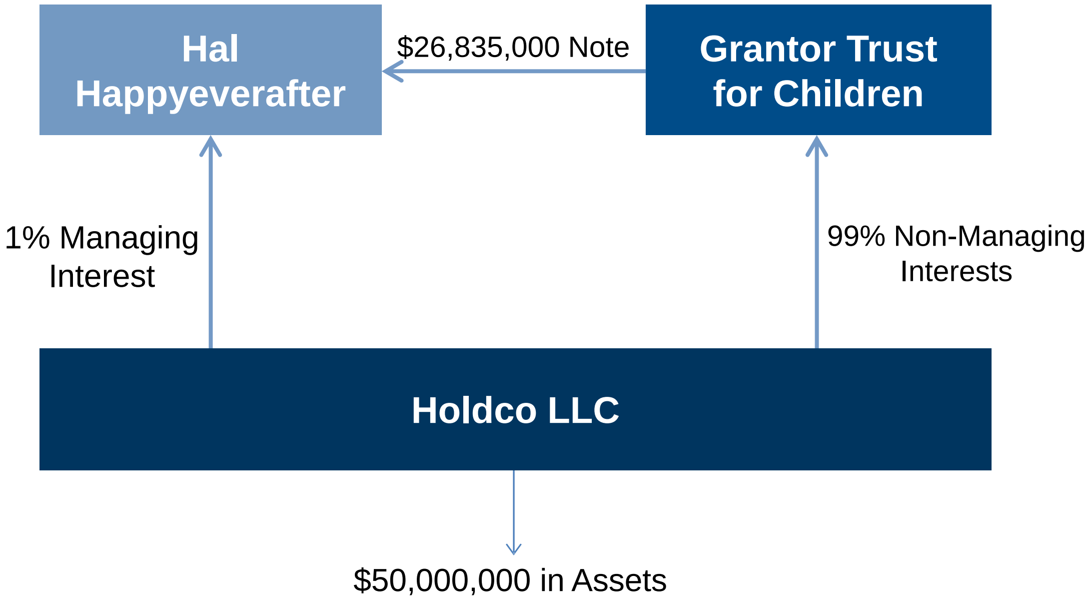
Summary of Results For $30 Million of Assets Growing at 7.50% Per Year (Pre Tax) – No Further Planning vs. 20 Year Testamentary CLAT Technique; 20 Year Future Values; Post-Death Scenarios (assuming Mr. Elder dies in year 1)

Technique	Elder Children	Elder GST Exempt Trust	Charity	IRS Taxes on Investment Income	IRS Investment Opportunity Cost	IRS Estate Tax	Total
No Further Planning - No Discount Allowed	$33,734,275	$27,222,640	$0	$19,049,212	$39,429,406	$8,000,000	$127,435,533
No Further Planning - Discount Allowed	$42,018,677	$27,222,640	$0	$21,535,391	$31,858,825	$4,800,000	$127,435,533
Hypothetical Technique - CLAT Redemption Discount Allowed - $3mm to Family	$26,774,735	$40,677,004	$25,920,450	$16,803,779	$16,059,565	$1,200,000	$127,435,533
Hypothetical Technique - CLAT Redemption Discount Allowed - $10mm to Family	$41,011,327	$27,292,259	$7,020,122	$20,117,950	$27,993,875	$4,000,000	$127,435,533

Post-Mortem Strategies That Lower the Net Total Income Tax and Transfer Tax (Continued)

- Considerations of the technique:
  - Need to get probate court approval.
  - Leverage could work against the family unless a carefully constructed partnership sinking fund is utilized to pay future interest payments.

- The technique:
  - Portability permits the estate of the first spouse to die of a married couple to elect to transfer the DSUE amount to the surviving spouse who could use it for making gifts and sales to a grantor trust.
  - A surviving spouse's gift of non-managing interests in a family entity to a grantor trust using the DSUE amount, and sales by the surviving spouse of non-managing interests in a family entity to the grantor trust, may be designed to simulate, from the perspective of the surviving spouse and the surviving spouse's descendants, the same result that would accrue if the first spouse to die had created a much larger credit shelter trust through the use of a much larger unified credit.
  - Consider the following example:



– For a credit shelter trust to duplicate the estate tax savings of the above DSUE amount planning the trust would have to be funded with $46,189,085 on Harriett's death, or around nine times the then assumed available unified credit amount. See the table below:

	Happyeverafter Children (1)	Consumption (2)	Consumption Investment Opportunity Cost (3)	IRS Income Tax (4)	IRS Income Tax Investment Opportunity Costs (5)	IRS Estate Taxes at 40% (6)	Total (7)
10-Year Future Values							
Simulated Credit Shelter Trust: Hal Happyeverafter's deceased spouse created a $46,189,085 credit shelter trust for Hal and family and bequeaths the rest of her estate to Hal	$77,713,665	$6,722,029	$2,606,804	$8,285,914	$2,225,962	$4,542,587	$102,096,962
Hap Happyeverafter's deceased spouse bequeaths her estate to Hal; Hal creates a single member LLC and gifts the DSUE amount to a grantor trust; Hal sells the remaining non-managing member interests to the grantor trust	$77,713,665	$6,722,029	$2,606,804	$8,732,917	$2,225,962	$4,095,584	$102,096,962
Present Values (Discounted at 2.5%)							
Simulated Credit Shelter Trust: Hal Happyeverafter's deceased spouse created a $46,189,085 credit shelter trust for Hal and family and bequeaths the rest of her estate to Hal	$60,709,791	$5,251,238	$2,036,431	$6,472,943	$1,738,918	$3,548,662	$79,757,983
Hap Happyeverafter's deceased spouse bequeaths her estate to Hal; Hal creates a single member LLC and gifts the DSUE amount to a grantor trust; Hal sells the remaining non-managing member interests to the grantor trust	$60,709,791	$5,251,238	$2,036,431	$6,822,141	$1,738,918	$3,199,464	$79,757,983

- Advantages of the technique:
  - Significantly more assets may be passed to the next generation by using this technique than using the exemption to fund a credit shelter trust.
  - There is a step-up in basis of the deceased spouse's assets at her death.
  - There is an opportunity through using borrowing strategies from third party lenders for the surviving spouse to increase the basis of the transferred assets during his lifetime.
  - Significantly more assets may receive protection from creditors by using sales to grantor trusts with the use of the DSUE amount then using the exemption to fund a credit shelter trust.
  - The surviving spouse's rights with respect to assets owned by the grantor trust, and cash flows produced by those assets, are pursuant to a flexible contract, rather than discretionary distributions by a trustee who is subject to fiduciary considerations.
  - All of the advantages of creating a grantor trust and selling assets to a grantor trust are present with this technique.

- Considerations of the technique:
  - The surviving spouse may not transfer the DSUE amount in the manner that the deceased spouse anticipated.
  - If the surviving spouse has creditor issues at the time of the first spouse's death, creating a family trust with the deceased spouse's unified credit will provide better protection from those creditors.
  - This technique has the same considerations as the creation of a grantor trust and a sale to a grantor trust.
  - The GST tax exemption is not portable.
  - It may be more advantageous to convert a traditional credit shelter trust, with its attendant creditor protection and GST advantages, to a Section 678 grantor trust by using the QSST technique.
  - It may be more advantageous for the decedent to have created the grantor trust during her lifetime and use her exemption to create the grantor trust for the benefit of the spouse before death.
  - Like all leverage techniques, if the underlying assets stay flat or decline there is not any advantage to the technique and to the extent a gift tax exemption is used, the technique operates at a disadvantage.

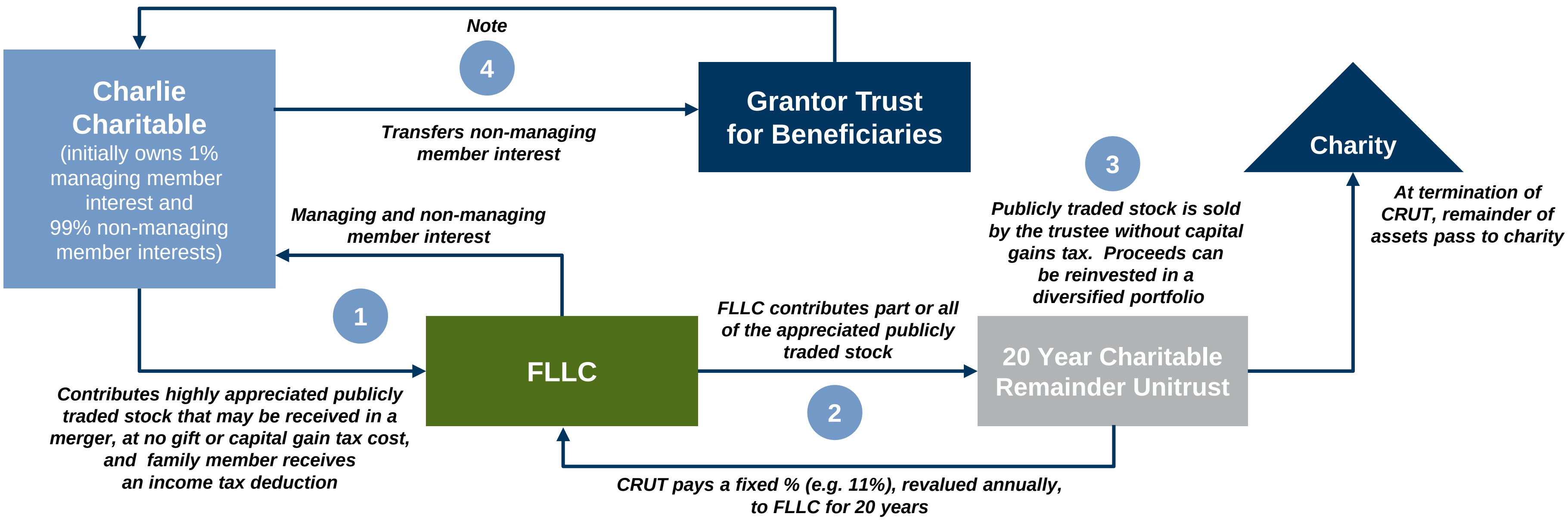
- Use of a discounted sale of the non-charitable interest in a charitable remainder unitrust ("CRUT") to a grantor trust technique:
  - Consider the following example:

Charlie Charitable Wishes to Benefit His Family, His
Charitable Causes and Himself With a Monetization Strategy

Charlie Charitable, age 63, is widowed and has three adult children. Charlie owns $10 million of a publicly traded stock with a zero basis. Charlie also owns $2,500,000 in financial assets that have a 100% basis. He plans to spend $150,000 per year, indexed for inflation. If Charlie's spending needs are secure, he would like to give a large proportion of his after-tax wealth to his family, but he would still like to give between 20% and 25% of what he owns to his favorite charity. Charlie wants to diversify his stock position, but does not want to incur a big capital gains tax. Charlie has considered a CRUT, but he is concerned that charity could receive a windfall at the expense of his family if he dies prematurely. He is not certain he will qualify for favorable life insurance rates to insure against that risk and he generally dislikes insurance as a pure investment vehicle. Charlie would like his family to be eligible to receive some funds now, but he does not want to bear the gift tax consequences of naming family members as current CRUT beneficiaries. Charlie is also willing to take steps to reduce potential estate tax, and he needs help sorting through his options. He would like to involve his children in his estate planning discussions so they can learn about their obligations as fiduciaries and beneficiaries and can start to plan their own family and financial affairs.

Lifetime Charitable Giving Strategies That Also Benefit Client's Descendants By Reducing the Family's Total Income Tax and Transfer Tax (Continued)

- The technique is illustrated below:



Lifetime Charitable Giving Strategies That Also Benefit Client's Descendants By Reducing the Family's Total Income Tax and Transfer Tax (Continued)

- Advantages of the technique:
  - The tax advantages of creating a grantor trust and a sale to a grantor trust.
  - The tax advantage of eliminating the capital gains tax on that part of the gains that will be allocated to the charity under the tiered income tax rules.
  - The tax advantage of lowering opportunity costs by delaying taxes on the portion of the original gain that is not allocated to charity.
  - The tax advantage of a charitable deduction in year one for the actuarial value of the remainder interest of the CRUT passing to charity.
  - The tax advantage of integration, which produces advantageous comparative results.
    - If the investment plan produced smooth returns until Charlie's death (which the group agrees to project twenty-five into the future), the results would look like this:

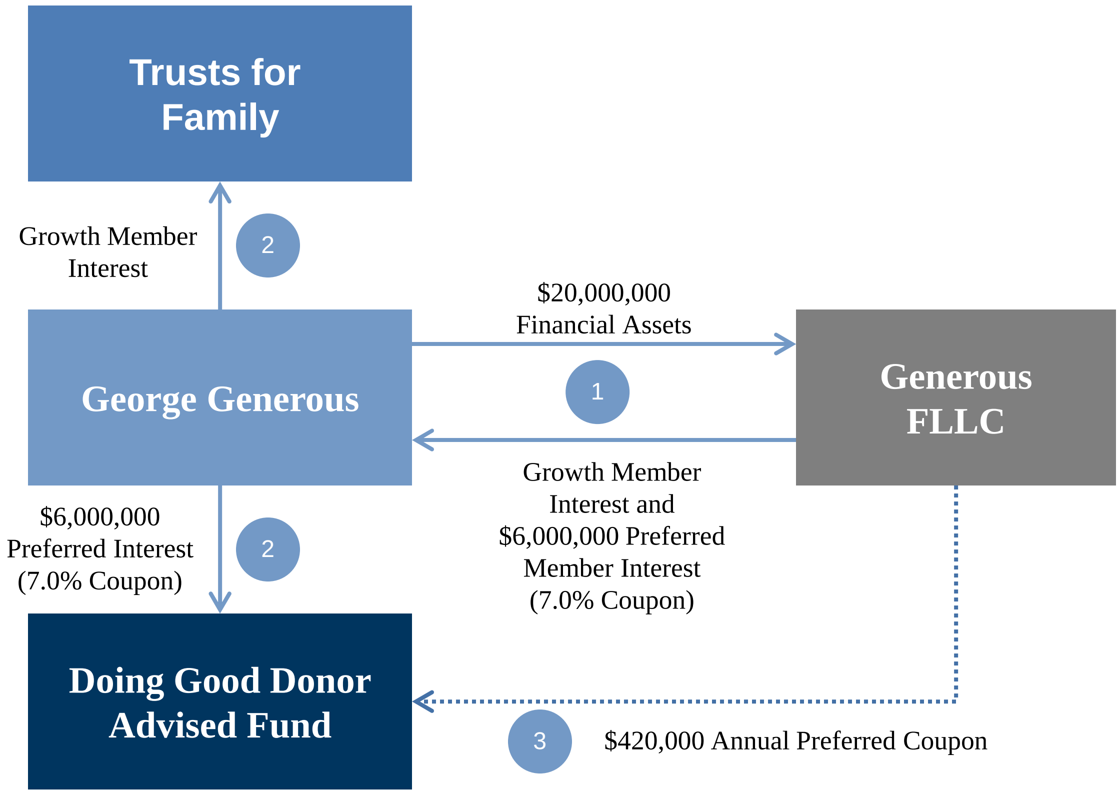
Hypothetical Technique (Assumes $9.65mm Estate Tax Exemption Available)	Charlie's Children	Charlie's Descendants (GST Exempt)	Charity	Charlie's Consumption Direct Costs	Consumption Investment Opportunity Costs	IRS Taxes on Investment Income	IRS Investment Opportunity Costs	IRS Estate Taxes (@40.0%)	Total
Future Values at the end of 25 Years Assuming an Annual Compounded Rate of Return at 7.4%									
Stock Sale, No Planning	$10,023,860	$9,650,000	$0	$5,123,665	$7,440,046	$11,792,247	$23,763,728	$6,682,574	$74,476,121
Simulated Tax Holiday (No Initial Capital Gains Tax and No Estate Tax) 76% - 24% Split Between Family and Charity	$0	$26,583,325	$8,207,700	$5,123,665	$7,440,046	$11,817,313	$15,304,071	$0	$74,476,121
FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity	$0	$24,472,697	$8,207,700	$5,123,665	$7,440,046	$12,516,445	$16,715,568	$0	$74,476,121
FLP/Grantor Trust Sale, Charlie gives remaining estate to family	$0	$25,621,226	$0	$5,123,665	$7,440,046	$12,527,456	$23,763,729	$0	$74,476,121

Lifetime Charitable Giving Strategies That Also Benefit Client's Descendants By Reducing the Family's Total Income Tax and Transfer Tax (Continued)

- Considerations of the technique:
  - For gift tax purposes, to demonstrate the legitimacy of the FLLC, it may be enough that Charlie and the other members are engaged in permissible FLLC activity organized for profit.
  - Charlie and his other managing members should be prepared to hold regular FLLC meetings and to share relevant FLLC information.
  - Charlie cannot completely control the FLLC, although he can control the FLLC investments if he chooses. If Charlie keeps too much control over distributions, or if he does not honor the FLLC agreement, or if he makes disproportionate distributions, the IRS may attempt to tax the FLLC interests or the underlying FLLC property in Charlie's estate.
  - Like the CRUT, the FLLC will have its own legal, accounting and administrative costs, and Charlie must engage a professional appraiser to set the value of the non managing member interests.
  - It is difficult, and sometimes impossible, to use FLLC interests as collateral for a loan.
  - FLLC income tax rules are complicated and transferring property to and from a partnership can trigger surprising income tax consequences. Charlie and his family must make a long-term commitment to conducting their affairs inside the FLLC.
  - Since Charlie is selling non-managing member interests that are valued by appraisal to the trust, he will not know for sure if he is making a gift. The IRS may challenge the discount applied to Charlie's non-managing member interests. Charlie might try to use a formula to define the value of the non managing member interests he wishes to give.
  - The technique will have the same considerations as a sale to a grantor trust.
  - Limitations on certain alternative investments that the CRUT may make.

Creating a FLP or FLLC with Preferred and Growth Interests, Transferring the Preferred Interest to a Public Charity, and Transferring the Growth Interests to Family Members

- The technique:
  - There could be significant after-tax cash flow advantages for giving preferred interests in a FLLC that is designed to last for several years to a public charity, or a donor advised fund, and transferring the growth interests to a taxpayer's family. Consider the following illustration:



Creating a FLP or FLLC with Preferred and Growth Interests, Transferring the Preferred Interest to a Public Charity, and Transferring the Growth Interests to Family Members

- Advantages of the technique:
  - The donor may receive an income tax deduction for the discounted present value of the charity's right to receive the par value of the preferred on termination of the FLLC, even though that might occur after the donor's death.
  - The donor should receive an income tax charitable deduction, in the year of the gift, for the discounted present value of the 7% coupon that is to be paid to charity.
  - In addition to receiving an upfront charitable income deduction for the present value of the annual coupon of the preferred that is paid to the charity, the donor also receives an indirect second annual deduction with respect to the future preferred coupon payments against his income and health care because of the partnership tax accounting rules.
  - The donor will also avoid the built-in capital gains tax on the sale of any low basis asset that is contributed for the preferred interest.

Creating a FLP or FLLC with Preferred and Growth Interests, Transferring the Preferred Interest to a Public Charity, and Transferring the Growth Interests to Family Members (Continued)

– The "out of pocket" cost of a gift of a preferred interest to a public charity, or donor advised fund, is minimal because of the above tax advantages. Please see the table below:

Description	Tax Efficiency Ratio of Charitable Gifts (Present Value of Total Net Tax Savings ÷ Present Value of Total Out of Pocket Cash)
No Further Planning: Makes $420,000 Annual Contribution to Charity; Bequeaths $6mm to a Public Charity at Death	20.78%
Hypothetical Technique: Creation of an FLLC with Growth and Preferred Interests; Gift of a $6,000,000 Preferred Interest to a Public Charity That Pays an Annual 7% Coupon	70.09%

– Valuation advantage: The gift tax valuation rules under IRC Sec. 2701 do not apply to any future gifts, or sales, of the growth member interests to family members, or trusts for family members.

Creating a FLP or FLLC with Preferred and Growth Interests, Transferring the Preferred Interest to a Public Charity, and Transferring the Growth Interests to Family Members (Continued)

– Under the facts of this example, in addition to saving significant income and healthcare taxes, significant transfer taxes could be saved in transferring the growth interests to a grantor trust.

- If George was able to obtain a 35% valuation discount for the gift and sale of the growth interest, Pam projects that in addition to saving income and healthcare taxes, George could save over $15,000,000 in estate taxes. Please see the table below:

	20-Year Future Values Pre-Death	20-Year Future Values Post Death	Present Values (Discounted at 2.5%)	Percentage of Total
No Further Planning Except for $420,000 Annual Gift to Charity: Bequeaths $6mm to Charity at Death; Balance of Estate to Family (assumes $8.53mm estate tax exemption available at death)				
George Generous	58,712,723	-	-	0.00%
Charity	17,989,144	23,989,144	14,639,877	22.49%
Generous Children	-	26,509,634	16,178,059	24.85%
Generous Children and Grandchildren	-	8,530,000	5,205,611	8.00%
IRS Income Tax - Direct Cost	14,567,393	14,567,393	8,890,057	13.65%
IRS Income Tax - Investment Opportunity Cost	15,414,442	15,414,442	9,406,986	14.45%
IRS Estate Tax (at 40.0%)	-	17,673,089	10,785,373	16.57%
Total	**$106,683,701**	**$106,683,701**	**$65,105,963**	**100.00%**
Hypothetical Technique: Creation of an FLLC with Growth and Preferred Interests; Gift of Preferred to Charity; Gift and Sale of Growth Interest to a GST Tax Exempt Grantor Trust; Bequeaths Estate to Family (assumes $3.10mm estate tax exemption available at death)				
George Generous	8,204,328	-	-	0.00%
Charity	23,989,144	23,989,144	14,639,877	22.49%
Generous Children	-	3,062,597	1,869,014	2.87%
Generous Children and Grandchildren	47,425,983	50,525,983	30,834,539	47.36%
IRS Income Tax - Direct Cost	17,410,042	17,410,042	10,624,843	16.32%
IRS Income Tax - Investment Opportunity Cost	9,654,204	9,654,204	5,891,680	9.05%
IRS Estate Tax (at 40.0%)	-	2,041,731	1,246,009	1.91%
Total	**$106,683,701**	**$106,683,701**	**$65,105,963**	**100.00%**

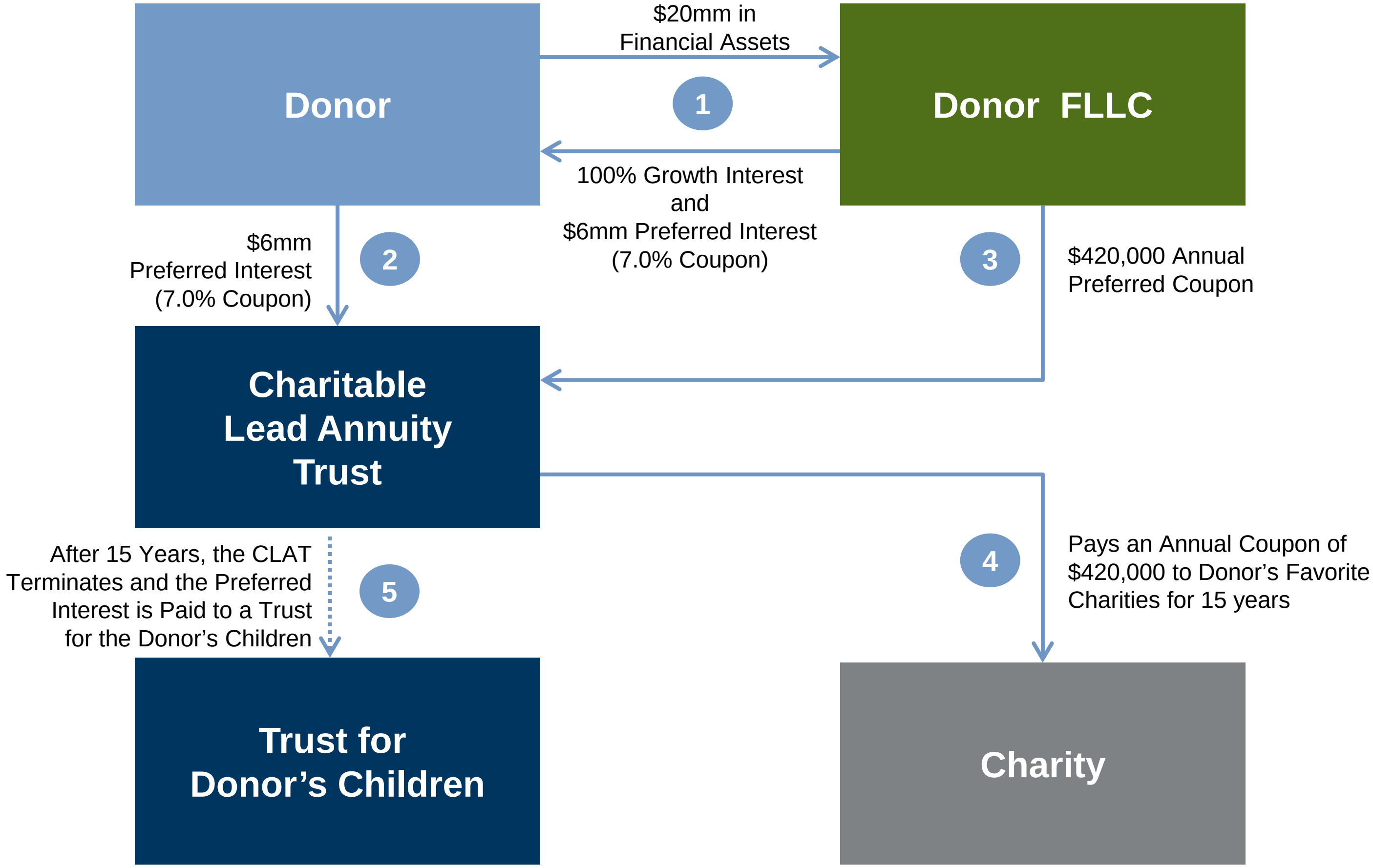
Calculations of Remaining Estate Tax Exemption	**No Further Planning**	**Hypothetical Techniques**
Current Exemption	5,340,000	5,340,000
Gifts Made	-	(5,430,000)
Future Exemption Available in 20 years (assumes 2.5% inflation)	8,530,000	3,100,000

  - Income tax valuation advantage: IRS concedes preferred partnership interests should have a high coupon.
  - IRC Sec. 2036 advantage, if George gives or sells the growth interests to his family.

- Considerations of the technique:
  - Despite state property law, the IRS may take the position that the gift of the preferred interest of an FLLC should be considered a non-deductible partial gift of the underlying assets of the FLLC.
  - If the gift of the preferred interest is to a donor advised fund (instead of some other public charity) care should be taken to make sure there is not a tax on excess business holdings under IRC Sec. 4943.
  - The taxpayer must comply with certain reporting requirements in order to receive a deduction for the fair market value of the donated preferred interest. Among the reporting requirements are:
    - The taxpayer must get and keep a contemporaneous written acknowledgment of the contribution from the charity. See IRC Sec. 170(f)(8)(A).
    - The taxpayer must also keep records that include how the taxpayer acquired the property and the basis information for the donated preferred interest. See Treas. Reg. §§ 1.170A-13(b)(3)(i)(A), (B).
    - The taxpayer must also obtain a qualified written appraisal of the donated property from a qualified appraiser, if the preferred interest is worth more than $500,000 attach the qualified appraisal to the taxpayer's return. See IRC Sec. 170(f)(11)(D).
  - If there is unrelated business taxable income associated with assets owned by the LLC, some public charities will not accept the gift of the preferred interest in the LLC.

The Use of a High-Yield Preferred Partnership or Membership Interest With Charitable Lead Annuity Trust ("CLAT")

- The technique:
  - Consider the following illustration, assuming the IRC Sec. 7520 rate is 1.0%:



The Use of a High-Yield Preferred Partnership or Membership Interest With Charitable Lead Annuity Trust ("CLAT") (Continued)

- Advantages of the technique:
  - Because of the difference in the yield of a preferred coupon of a preferred interest in a FLLC that is compliant with Revenue Ruling 83-120 and the IRC Sec. 7520 rate, the transfer tax success of a CLAT is virtually assured.
  - IRC Sec. 2701 valuation rules will not apply to a gift of the "growth" interests in a FLLC if the preferred interests are owned by a CLAT. Consider the following table:

	Total Present Value Received by Family Net of Taxes	Total Present Value Received by Charity	Total Present Value for Family and Charity
	Assuming a 7.0% Present Value Discount		
Description			
No Further Planning: Makes $420,000 Annual Contribution to Charity; Bequeaths $6mm to Charity at Death	$6,850,593	$6,199,251	$13,049,844
Hypothetical Technique: Creation of an FLLC with Growth and Preferred Interests; Gift of Preferred to Charity; Gift and Sale of Growth Interest to a GST Tax Exempt Grantor Trust; Bequeaths Estate to Family	$13,848,307	$6,199,251	$20,047,558

The Use of a High-Yield Preferred Partnership or Membership Interest With Charitable Lead Annuity Trust ("CLAT") (Continued)

- Considerations of the technique:
  - The partial interest rule should not apply for gift tax purposes or income tax purposes (if a grantor CLAT is used), but the IRS may make the argument.
  - Care should be taken to make sure that there is not a tax on excess business holdings under IRC Sec. 4943.

- The technique:
  - A donor could create a complex trust that provides annual lapsing withdrawal rights to the beneficiary of a limited amount of trust income and the beneficiary only withdraws that amount necessary to pay the income taxes caused by that withdrawal right
  - Consider the following withdrawal power (hereinafter sometimes referred to as a “limited income withdrawal power”):

    Upon the end of each calendar year if the beneficiary is living immediately before the end of the year, the Trustee shall pay to the beneficiary, or his representative, that fractional share of the trust’s net income that is not exempt from federal income tax, as the beneficiary, or his representative, last directs in writing before the end of the year, whether or not that net income is allocable to corpus, that does not exceed the lesser of the following:

    (a) that fractional share of the trust’s net income that is equal to the trust’s net investment income, as defined in IRC Section 1411;

    (b) that fractional share of the trust’s net income that is equal to the trust’s adjusted gross income, as defined in IRC Section 67(e) in excess of the dollar amount at which the highest tax bracket in IRC Section (1)(e) begins for such taxable year; or

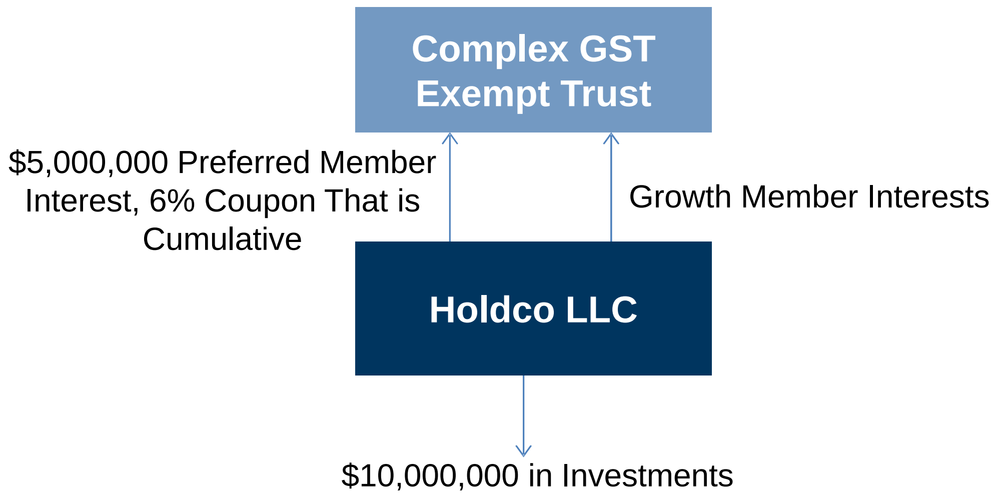
    (c) that fractional share of the trust’s net income that is equal to 5% of the trust estate determined at the end of the year of the trust.

Strategies That May Lower the Income and Health Care Taxes of Trusts Without Making Cash Distributions to the Beneficiaries of the Trusts (Continued)

- Advantages of the technique:
  - Assuming, on the beneficiary's death, the annual lapse of the withdrawal powers did not exceed in value 5% of the trust properties in any calendar year, there should not be any estate taxes on the beneficiary's estate associated with those lapses.
  - The annual failure to exercise the withdrawal power should not be considered a taxable gift by the beneficiary.
  - Annually, that part of the taxable income of the trust that the beneficiary has the power to vest in himself will be taxable to the beneficiary and will not be taxable to the trust.
  - The trust assets may grow much faster during the beneficiary's lifetime than would be the case if the limited income withdrawal right did not exist.
  - If the trust owns an interest in a closely held entity that is taxed under the LLC or Subchapter S rules, and if the beneficiary materially participates in the business, there may be health care tax advantages to Wiley and the trust if the beneficiary has the limited income withdrawal power.
  - The limited income withdrawal power may cause less fiduciary problems for an independent trustee of the trust.
- Considerations of the technique:
  - The power holder may exercise the limited income withdrawal power in a manner that was not anticipated by the settlor.
  - Beneficiary creditor concerns.
    - However, if an independent trust protector, or an independent trustee, has the power in future years to terminate, or temporarily terminate, the beneficiary's limited income withdrawal power, that may ameliorate the concern.

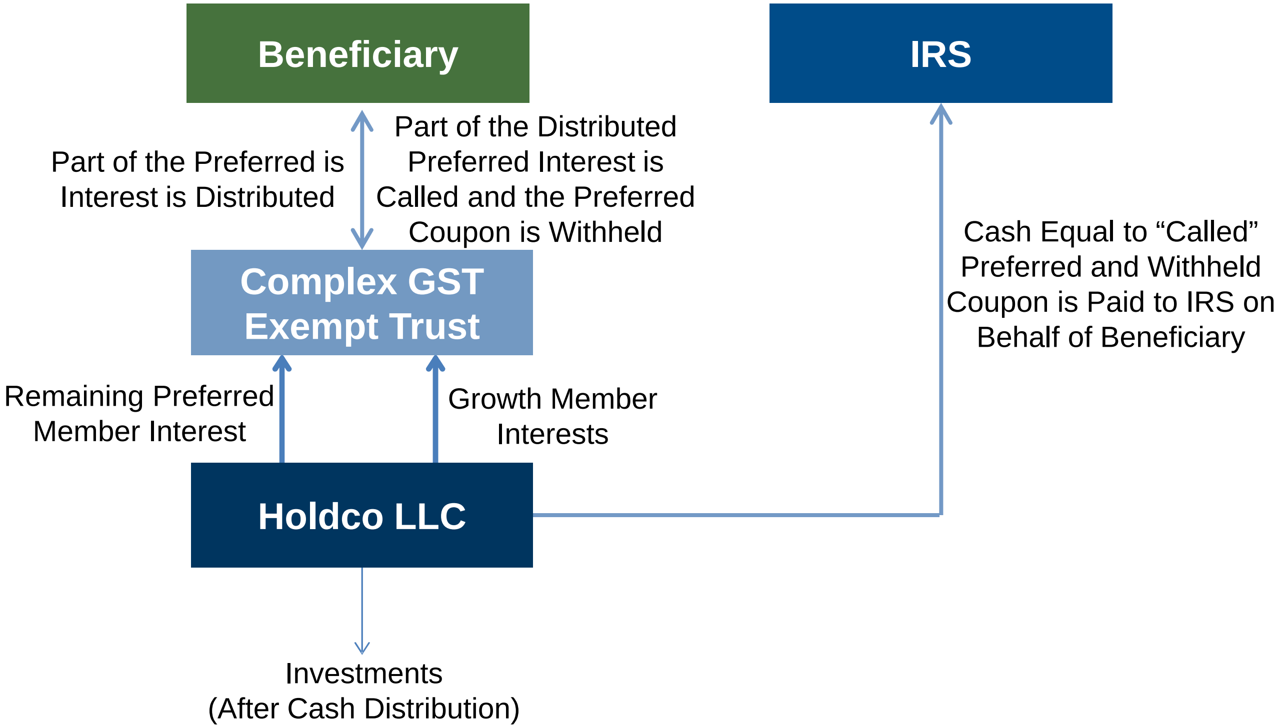
The Trustee of a Complex Trust Could Consider Creating a Two Class (One Class is a Preferred Interest and One Class is a Growth Interest) Single Member LLC and the Trustee Could Distribute Part or All of the Preferred Class to the Current Beneficiary

- The technique:
  - The trustee of a complex trust could consider creating a two class (one class is a preferred interest and one class is a growth interest) single member LLC and the trustee could distribute part or all of the preferred class to the current beneficiary.
- Hypothetical Transaction #1:
  - Trustee of Complex GST Exempt Trust, which has $10,000,000 in assets, forms a single member LLC with preferred and growth member interests as illustrated below:

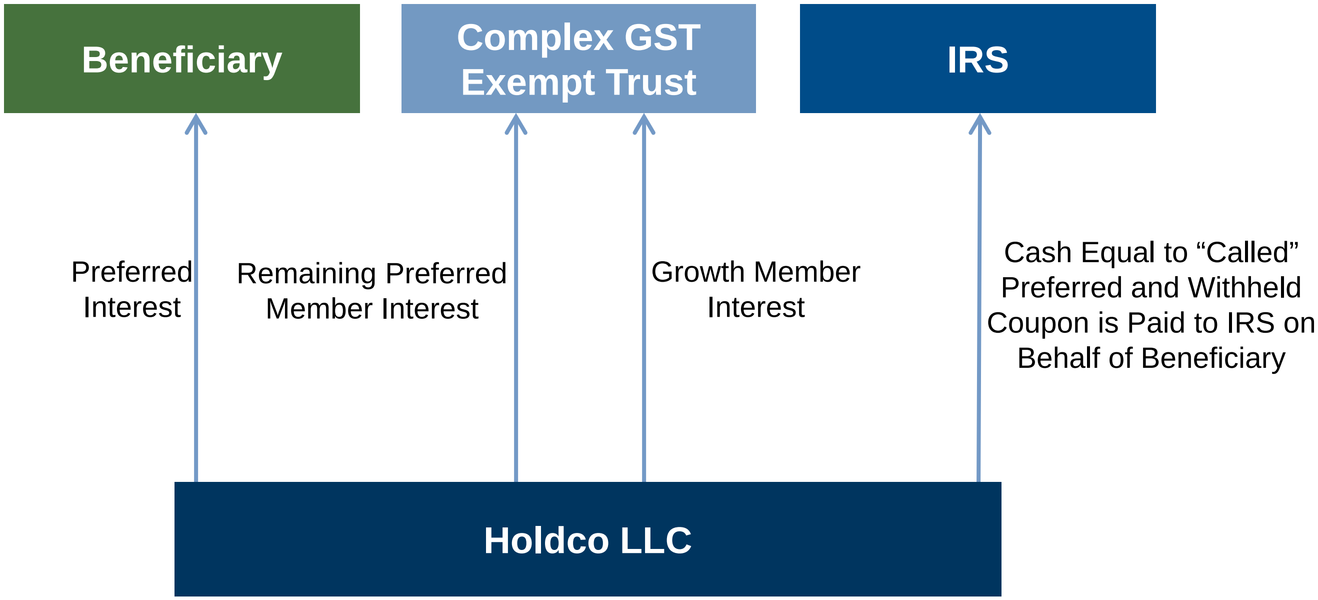


  - Holdco, LLC has the right to “call” or “redeem” any portion of the preferred for cash and/or withhold any portion of a preferred coupon that is to be paid to its owner. The trustee of the Complex GST Exempt Trust could pay cash for that portion of “called” preferred that is owed and/or any portion of the coupon that is withheld, to the IRS for the benefit of the owner of the preferred.

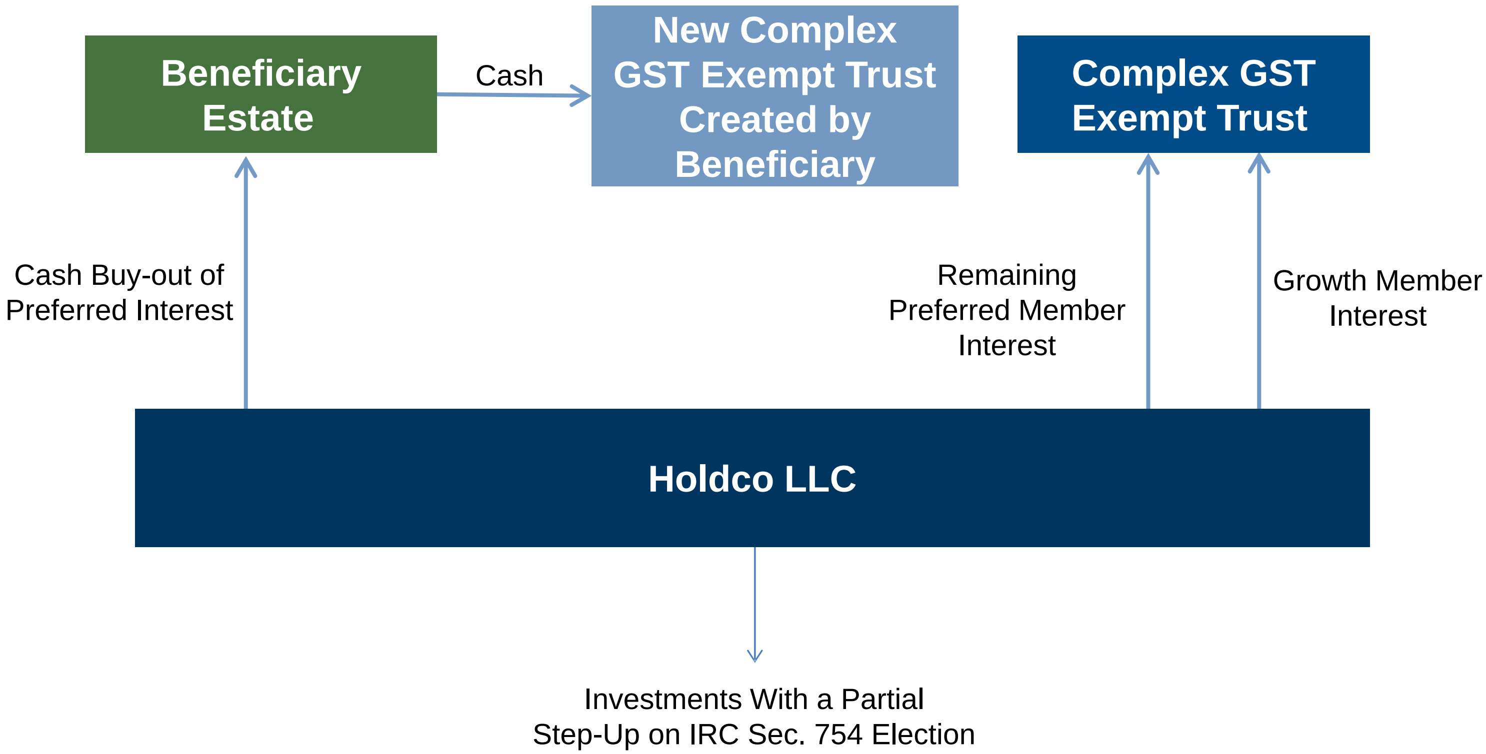
- Hypothetical Transaction #2:
  - Trustee of the Complex GST Exempt Trust could distribute part of its preferred interest to beneficiary. The par value of the distributed preferred is equal to the trust's adjusted gross income, as defined in IRC §67(e) over the dollar at which the highest bracket in IRC §(1)(e) begins for such taxable year. The trustee withholds the coupon payout that is due and "calls" or redeems part of the preferred. A cash amount equal to the "withheld" coupon and the "called" preferred interest is paid to the IRS on behalf of the beneficiary to be applied to the beneficiary's income taxes. This transaction can be shown as follows:



- Hypothetical Transaction #3:
  - In the later years, the trustee of the Complex GST Exempt Trust no longer distributes preferred partnership interests to the beneficiary. The trustee of the Complex GST Exempt Trust is not taxed on the net income allocated to the preferred interest owned by the beneficiary. Holdco, LLC "calls" or withholds part of the cash coupon owed to the beneficiary and pays that cash to the IRS on behalf of the beneficiary:



- Hypothetical Transaction #4:
  - Upon the beneficiary's death, the trustee may wish to redeem or "call" all of the preferred interest then held by the beneficiary's estate. If the beneficiary does not have a taxable estate and bequeaths the proceeds of the "called" preferred interest to a similar Complex GST Exempt Trust, that cash, upon redemption, will then pass according to the terms of the new trust. If a IRC §754 election is made, some of the low basis assets of Holdco, LLC may receive a step-up in basis:



The Trustee of a Complex Trust Could Consider Creating a Two Class (One Class is a Preferred Interest and One Class is a Growth Interest) Single Member LLC and the Trustee Could Distribute Part or All of the Preferred Class to the Current Beneficiary (Continued)

- Advantages of the technique:
  - Taxable income of the trust allocated to the beneficiary, either directly to the beneficiary because of the in-kind distributions of the preferred interest, or indirectly because of the payment of the preferred coupon, will not be taxable to the trust, which could save significant income taxes and health care taxes.
  - If the trust contributes low basis assets to Holdco in exchange for the preferred, then distributes the preferred to the beneficiary, and if there is a later sale of those low basis assets by Holdco, significant future capital gains taxes could be saved.
  - On the death of the beneficiary additional income tax and health care tax savings could accrue, if the stepped-up outside basis of the preferred interest owned by the beneficiary exceeds the proportionate inside basis of the LLC assets.
  - Unlike a trustee distribution of cash, a trustee distribution of a preferred interest in a closely held LLC is not marketable, which could partially address spendthrift concerns.
  - Unlike a distribution of cash, in which the trust loses its ability to return the earning potential of that cash for the benefit of future beneficiaries, the trust will indirectly retain the earning potential of the assets owned by the single member LLC subject to the preferred coupon payment requirements.
  - The valuation rules of IRC Sec. 2701 probably do not apply to these illustrated transactions.
- Considerations of the technique:
  - It adds a layer of complexity to the administration of the trust.
  - The beneficiary may not bequeath the preferred interest in a manner consistent with the remainderman provisions of the complex trust.
  - Creditors of the beneficiary, including divorced spouses, may be able to attach the preferred interest.

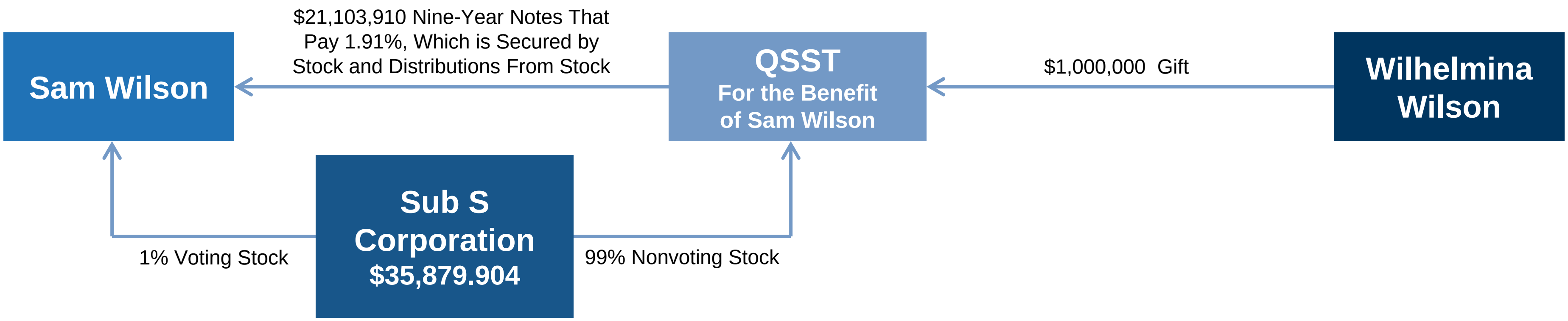
- The technique:
  - Consider the following example:

A Third Party Creates a QSST and the Beneficiary of the
QSST Sells to the QSST, For a Secured Note,
the Beneficiary’s Non Voting Stock in a Subchapter S Corporation

Sam Wilson owns $32,000,000 in financial assets. Around $13,000,000 of his assets consist of private equity investments, which have a relatively low basis ($2,000,000). For valid non-tax reasons, including concerns about future ownership of the assets under the qualified purchaser and accredited investor rules, Sam decides to incorporate the $13,000,000 of his private equity investments and $17,000,000 of his financial assets in a Subchapter S corporation. His mother, Wilhelmina Wilson contributes $1,000,000 to a dynasty trust that could qualify to be a QSST. Sam, as the income beneficiary of the trust, has a right to principle distributions of the trust for his support and maintenance. Sam also has a limited testamentary power of appointment to appoint the trust assets to his family or his wife, Sally. Sam capitalizes the Subchapter S corporation with 1% voting stock and 99% nonvoting stock. Sam sells 45% of his nonvoting stock to the QSST in exchange for a secured $7,775,000 note and $1,000,000 in cash (assuming a 35% valuation discount). Three years later Sam sells his remaining nonvoting stock for a note (again assuming a 35% discount). The security for the note is the stock that is sold and the distributions from that stock.

It is assumed that the estimated pre-tax rate of return of the Subchapter S corporation will average 10% a year, before taxes. Four percent of the return will be taxed at ordinary rates and 6% of the return will be taxed at long-term capital gains rates with a 30% turnover. It is assumed that Sam and Sally will consume $300,000 a year as adjusted for inflation.

This technique, after the second sale, three years after the creation of the Subchapter S corporation, is illustrated below:



– Under IRC Sec. 1361(d)(1)(B), the transferor (as a beneficiary of the QSST) will be treated as the owner of the Subchapter S stock held in trust under IRC Sec. 678(a). Under IRC Sec. 678(a) the trust is ignored for income tax purposes, at least with respect to any Subchapter S stock that is held in the trust.

– The Service confirmed this grantor trust treatment of Subchapter S stock owned QSST as to the beneficiary of the QSST in Revenue Ruling 92-84.

– It should be noted that the IRS modified its holding in revenue 92-84 with respect to sales of Subchapter S stock by a QSST, because of cash problems caused by installment sales of Subchapter S stock by a QSST when it modified Treas. Reg. §1.1361-1(j)(8) in TD 8600 (7/20/1995). However, it would seem the other grantor trust aspects of the Revenue Ruling remain, which are consistent with IRC Sec. 1361 (i.e., for income tax purposes, the beneficiary of the QSST is treated as the income tax owner of any Subchapter S stock in the QSST and the beneficiary pays all of the income taxes on the Subchapter S income earned by the trust).

- It should also be noted that the trust assets other than the Subchapter S stock will be taxed under the normal Subchapter J rules.
- Thus, the sale of Subchapter S corporation stock should not trigger any capital gains consequences to the transferor, if he sells to a trust that qualified as a QSST, because the seller is considered the owner of the stock both before and after the sale for income tax purposes.
- The distributions on the purchased Subchapter S stock can also be used by the trustee of the QSST to retire the principal on the note, if both the sold stock and the distributions of that stock are security for a note on which the QSST is the obligor. See P.L.R. 914005 (June 25, 1991); P.L.R. 200140046 (Oct. 5, 2001).

▪ Advantages of the technique:

- May provide better defenses to the bona fide sale considerations of IRC Secs. 2036 and 2038 than certain other IRC Section 678 beneficiary grantor trust techniques in which the trust is only funded with $5,000.
- Circumvents federal capital gains tax treatment on a QSST beneficiary's sale of his Subchapter S stock to the QSST.
- There is not any concern about the effect of any lapse of withdrawal rights.
- It has the advantage of allowing the seller to be a beneficiary of the trust and have a power of appointment over the trust.
- If the current beneficiary of the QSST materially participates in the business of the Subchapter S corporation or is in a lower marginal bracket, significant health care taxes may be saved with the technique.
- It has the potential of mitigating gift tax surprises.
- Appreciation will be out of the seller's estate.
- The beneficiary of the QSST will have access to the cash flow distributed to the trust.

– The trust is much more flexible than a simple income only trust and may be administered to simulate a complex trust without the income tax and health care tax disadvantages of a complex trust.

– Because of the safe harbor provided by Revenue Ruling 81-15, IRC Sec. 2036(a)(2) may not be a concern for transfer planning with Subchapter S stock.

– The estate tax savings of the technique could be substantial.

  - Please see the table below:

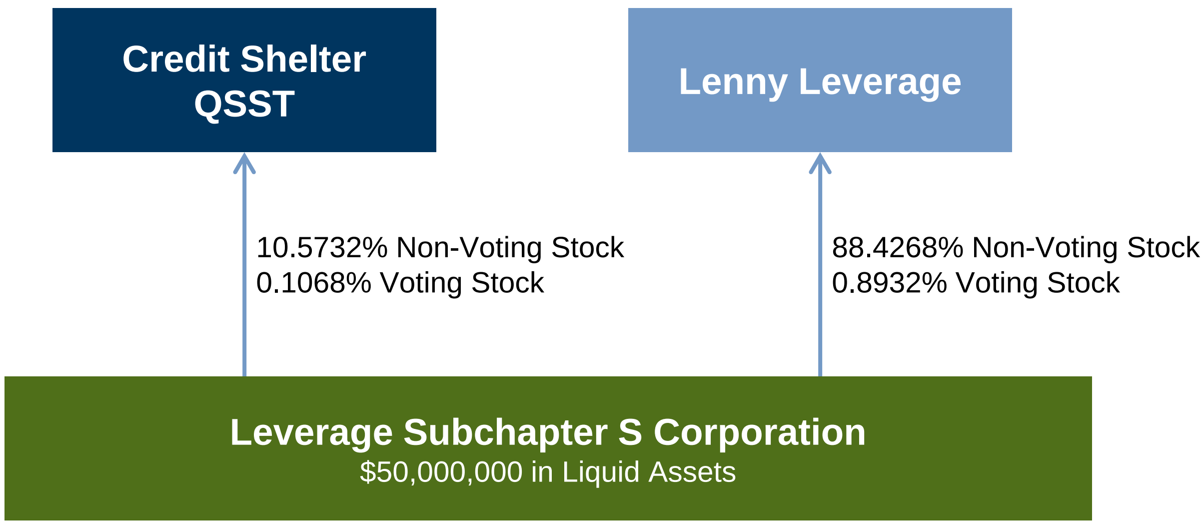
	Assuming the Survivor of Sam and Sally Dies at the End of:		
	15 Years	25 Years	30 Years
Hypothetical Estate Taxes at 40%*			
No Further Planning; Bequeaths Estate to Family (assumes $21.84mm estate tax exemption available)	$32,654,341	$48,145,770	$66,304,487
Sales of Sub-Chapter S Non-Voting Stock to a Qualified Sub-Chapter S Trust (QSST) that is Created by a Third Party for the Benefit of the Seller and Seller's Family; Bequeaths Estate to Family (assumes $21.84mm estate tax exemption available)	$4,225,701	$3,438,144	$3,483,707

- Considerations of the technique:
  - There may need to be substantive equity in the trust from prior gifts (is 10% equity enough?) before the sale is made.
  - The federal income tax considerations with utilizing a Subchapter S corporation.
  - Federal income tax considerations with respect to the interest on the seller/beneficiary's note.
  - Any assets of the trust that are not Subchapter S stock will be taxed trust under normal Subchapter J rules.
  - State income tax considerations.
  - The Step Transaction Doctrine needs to be considered.
  - The transferor is the only beneficiary of the trust.
  - Like all leverage techniques, if the underlying assets stay flat or decline there is not any advantage to the technique and to the extent a gift tax exemption is used, the technique operates at a disadvantage.
  - Additional estate tax considerations.
    - It is important that any sale by a beneficiary of a trust be for "fair and adequate consideration" and also be considered a "bona fide sale". If the sale is not for "adequate and full consideration," or if the sale is not considered to be a "bona fide sale," the value of the assets of the trust at the time of the beneficiary's death will be brought back into the beneficiary's estate under IRC Secs. 2036 and/or 2038 because the seller obviously has a retained interest in the trust (unlike a conventional sale to a grantor trust in which the seller does not have a retained interest in the trust).
    - As a consequence, it is important that every step be taken to demonstrate that the sale has normal commercial terms and adequate security.

- If the transferor wishes to have the flexibility to transfer trust assets to another family member, this technique will not allow the beneficiary to accomplish that purpose during the transferor's lifetime.
- However, the transferor could use other techniques to benefit the transferor's family.
- Secondly, to the extent the Subchapter S corporation retains its corporate income and does not distribute it, that benefits the remainderman beneficiaries.

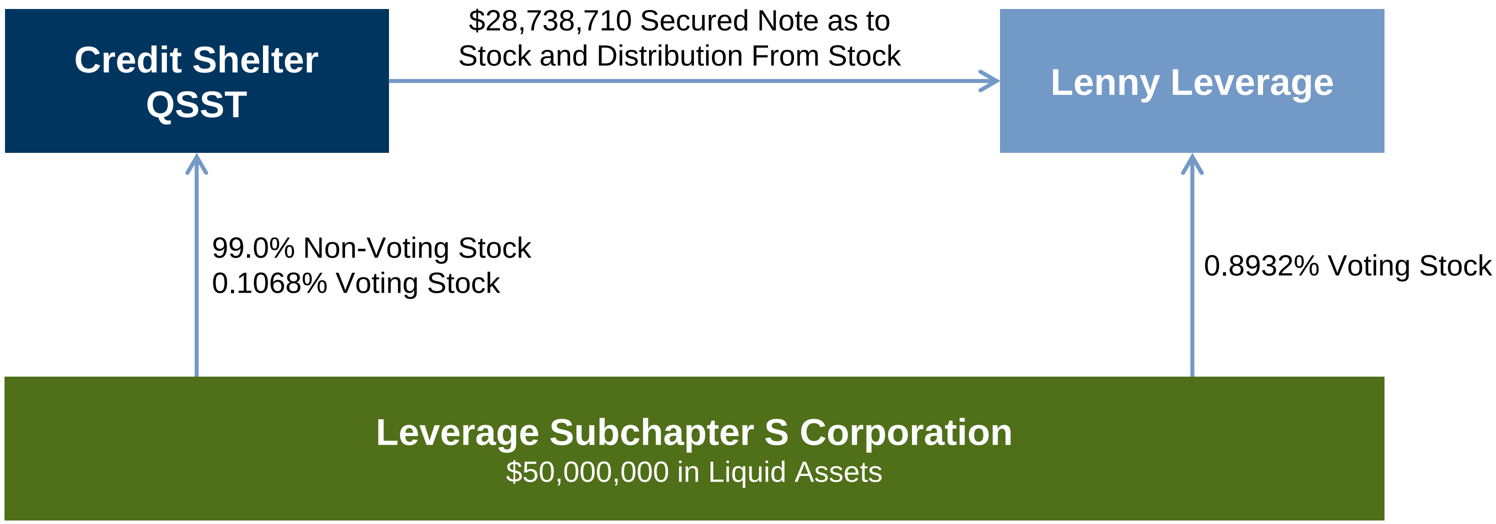
The Conversion of a Credit Shelter Trust to a Qualified Subchapter S Trust (“QSST”), the Investment by the Credit Shelter QSST in a Subchapter S Corporation and the Sale of Subchapter S Stock owned by the Surviving Spouse to the Credit Shelter QSST

- The technique:
  - A deceased spouse (“Lucy Leverage”) bequeaths her entire estate ($45,000,000) under a formula marital deduction plan. An amount equal to her remaining unified credit, assumed to be $5,340,000, passes to a credit shelter trust that pays all of its income to her husband. The remainder of her estate passes to her husband (“Lenny Leverage:”). Lenny owns $5,000,000 assets in his name.
  - Consider the following example, in which by investing in a Subchapter S corporation, making a QSST election with the credit shelter trust, and the beneficiary of the QSST selling non-voting stock in a Subchapter S corporation, a leveraged sale to a credit shelter trust that is a grantor trust to the surviving spouse is simulated:



The Conversion of a Credit Shelter Trust to a Qualified Subchapter S Trust ("QSST"), the Investment by the Credit Shelter QSST in a Subchapter S Corporation and the Sale of Subchapter S Stock owned by the Surviving Spouse to the Credit Shelter QSST (Continued)

– Lenny could sell for a note that pays an AFR rate, his non-voting stock to the credit shelter trust that is also a QSST. Assuming a 35% valuation discount, those transactions are illustrated below:



– Under IRC Sec. 1361(d)(1)(B), the transferor (as a beneficiary of the QSST) will be treated as the owner of the Subchapter S stock held in trust under IRC Sec. 678(a). Under IRC Sec. 678(a) the trust is ignored for income tax purposes, at least with respect to any Subchapter S stock that is held in the trust.

- Advantages of the technique:
  - May provide better defenses to the bona fide sale considerations of IRC Secs. 2036 and 2038 than certain other IRC Section 678 beneficiary grantor trust techniques in which the trust is only funded with $5,000.
  - Circumvents federal capital gains tax treatment on a QSST beneficiary's sale of his Subchapter S stock to the QSST.
  - There is not any concern about the effect of any lapse of withdrawal rights.
  - It has the advantage of allowing the seller to be a beneficiary of the trust and have a power of appointment over the trust.
  - If the current beneficiary of the QSST materially participates in the business of the Subchapter S corporation or is in a lower marginal bracket, significant health care taxes may be saved with the technique.
  - It has the potential of mitigating gift tax surprises.
  - Appreciation will be out of the seller's estate.
  - The beneficiary of the QSST will have access to the cash flow distributed to the trust.
  - The trust is much more flexible than a simple income only trust and may be administered to simulate a complex trust without the income tax and health care tax disadvantages of a complex trust.
  - Because of the safe harbor provided by Revenue Ruling 81-15, IRC Sec. 2036(a)(2) may not be a concern for transfer planning with Subchapter S stock.
  - This technique does not have to be entered into until after the death of the first spouse to die.
  - A full step-up on the appreciated assets that accrued from the first spouse to die's estate will be achieved.

The Conversion of a Credit Shelter Trust to a Qualified Subchapter S Trust (“QSST”), the Investment by the Credit Shelter QSST in a Subchapter S Corporation and the Sale of Subchapter S Stock owned by the Surviving Spouse to the Credit Shelter QSST (Continued)

– A significantly greater amount will pass to the remainder beneficiaries of the credit shelter trust under this technique, in comparison to no further planning, as the table below demonstrate:

– As the above table demonstrates, under the assumed facts of this example, the technique simulates the same results a $45,000,000 credit shelter trust would have produced, which is almost nine times the size of the credit shelter trust that could be created. Once again, the synergistic power of using discounted sales to grantor trusts is illustrated.

	Leverage Children and Grandchildren (1)	Consumption Direct Cost (2)	Consumption Investment Opportunity Cost (3)	IRS Income Tax (4)	IRS Income tax Investment Opportunity Costs (5)	IRS Estate Tax (at 40%) (6)	Total (7)
10-Year Future Values							
No Further Planning other than funding a $5,340,000 credit shelter trust: Lenny bequeaths estate to family (assumes $6.7mm estate tax exemption available at death)	$56,160,243	$6,722,029	$2,606,804	$6,416,457	$2,225,962	$27,965,466	$102,096,962
Simulated $44,549,008 Credit Shelter Trust: Lenny Leverage's deceased spouse created a credit shelter trust for Lenny and family and bequeaths the rest of her estate to Lenny	$76,846,392	$6,722,029	$2,606,804	$8,210,690	$2,225,962	$5,485,084	$102,096,962
Hypothetical Technique: Lenny bequeaths estate to family (assumes $6.7mm estate tax exemption available at death)	$76,846,392	$6,722,029	$2,606,804	$8,734,934	$2,225,962	$4,960,840	$102,096,962

– As the above table demonstrates, under the assumed facts of this example, the technique simulates the same results a $45,000,000 credit shelter trust would have produced, which is almost nine times the size of the credit shelter trust that could be created. Once again, the synergistic power of using discounted sales to grantor trusts is illustrated.

- Considerations of the technique:
  - There may need to be substantive equity in the trust (is 10% equity enough?) before the sale is made.
  - The federal income tax considerations with utilizing a Subchapter S corporation.
  - Federal income tax considerations with respect to the interest on the seller/beneficiary's note.
  - Any assets of the trust that are not Subchapter S stock will be taxed trust under normal Subchapter J rules.
  - State income tax considerations.
  - The Step Transaction Doctrine needs to be considered.
  - The transferor is the only beneficiary of the trust.
  - Like all leverage techniques, if the underlying assets stay flat or decline there is not any advantage to the technique and to the extent a gift tax exemption is used, the technique operates at a disadvantage.
  - Additional estate tax considerations.
    - It is important that any sale by a beneficiary of a trust be for "fair and adequate consideration" and also be considered a "bona fide sale". If the sale is not for "adequate and full consideration," or if the sale is not considered to be a "bona fide sale," the value of the assets of the trust at the time of the beneficiary's death will be brought back into the beneficiary's estate under IRC Secs. 2036 and/or 2038 because the seller obviously has a retained interest in the trust (unlike a conventional sale to a grantor trust in which the seller does not have a retained interest in the trust). (In determining the estate tax under IRC Secs. 2036 and 2038, there will be a consideration offset allowed under IRC Sec. 2043 for the value of the note at the time of the sale.) The beneficiary—seller should consider a defined value assignment and the filing of a gift tax return which discloses the sale.
  - A trust must meet the requirements of a QSST, which may mean converting an existing trust's provisions.

Using Partnership Structures to Achieve Diversification While Delaying the Tax on That Diversification (See Pages 129-140 of the Paper)

- Certain key partnership income tax and basis accounting rules:
  - Generally, the contribution of low basis property to a partnership does not trigger gain, but it could.
    - The primary purpose of IRC Sec. 721 is to allow the formation of a partnership without the recognition of a taxable gain, thus encouraging the growth of new businesses.
    - Subchapter K of the Internal Revenue Code indicates, that, in general, no gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.
    - The Treasury Regulations further detail the definition of an investment company to include entities where the formation results, directly or indirectly, in diversification of the transferors' interests, and more than 80 percent of its value in assets (excluding cash and nonconvertible debt obligations from consideration) that are held for investment and are readily marketable stocks or securities, or interests in regulated investment companies or real estate investment trusts.
  - Certain partnership tax accounting rules must be navigated to make sure a partnership is not being used as a vehicle for a disguised sale.
    - In an effort to preclude such disguised sale planning opportunities IRC Secs. 704(c), 737 and 707 were included in subchapter K.
    - IRC Secs. 704(c) and 737 prevent the distribution of an appreciated asset to one partner that was originally contributed by another partner during a seven year period. Another way to view the section is that if a partnership exists for more than seven years then the IRS probably will view the partnership as having a business purpose other than the disguised sale of an asset.

Using Partnership Structures to Achieve Diversification While Delaying the Tax on That Diversification (Continued)

  - Besides the seven year rule of IRC Secs. 704(c) and 737, there is the so called two year rule under the regulations of IRC Sec. 707. If a partner transfers property to a partnership and receives money or other consideration, the transfers are presumed to be a sale. Due to the specificity of the two-year rule, a properly structured partnership could avoid the application of a disguised sale if the assets remain within the partnership for an appropriate length of time.

- Certain partnership income tax accounting rules exist to determine if a tax is imposed on a partner who liquidates his or her partnership interest.

  - At some point in the future, the partners may wish to realize the economic benefits of their investment through the distribution of partnership assets or the liquidation of their interest in the partnership. IRC Secs. 731 and 732 address the taxation of such transactions.
  - Generally, gain will not be recognized to a partner, except to the extent that any money distributed exceeds the adjusted basis of such partner's interest in the partnership immediately before the distribution.
  - Because of the ease of liquidity related to marketable securities, the IRS has increasingly viewed such instruments as cash. In effect, marketable securities, if deemed to be money, can cause taxable gain, if the fair market value of the distributed securities exceeds the withdrawing partner’s tax basis in the partnership.
  - The receipt of marketable securities will not be considered cash, if the partnership is an investment partnership.
  - The general rule for qualifying as an investment partnership is the ownership of marketable investments and never engaging in an actual trade or business other than investing.

Using Partnership Structures to Achieve Diversification While Delaying the Tax on That Diversification (Continued)

– Certain partnership tax accounting rules exist to determine a partner's basis in non-cash assets he or she receives.

  • The basis in the asset distributions or distributions in liquidation of a partner's interest is subject to the tax rules outlined in IRC Sec. 732.

  • Under IRC Sec. 732, if a partner receives an asset distribution from a partnership, the partner receives the asset subject to a carryover of the partnership's cost basis, and if the partner receives an asset distribution in liquidation of his interest, then the partner will attach his partnership interest cost basis to the assets received in liquidation. The regulations highlight an example illustrating the result.

– Existing anti-abuse tax accounting rules.

  • Regardless of the form of a transaction, the IRS added regulations under IRC Sec. 701 (Anti Abuse Rules) that address the substance of a partnership and could cause a tax result derived from a partnership transaction to be negated, if the IRS views the structure as a mechanism to reduce the overall tax burden of the participating partners.

– If there is a change in the outside basis of a partnership interest, because of a sale or a death of a partner, that could effect the inside basis of the partnership assets.

Use of Multi-Owner Exchange Funds

- The technique:
  - Consider the following example:

<u>*The Use of Multi-Owner Exchange Funds*</u>

Four individuals, who are not related, and an investment bank contribute certain assets to partnership. The partnership is designed to last for 20 years. None of the partners withdraw prior to seven years after the creation of the partnership. Each partner contributes the following assets: Stacy Seattle, who owns a single member, LLC, contributes $1 million of Microsoft stock owned by her LLC, with a cost basis of $0; Connie Conglomerate contributes $1 million of General Electric stock, with a cost basis of $0; Wally Walter contributes $1 million of Wal-Mart stock, with a cost basis of $0; Manny Megadrug contributes $1 million of Merck, with a cost basis of $0; and Special, Inc. investment bank contributes $1.1 million of preferred partnership units in an UPREIT structure, with a cost basis of $1.1 million. The initial sharing ratios are as follows: the estate tax protected trust created by Stacy Seattle equals 19.6078%; Connie Conglomerate equals 19.6078%; Wally Walter equals 19.6078%; Manny Megadrug equals 19.6078%; and Special, Inc. equals 21.5686%. After the partnership is formed Stacy Seattle gives a non-managing member interest in his LLC to a grantor trust.

Seven years and a day later, all of the partners decide to withdraw from the partnership and receive a diversified portfolio appropriate for their sharing ratios. The partners believe at the time of their withdrawal that no capital gains consequences will accrue under current law.

Use of Multi-Owner Exchange Funds (Continued)

- Advantages of the technique:
  - If a client contributes stock to an exchange fund and then immediately gives a direct or indirect interest in the fund to a grantor trust there may be significant valuation discounts associated with that gift.
  - The owner of the exchange fund will achieve diversification of his portfolio that has much less volatility, and achieve a seven-year or longer delay in paying a capital gains tax for that diversification.
- Considerations of the technique:
  - Care needs to be taken to make sure there is not a deemed sale on the formation of the partnership under IRC Sec. 721.
  - Care should be taken to make sure IRC Secs. 704(c), 737 and 707 do not apply.
  - Care should be taken to make sure the liquidation of the partnership in seven years will not be subject to tax under IRC Secs. 731(c) and 732.
  - Each partner's basis in the assets that each partner receives will equal that partner's total outside basis of the liquidated partnership interest.
  - There are economic considerations in using exchange funds.

Use of Closely Held Family Partnerships

- The technique:
  - Consider the following example:

Diversification Planning With a Closely Held Family Partnership While
Preserving the Transfer Tax Advantage of a Closely Held Family Partnership

In 2005, Sam Singlestock contributed $850,000 worth of marketable stock (Marketable Stock, Inc.), with a cost basis of $0 to Growing Interests, Ltd. for an 85% limited partnership interest. His daughter, Betsy Bossdaughter, contributed $75,000 worth of Marketable Stock, Inc., with a cost basis of $0 and his son, Sonny Singlestock, contributed $75,000 worth of Marketable Stock, Inc., with a cost basis of $0 to the partnership and each received a .5% general partnership interest and a 7% limited partnership interest. The initial sharing ratios of the partners are Sam 85%, Betsy 7.5%, and Sonny 7.5%. In 2011, using a financial engineering technique, the Marketable Stock, Inc. stock owned by the partnership is hedged, and the partnership is able to obtain $595,000 in cash, in the form of a cash loan from Investment Bank, Inc. Betsy and Sonny also agree to personally guarantee the note. The partnership invests the loan proceeds in a nonmarketable $595,000 real estate investment.

A few years later (2013), for family reasons and because the partners have significantly different views about the future investment philosophy of the partnership, Sam Singlestock wishes to withdraw from the partnership. There has been no growth in the partnership assets. A professional, independent appraiser determines that because of marketability and minority control discounts, Sam's limited partnership interest is worth $595,000. The partnership distributes the real estate investment worth ($595,000) in liquidation of his limited partnership interest. The partnership makes an IRC Sec. 754 election.

One year later (2014) the partnership sells enough of Marketable Stock to liquidate the loan with the proceeds of the $595,000 sale. After the 754 election the partnership's basis in the $1,000,000 Marketable Stock, Inc. is equal to $595,000. Thus, if all of the $1,000,000 in marketable stock is then sold to retire the $595,000 debt and diversify into other investments there will be $101,250 in capital gains taxes (assuming a 25% rate). After the sale, the partnership and the remaining owners of the partnership, Betsy and Sonny, are left with $303,750.

Use of Closely Held Family Partnerships (Continued)

- Advantages of the technique:
  - The income tax benefit of the withdrawal: the illustrated “family structure” opportunity can provide the family an ability to manage the position through an appropriate controlled legal entity, while offering the potential for a long-term exit strategy that can be accomplished on a deferred tax basis.
    - The real estate investment will retain its zero basis without the imposition of a capital gains tax until it is sold, at which time Sam will recognize capital gains taxes.
    - If Sam chooses to operate the real estate until his death, then IRC Sec. 1014 would apply upon his death and the real estate will receive a step-up in basis to its then fair market value.
  - In comparison to the exchange fund, the illustrated mixing bowl technique provides the retention of upside in the original appreciated position, albeit without diversification until the stock is sold, and without the lack of control and the outside management fees associated with exchange funds.
  - Transfer tax benefit of a withdrawal from a long-term partnership structure.
  - The total potential transfer tax and capital gains tax savings may be significant.
    - The net result of these transactions is that Betsy and Sonny’s collective net worth (assuming a 25% capital gains rate) after capital gains taxes and/or contingent capital gains taxes will increase by 170%, as calculated below:

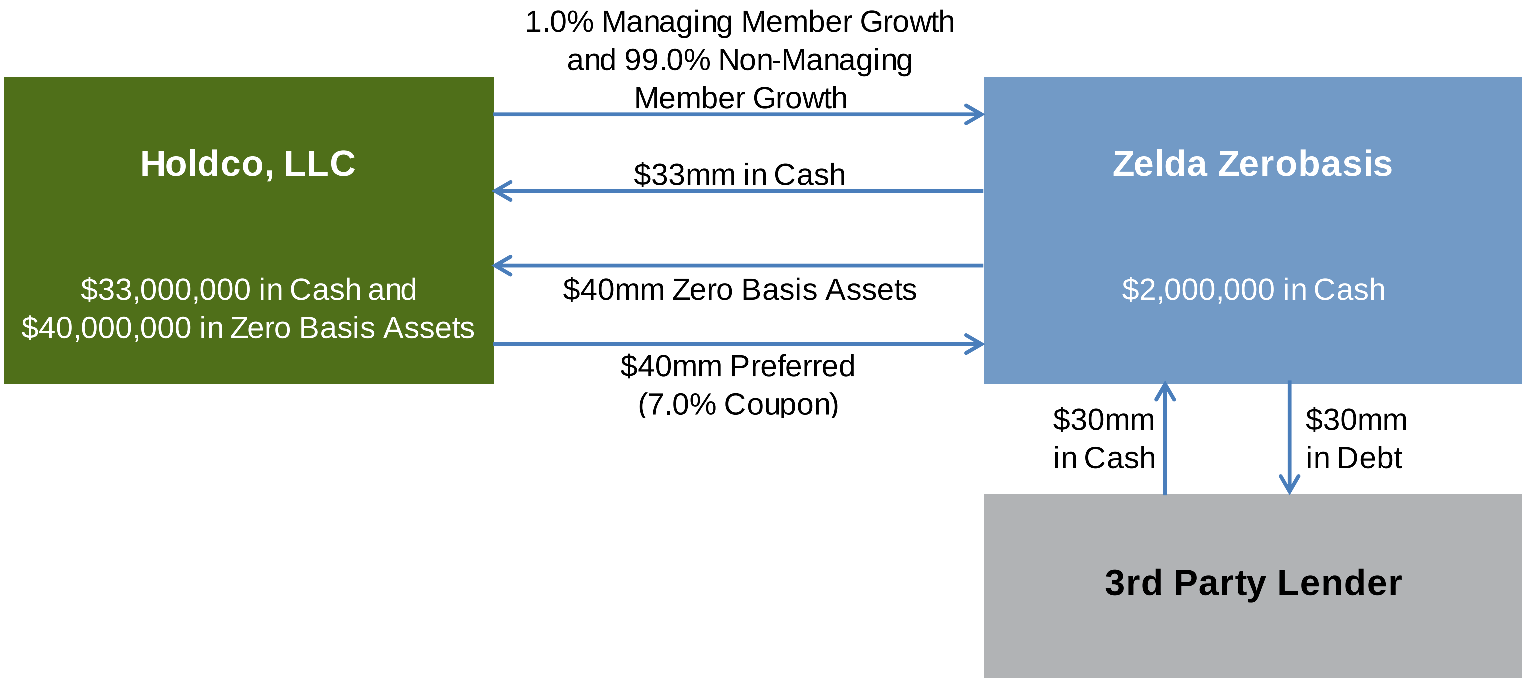
      (($1,000,000-$595,000-$101,250)-($150,000-$37,500)), or ($303,750-$112,500), or $191,250, or a 170% improvement ($191,250÷$112,500) after taxes.

Use of Closely Held Family Partnerships (Continued)

- Considerations of the technique:
  - Are there any tax consequences on formation of the partnership?
  - Are there any tax consequences when Sam redeems his interest?
    - If the partnership redeems Sam's interest for cash, Sam will be subject to capital gain recognition under IRC Sec. 731(a).
    - If Sam's interest is redeemed with the non-marketable real estate, applying the rules of IRC Secs. 732 and 752, Sam would have a "0" basis in the non-marketable real estate, Sam would pay no immediate capital gains tax and the partnership, because of the application of IRC Sec. 734(b), would have a $595,000 basis in its remaining assets (the hedged Marketable Stock, Inc. stock).
  - The partnership portfolio is still subject to the $595,000 note payable that must be repaid at some time in the future. The partnership could make a Section 754 election after the redemption of Sam's interest, and because of IRC Sec. 734(b) the remaining marketable stock would receive a proportionate basis adjustment.
  - There is exposure that Congress could change the law, by the time a partner withdraws (e.g., IRC Secs. 732 or 752 of the Code could be amended) and that the favorable liquidation rules would no longer be available. There is also exposure in that the IRS could change its regulations.
  - Like all leverage techniques, if the underlying assets stay flat or decline there is not any advantage to the technique and to the extent a gift tax exemption is used, the technique operates at a disadvantage.

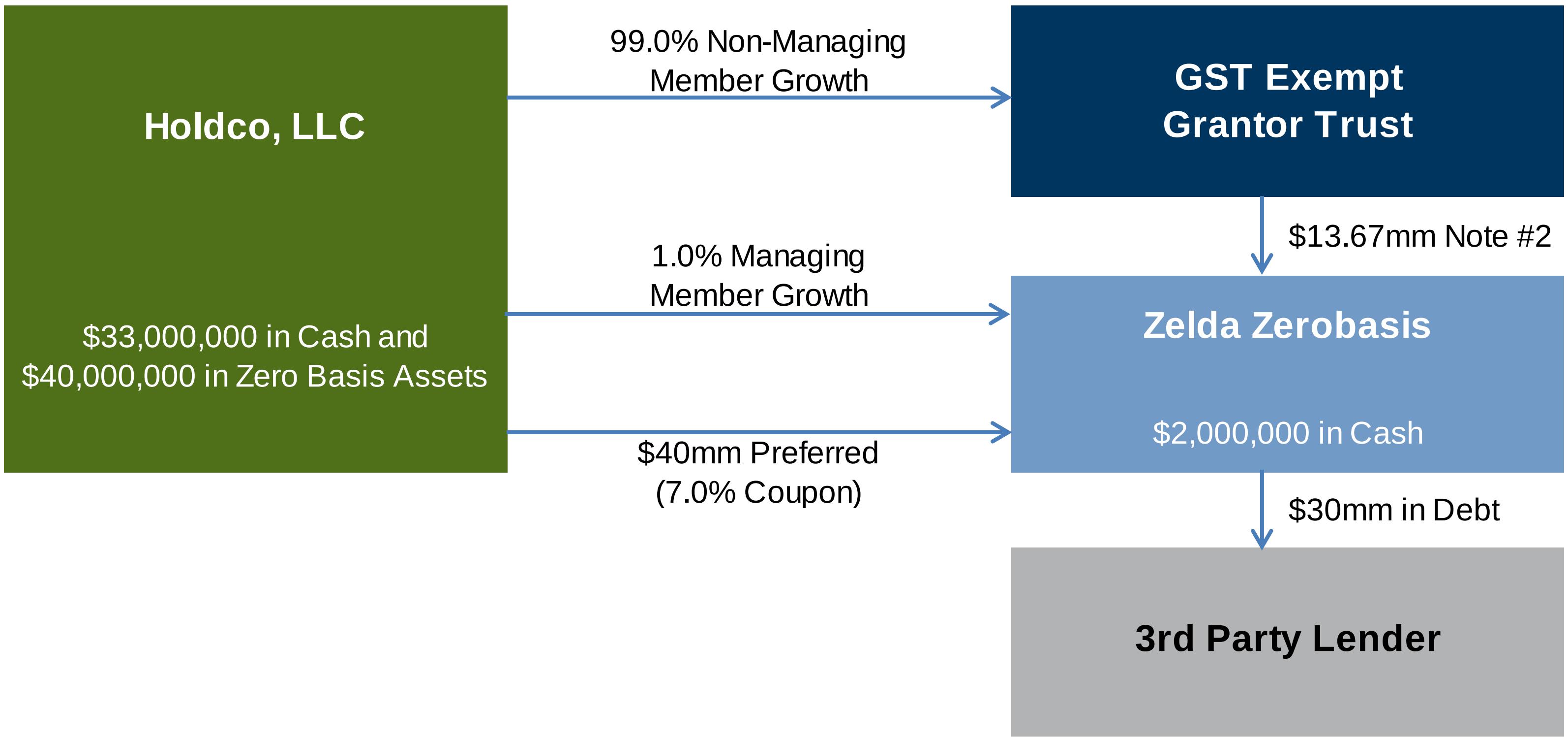
The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning

- The technique:
  - A technique for a taxpayer who owns assets that are highly appreciated (e.g., depreciated real estate), wishes to engage in estate planning, and would like to preserve the possibility of a step-up in basis at death, is to consider creating a single member limited liability company with preferred and growth member interests. The taxpayer could contribute the zero basis asset to the single member limited liability company in exchange for a preferred interest. The taxpayer could contribute cash that the taxpayer owns, or borrows, to the single member limited liability company in exchange for the "growth" interests. The taxpayer could then engage in advanced gifting techniques to remove the growth interests from her estate. Consider the following illustration:



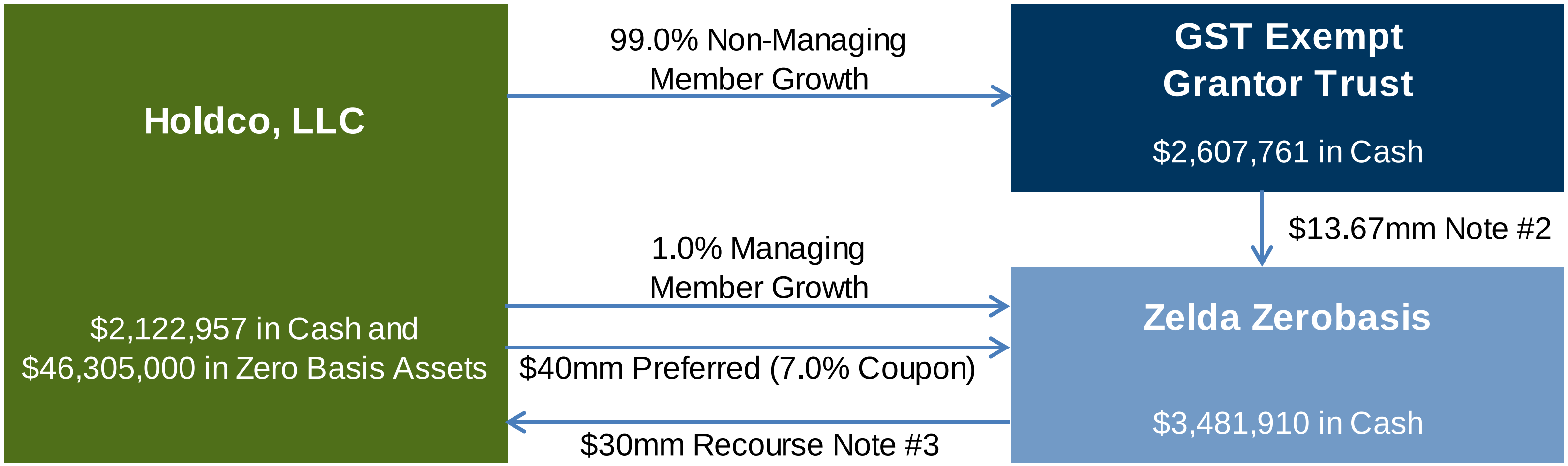
The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

– Zelda could then gift (using her $5,340,000 gift tax exemption) the non-managing member growth interests and sell the remaining non-managing member growth interests to a GST exempt grantor trust in separate independent transactions. Assuming a 40% valuation discount is appropriate because of the liquidation preference and income preference of the retained preferred interest, these transactions could be represented by the following diagram:



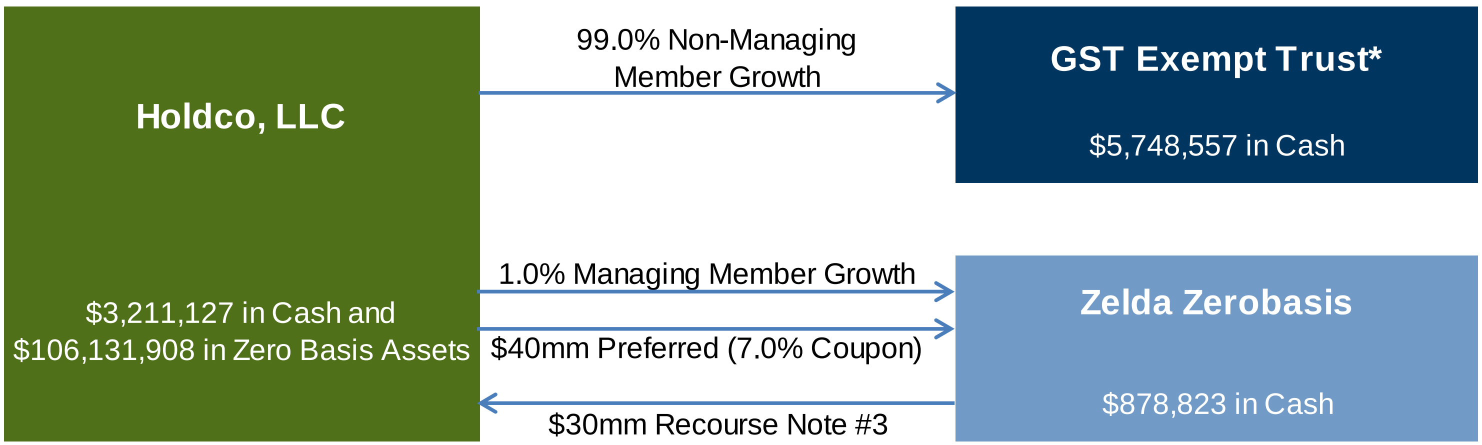
The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

– After three years Zelda may wish to borrow cash from Holdco, LLC on a long-term recourse, unsecured basis to pay her recourse loan from the third party lender. After the payment of the loan to the third party lender the structure will be as shown below:



The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

– The moment before Zelda's death in 20 years the structure under the above assumptions may be as follows:



*Grantor Trust status removed in year 18.

– At Zelda's death the single member LLC could terminate and her estate would pay the note owed to the single member LLC. Her estate would receive a step-up in basis for the preferred interest in Holdco.

– Holdco, LLC could sell the zero basis assets after an IRC Section 754 election is made.

*Grantor Trust status removed in year 18.

The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

– At Zelda's death the single member LLC could terminate and her estate would pay the note owed to the single member LLC. Her estate would receive a step-up in basis for the preferred interest in Holdco. Holdco, LLC could sell the zero basis assets after an IRC Section 754 election is made. The balance in Zelda's estate and the GST exempt trust, after capitals gains taxes, but before estate taxes, would be as follows:

Zelda Zerobasis	GST Exempt Trust*
$10,878,823 in Cash	$105,091,592 in Cash

*Grantor Trust status removed in year 18.

The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

- Advantages of the technique:
  - The net after tax savings to Zelda are projected to be substantial. See the table below:

	Zerobasis Children (1)	Zerobasis Children & Grandchildren (2)	Consumption (3)	Consumption Investment Opportunity Cost (4)	Opportunity Cost/(Benefit) of Borrowing from 3rd Party Lender (5)	IRS Income Tax (6)	IRS Income Tax Investment Opportunity Costs (7)	Estate Taxes (8)	Total (9)
20-Year Future Values									
No Further Planning: Bequeaths Estate to Family	$44,616,886	$8,530,000	$12,772,329	$13,053,175	$0	$15,575,474	$15,627,875	$29,744,590	$139,920,329
Hypothetical Technique: Bequeaths Remaining Estate to Family	$3,135,638	$82,597,794	$12,772,329	$13,053,175	($11,079,903)	$22,247,774	$15,103,098	$2,090,425	$139,920,329
Present Values (Discounted at 2.5%)									
No Further Planning: Bequeaths Estate to Family	$27,228,389	$5,205,611	$7,794,581	$7,965,974	$0	$9,505,259	$9,537,238	$18,152,259	$85,389,311
Hypothetical Technique: Bequeaths Remaining Estate to Family	$1,913,589	$50,407,034	$7,794,581	$7,965,974	($6,761,743)	$13,577,170	$9,216,982	$1,275,726	$85,389,311

  - Unlike a traditional gift planning technique, that eliminates estate taxes by removing an asset from the taxpayer’s estate, there will be a significant step-up in basis on the death Zelda.
  - This technique has the same advantages as a sale to a grantor trust.
  - This technique has the same advantages as using borrowing with a grantor trust to achieve basis adjustment in low basis assets.

The Use of a Retained Preferred Partnership Interest and Third Party Leverage to Generate Effective Estate Planning and Basis Planning (Continued)

- Considerations of the technique:
  - This technique has the same considerations as a sale to a grantor trust, except this technique may address step-up in basis planning in a more advantageous manner.
  - Care must be taken to comply with the gift tax valuation rules of IRC Sec. 2701.
  - Third party financing, at least on a temporary basis, may be necessary.
  - This technique has many of the same considerations as using borrowing with a grantor trust to achieve basis adjustment in low basis assets.

Significantly Reducing Both the Income and Estate Tax Consequences of Owning a Successful IRA Without Making a Charitable Gift (See Pages 140-144 of the Paper)

- The technique:
  - Consider the following example:

Owen Overtaxed Engages in a Plan to Eliminate the Future
Income Tax and Estate Taxes on the Growth of His $10,000,000 IRA

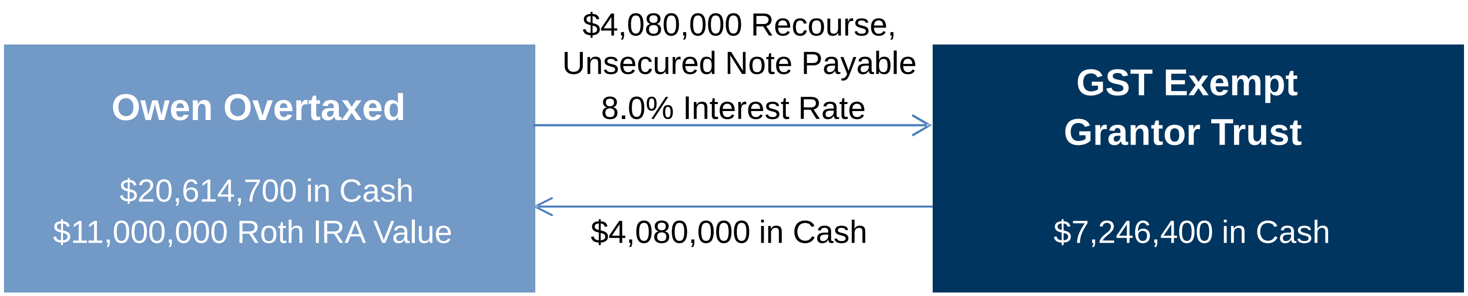
Owen Overtaxed, who has just turned 70-½, tells his tax advisor, Pam Planner, that he has $10,000,000 in his IRA, $20,000,000 in assets that he owns outside his IRA and $10,000,000 in a dynasty grantor trust he created. Owen asks Pam to assume that he has a 13-year life expectancy and the IRA will grow at a rate that is correlated to the S&P 500 Index, which he asks her to assume will be 10% a year (pre-tax). Owen estimates that he will spend $500,000 a year in addition to what he will need to pay his income taxes and the grantor trust's income taxes. Owen tells Pam that he does not need any distributions from the IRA for his retirement needs and that the balance of the IRA will pass to his descendants on his death. Owen asks Pam to assume that he and the grantor trust will earn 10% a year before taxes with 3% of the return being taxed at ordinary rates and 7% of the return being taxed at long-term capital gains rates with a 30% turnover.

Owen asks Pam if there are any strategies that do not involve charitable giving in which he can significantly reduce his projected income tax and estate tax that will be caused by the future growth of his IRA? Pam tells Owen that yes, there are such strategies. Pam tells Owen that she will run an analysis on three different strategies. All of these strategies involve converting the $10,000,000 IRA to a Roth IRA with Owen paying the $4,080,000 federal income tax caused by the conversion.

  - The first strategy is for Owen to pay for the income tax on the rollover to a Roth IRA out of his personal assets.
  - Since the conversion is not going to benefit Owen and will only benefit his descendants, Pam's last two strategies involve the dynasty grantor trust entering into transactions that finance the income tax cost of the conversion. Pam reasons that because the Roth IRA conversion benefits Owen's descendants, the grantor trust should be willing to be either a lender of funds to Owen, or a counter-party to Owen in a derivative transaction.

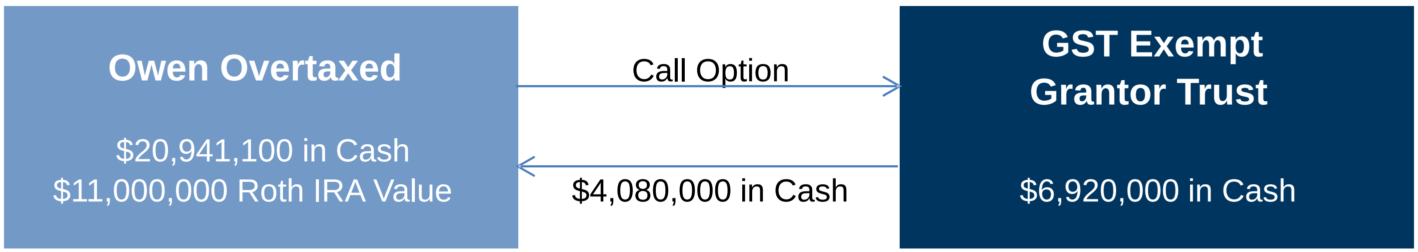
Significantly Reducing Both the Income and Estate Tax Consequences of Owning a Successful IRA Without Making a Charitable Gift (Continued)

- The lending strategy involves Owen converting his IRA to a Roth IRA and paying the resulting tax by borrowing the amount that is necessary to pay his income taxes on the conversion from the grantor trust for a long-term recourse note that is unsecured and has a fair market value interest rate (assumed to be 8% a year).
- Pam assumes if this strategy is adopted, Owen's estate will pay the principal of the note on his death.
- The lending strategy, after one year, is show below:



Significantly Reducing Both the Income and Estate Tax Consequences of Owning a Successful IRA Without Making a Charitable Gift (Continued)

- The third strategy involves Owen rolling his IRA to a Roth IRA and paying for the resulting income tax by selling a private derivative that is a private call option to the grantor trust based on the 12-year performance of the S&P 500 Index. The third strategy, after one year, is illustrated below:



- To determine if there is any potential advantage to Owen's descendants with the conversion, Pam simplifies her analysis by assuming both the IRA and the converted Roth IRA will terminate at Owen's death.

- That assumption greatly favors not converting the IRA to a Roth IRA, because a Roth IRA may be structured on an after-tax basis much more favorably after the death of the owner, if the Roth IRA is allowed to be extended.

Significantly Reducing Both the Income and Estate Tax Consequences of Owning a Successful IRA Without Making a Charitable Gift (Continued)

– Another advantage of simplifying the analysis is that a future Congress may limit the ability to extend the payments from any IRA after the death of its owner, and this analysis assumes the worst case scenario becomes the law. See the table below:

	Amount Transferred to Children and Grandchildren at Owen Overtaxed's Death if the IRA Terminates	% Improvement Over No Further Planning at Owen Overtaxed's Death if the IRA Terminates
% Improvement of Amount Transferred to Children and Grandchildren Compared to No Further Planning		
No Further Planning; IRA is Not Converted	$64,198,644	n/a
Hypothetical Technique #1: Owen Overtaxed Converts his IRA to a Roth IRA and Pays the Associated Income Taxes	$67,416,809	5.01%
Hypothetical Technique #2: Owen Overtaxed Converts his IRA to a Roth IRA; He Borrows $4,080,000 from the Existing GST Exempt Grantor Trust in Order to Pay the Associated Income Taxes	$67,281,395	4.80%
Hypothetical Technique #3: Owen Overtaxed Converts his IRA to a Roth IRA; He Enters Into a Call Option Purchase with the Existing GST Exempt Grantor Trust for $4,080,000; After 12 Years, the Call Option is Settled	$71,894,217	11.99%

Significantly Reducing Both the Income and Estate Tax Consequences of Owning a Successful IRA Without Making a Charitable Gift (Continued)

- Advantages of the technique:
  - If certain factors are present, conversion strategies will produce a superior result.
  - Roth IRA earnings and distributions are not subject to income taxes.
  - Roth IRAs are not subject to required minimum distributions (RMD) rules during the account holder's life.
  - Even though the ownership of a Roth IRA cannot be transferred, the future value of the Roth IRA could be simulated and expressed in a private call option derivative, which may be transferred, as illustrated in this example.
- Considerations of the technique:
  - Use of a derivative could be counterproductive for the grantor trust if the measurement of the success of that derivative does not grow.
  - The investor may not withdraw funds from the Roth IRA for at least five years.
  - If the investor must use funds inside the IRA to pay his income taxes on conversion, it probably does not make sense to convert.
  - There are proposals to put new limits on extended distributions to non-spouse beneficiaries.

Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (See Pages 144-150 of the Paper)

- The technique:
  - Consider the following illustration:

Insurance FLP

Assumed Value of Assets
$135,000,000

Assumed Basis in Assets
$135,000,000

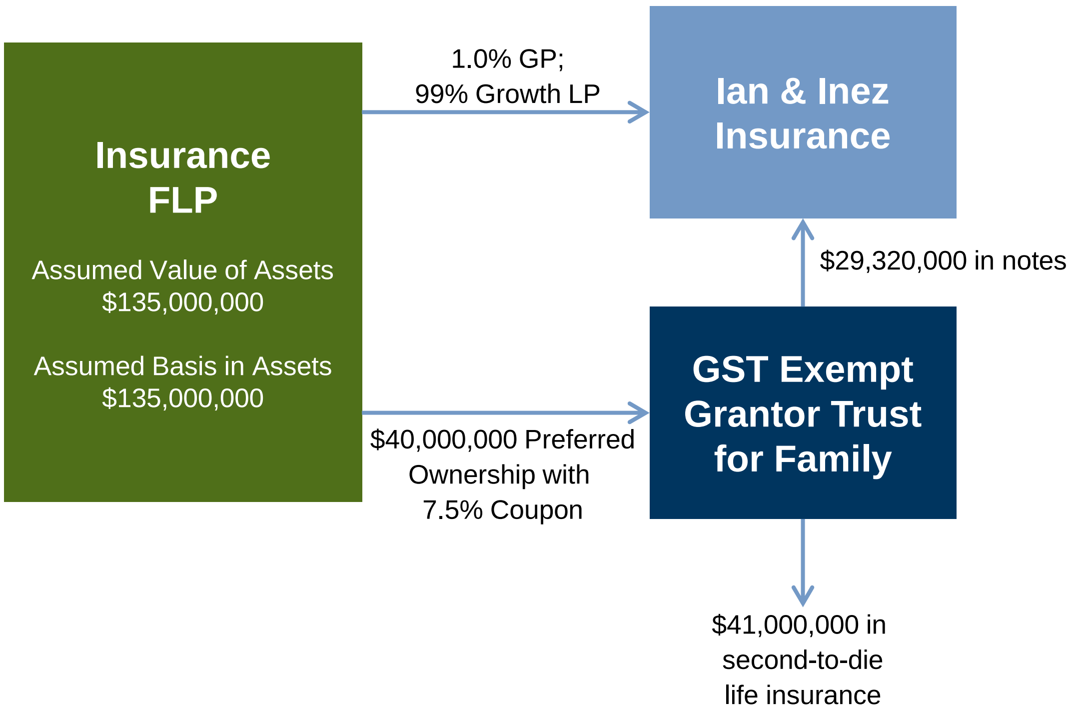
1% GP;
99% Growth LP;
$40,000,000 Preferred LP

Ian & Inez Insurance

Partner	Ownership (%)
Ian & Inez Insurance	1% GP; 99% Growth LP; $40,000,000 Preferred LP

Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (Continued)

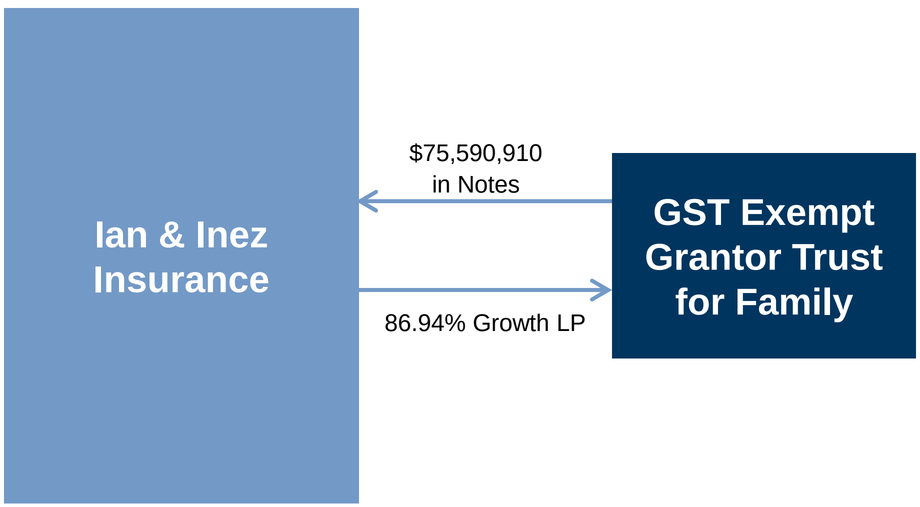
– After the FLP has been created Ian and Inez Insurance transfer, by gift, a $10,680,000 preferred partnership interest to some generation-skipping transfer trusts for the benefit of their children, grandchildren and future descendants. In April of 2014 Ian and Inez also sell the remaining $29,320,000 preferred interests to those trusts in exchange for notes that will pay a blended AFR rate of 1.81%. (For purposes of the calculations and the illustration below, it is assumed that the coupon of the preferred partnership interest will be 7.5%) See the illustration below:



Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (Continued)

– Cascading sales of growth interests:

- Approximately three years after the transfer of the preferred partnership interests, the GST grantor trust could purchase from Ian and Inez their remaining growth interests that have not been sold in prior years in exchange for notes.
- During the interim three-year period, it is assumed that around 12% of the growth limited partnership interests will have been purchased.
- The technique is illustrated below:



Partner	Ownership (%)
Ian & Inez Insurance	1% GP; $104, 910,000 Note Receivable
GST Exempt Grantor Trust for Family	$40,000,000 Preferred LP 99% Growth LP; $104,910,000 Note Payable

Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (Continued)

- Advantages of the technique:
  - Valuation Advantage: IRS concedes preferred partnership interests should have a high coupon.
  - IRC Sec. 2036 advantage.
  - The valuation rules of IRC Sec. 2701 should not apply, if one generation transfers the preferred partnership interests to the second generation.
  - The effect of cascading sales to an intentionally defective grantor trust.
  - Life insurance proceeds, if the policy is properly structured, are not subject to income taxes under IRC Sec. 101.
  - The taxpayer could save much of his unified credit to assist with a step-up in basis at death and refrain from any additional gifting strategies except as are necessary to pay for the life insurance, which will offset any estate taxes due at death of the taxpayer.
  - Significant life insurance can be purchased with this technique.

Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (Continued)

– Whether taxpayers live past their collective life expectancies or live a shortened life expectancy, the comparative outcome under the proposed plan is very advantageous.

	Insurance Children	Insurance Children & Grandchildren	Consumption Direct Cost	Consumption Investment Opportunity Cost	IRS Income Tax	IRS Investment Opportunity Cost	IRS Estate Tax (at 40%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
30-Year Future Values (Death in 10 Years)									
No Further Planning; Bequeaths Estate to Family in 10 Years (assumes $13.3mm estate tax exemption available in 10 years)	$518,454,579	$0	$20,061,789	$95,693,446	$100,387,186	$446,483,369	$96,004,325	$0	$1,277,084,694
Hypothetical Technique: Bequeaths Estate to Family in 10 years (assumes $2.6mm estate tax exemption available in 10 years)	$228,280,974	$557,267,326	$20,061,789	$95,693,446	$148,985,957	$329,382,789	$44,879,416	($147,467,002)	$1,277,084,694

	Insurance Children	Insurance Children & Grandchildren	Consumption Direct Cost	Consumption Investment Opportunity Cost	IRS Income Tax	IRS Investment Opportunity Cost	IRS Estate Tax (at 40%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
Present Value of the 30-Year Future Values (Death in 10 Years)									
No Further Planning; Bequeaths Estate to Family in 10 Years (assumes $13.3mm estate tax exemption available in 10 years)	$213,596,422	$0	$8,265,191	$39,424,433	$41,358,191	$183,945,237	$39,552,511	$0	$526,141,985
Hypothetical Technique: Bequeaths Estate to Family in 10 years (assumes $2.6mm estate tax exemption available in 10 years)	$94,048,739	$229,586,760	$8,265,191	$39,424,433	$61,380,242	$135,701,348	$18,489,725	($60,754,452)	$526,141,985

Use of the Leveraged Reverse Freeze to Pay For Income Tax Efficient Life Insurance and to Make Cascading Purchases of Growth FLP Interests (Continued)

- Considerations of the technique:
  - The same considerations as sales to grantor trusts.
  - If the insured live beyond their life expectancy there may be an investment opportunity cost in buying life insurance.

Enhancing the Basis of an Asset Through Marital Planning
(See Pages 150-154 of the Paper)

- Creating community property interests:
  - If property is community property, the surviving spouse's half interest in the community property will have a basis adjustment equal to the fair market value as reported in the deceased spouse's estate tax return.
  - There are currently nine community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. Generally, when a couple moves into one of these states, their separate property may be converted into community property by agreement.
- Advantages of the technique:
  - There is a clear statutory authority that if property is community property, the basis of the surviving spouse's interest in the community property is adjusted on the deceased spouse's death.
  - If a couple moves to Texas or Nevada, there are also other advantages. Neither state has a state income tax nor a state inheritance tax.
- Considerations of the technique:
  - The couple needs to establish that they are domiciled in the community property state.
  - Community property states could create creditor considerations, and marital property rights on the divorce of the spouses, that otherwise would not exist.
  - Arizona, California, Idaho, Louisiana, New Mexico, Washington and Wisconsin either have a state income tax or a state inheritance tax.
  - A couple may later move from a community property state to a separate property state and the community property status of their property may be lost.

Enhancing the Basis of an Asset Through Marital Planning (Continued)

- The technique of a non-resident couple electing to treat their property as community property under the state statutes of Alaska and Tennessee:
  - Non-residents could name a trustee who resides in Alaska or Tennessee as trustee and have the trust subject to either state's trust and property laws. Both states allow non-residents to convert their property to community property, if the trust document expresses that intent.
- Advantages of the technique:
  - If the technique is successful, it has the potential basis advantages of community property.
  - Both Alaska and Tennessee have favorable state tax laws.
- Considerations of the technique:
  - There is not any reported tax case confirming the technique.
  - Requires the cost of creating the trust and having a trustee in that state.
  - Under the conflict law rules of the taxpayer's domicile, it is unclear whether the non-residents' creation of a trust in Alaska or Tennessee, which changes the martial property rights of the non-residents, will be recognized by the non-residents' sale of domicile.

Enhancing the Basis of an Asset Through Marital Planning (Continued)

- Using joint revocable trusts to get a basis adjustment on the low basis assets jointly owned by a couple on first spouse to die's death:
  - A married couple jointly creates a revocable trust and transfers assets to the trust. Either spouse, during their joint lifetimes may revoke the trust with 50% of the assets in the trust passing to each spouse.
  - On the death of either spouse, the trust becomes irrevocable and, the decedent spouse will have a general power of appointment over the entire trust, which causes a basis adjustment under IRC Sec. 1014.
    - Under the trust document, or by exercise of the general power of appointment, it is assumed an amount no greater than the deceased spouse's exemption amount, but no greater than the deceased spouse's contribution to the JEST, will first fund a bypass trust with the surviving spouse being a lifetime beneficiary.
    - If the decedent spouse's 50% share is less than the exemption amount, that remaining exemption amount may perhaps be funded by the surviving spouse's share of the trust in a bypass trust in which the surviving spouse is not a beneficiary.
    - If the deceased spouse's 50% share exceeds the estate exemption amount, that excess could pass to a QTIP for the benefit of the surviving spouse.
- Advantages of the technique.
  - If IRC Sec. 1014(e) does not apply, all or part of the marital property subject to the JEST will get a basis adjustment upon the death of the first to die.
  - A simple estate freeze could occur during the surviving spouse's lifetime to reduce the estate taxes on the surviving spouse's death.
    - The trustee of the QTIP trust could sell or loan its assets to the trustee of the by-pass trust after the death of the first spouse to die.

Enhancing the Basis of an Asset Through Marital Planning (Continued)

- Considerations of the technique.
  - This technique may lead to undesirable results in second marriage situations when there is a desire to protect a spouse's children from a different marriage.
  - IRC Sec. 1014(e) may prevent some or all of the basis adjustment that exceeds what would have happened if the JEST had not been created.
    - The IRS takes the position that an incomplete gift is made by the surviving spouse to the deceased spouse (because of the surviving spouse's revocation power) that does not become complete until the moment of death (which, of course, is within one year of the deceased spouse's death) and IRC Sec. 1014(e) applies to deny a step-up of that part of the JEST that accrues from the surviving spouse's contribution to the JEST
    - The advocates of this technique suggest that the IRC Sec. 1014(e) portion could be segregated and put into the bypass trust in which the surviving spouse is not a beneficiary, which some believe may defeat the reason for the creation of the JEST.
  - The surviving spouse may not be a beneficiary of the by-pass trust in which the surviving spouse is considered the grantor.

Enhancing the Basis of an Asset Through Marital Planning (Continued)

- IRC Sec. 2038 Estate Marital Trust:
  - A spouse (the “funding spouse”) will contribute a low basis asset to a trust in which the trust assets will be held for the benefit of the other spouse (the “beneficiary spouse”) and will pass to the beneficiary spouse’s estate on the beneficiary spouse’s death.
  - The funding spouse will retain the right to terminate the trust at any time prior to the beneficiary spouse’s death.
  - If the trust is terminated the trust assets must be distributed to the beneficiary spouse.
  - The funding spouse will retain the right in a non-fiduciary capacity to swap assets with the trust.
- Advantages of the technique.
  - If the funding spouse dies first, the trust assets should be taxable in the funding spouse’s estate and there should be a basis adjustment of the trust’s assets upon that death.
    - The funding spouse’s power to terminate the trust will be treated as an IRC Sec. 2038 power.
  - If the beneficiary spouse dies first, the trust assets should be taxable in the beneficiary spouse’s estate under IRC Sec. 2031.
  - The funding spouse’s transfer should qualify for the gift tax marital deduction under IRC Sec. 2523(b) and should be a completed gift for gift tax purposes (since the beneficiary spouse is the lifetime beneficiary and the remaining trust properties on the beneficiary spouse’s death pass to the beneficiary spouse’s estate).
  - For smaller estates, unlike the JEST described above, the surviving spouse could be a beneficiary of all trusts that may be created.
  - The remaining high basis assets of the marriage could be left out of the technique.

Enhancing the Basis of an Asset Through Marital Planning (Continued)

- Considerations of the technique.
  - The possibility exists that the beneficiary spouse's may bequeath the properties accruing from the trust in an unanticipated manner (from the funding spouse's perspective).
  - If the beneficiary spouse dies first and if the death occurs within one year of the funding of the trust, IRC Sec. 1014(e) will prevent the desired basis adjustment, if the property is bequeathed back to the funding spouse.

Private Wealth Management

Strategic Wealth Advisory Team - Biographies

Biographies

Stacy Eastland – Managing Director | **Houston** | **Tel: (713) 654 – 8484**

Stacy joined the firm to expand the advisory team working with Private Wealth Management clients. He currently works with private clients and their own advisors with their strategic wealth management plans, combining a variety of income tax, estate planning and gifting techniques. Prior to joining Goldman Sachs in October 2000, Stacy was a senior partner with Baker Botts, L.L.P. in Houston, Texas. Stacy received his B.S. (with Honors) from Washington and Lee and his J.D. from The University of Texas (with Honors). Stacy's professional associations include: Member of the International Academy of Estate and Trust Law; Fellow of the American College of Trust and Estate Counsel (Regent for 1992/1998 term); Member of the American Bar Association (Supervisory Council Member of the Real Property, Probate and Trust Law Section from 1990-1998); Member of the Texas Bar Association (Texas Bar Foundation Fellow); Member of the Houston Bar Association (Houston Bar Foundation Fellow). Stacy is listed in Who's Who in America and The Best Lawyers in America (Woodward/White). He has also been listed in Town & Country and in Bloomberg Personal Finance as one of the top trust and estate lawyers in the U.S. Stacy was selected as one of the ten initial recipients of the Accredited Estate Planner® award of the Estate Planning Hall of Fame® (2004). He was recently named one of the "Top 100 Wealth Advisors" to ultra-high net worth individual clients in the United States by Citywealth magazine. Articles about Stacy's estate planning ideas have also been featured in Forbes and Fortune magazines. Stacy is a prominent lecturer throughout the country.

Jeff Daly – Managing Director | **Los Angeles** | **Tel: (310) 407 – 5828**

Jeff joined Goldman Sachs in October 2000, after spending nine years with Arthur Andersen in Houston in the Private Client Services group as a Senior Tax Manager. Jeff's experience includes developing and implementing innovative strategies to assist his clients in meeting their income tax, estate tax, and financial planning goals. He has co-written or assisted with published articles addressing issues of estate planning, income tax planning, single stock risk management and stock option planning. He has been a past speaker at various tax conferences sponsored by state bar associations and law schools. He was recently named one of the "Top 100 Wealth Advisors" to ultra-high net worth individual clients in the United States by Citywealth magazine. He earned his B.S. in Economics with honors from the WDozoretzon School of the University of Pennsylvania.

Strategic Wealth Advisory Team (continued)

Biographies

Clifford D. Schlesinger – Managing Director | **Philadelphia** | **Tel: (215) 656 – 7886**

Cliff is a member of the Goldman Sachs Strategic Wealth Advisory Team. He works with the firm's private clients and their own advisors to develop appropriate wealth management plans that often combine a variety of income tax, gifting and estate planning techniques. Prior to joining Goldman Sachs, Cliff was a partner with the law firm of Wolf Block Schorr and Solis-Cohen LLP. Cliff served on WolfBlock's Executive Committee and was Chairman of WolfBlock's Private Client Services Group. Cliff graduated, magna cum laude, with a B.S. in Economics from the WDozoretzon School of the University of Pennsylvania. He received his J.D., cum laude, from the University of Pennsylvania Law School. Cliff was admitted to the practice of law in Pennsylvania and New York and he also received his C.P.A. license from New York. Cliff is a Fellow of the American College of Trust and Estate Counsel. He is a past President of the Philadelphia Estate Planning Council (PEPC). He was the PEPC's 1998 recipient of the Mordecai Gerson Meritorious Service Award. Cliff currently serves as the Treasurer and as a member of the Board of Trustees of the National Museum of American Jewish History. Cliff also serves on the Board of Overseers for the Einstein Healthcare Network. Cliff previously served as President of the Endowment Corporation and on the Board of Trustees of the Jewish Federation of Greater Philadelphia. Cliff was the 2008 recipient of the Edward N. Polisher Award in recognition of his distinguished service to the Philadelphia Jewish Community. Cliff was also the 2003 recipient of the Myer and Rosaline Feinstein Young Leadership Award presented for exceptional service to the Philadelphia Jewish Community. Cliff has been a frequent author and lecturer on estate planning and transfer tax related topics.

Karey Dubiel Dye – Managing Director | **Houston** | **Tel: (713) 654 – 8486**

Karey joined Goldman Sachs in October 2000, after practicing law at the law firm of Vinson & Elkins L.L.P. in Houston, Texas. While in private practice, Karey specialized in trusts and estates and tax exempt organization matters. Currently, Karey works with private clients and their own advisors on estate planning and family wealth transfer matters as well as with institutional clients served by Goldman Sachs Private Wealth Management (foundations, endowments, and other charitable organizations). Karey also assists donors and their advisors in developing efficient charitable giving strategies, including the creation and administration of non-profit family charitable vehicles such as private foundations, donor advised funds, and supporting organizations. Karey also serves as the President of the Goldman Sachs Philanthropy Fund, a donor advised fund which is a public charity established to encourage and promote philanthropy and charitable giving across the United States by receiving charitable contributions, by providing support and assistance to encourage charitable giving, and by making grants to other public charities and governmental units. Karey graduated from Middlebury College, B.A., cum laude, and the University of Virginia School of Law, J.D. She was admitted to the practice of law in Texas. In Houston, she serves on the board of the Foundation for DePelchin Children's Center, on the endowment board at St. Martin's Episcopal Church where she is Past President, and on the board of Episcopal High School where she chairs the Advancement Committee.

Strategic Wealth Advisory Team (continued)

Biographies

Melinda M. Kleehamer – Managing Director | **Chicago** | **Tel: (312) 655 – 5363**

Melinda M. Kleehamer has worked exclusively with ultra-high net worth families for over twenty-five years. As a member of SWAT, Melinda helps PWM clients and their advisors with sophisticated income, gift and estate planning techniques. Melinda spent the first fifteen years of her career practicing gift and estate planning law with national and international law firms, most recently as a capital partner in McDermott Will & Emery's Private Client Department. At McDermott, Melinda focused on pre-transaction planning, family business issues, family wealth education, complex gift planning and valuation methodologies. After leaving the practice of law, Melinda maintained a private client practice focused on communication, decision-making and conflict resolution workshops specifically tailored to her clients' individual, family and philanthropic goals. She also led a sales and advisory team at Bank of America that managed investment, trust, deposit and credit services for her clients. Melinda is a summa cum laude graduate of the State University of New York at Brockport, an honors graduate of the University of Chicago Law School and a member of the Order of the Coif. She is a member of the Distribution Committee of a family foundation and deeply involved in charitable activities intended to alleviate suffering of all kinds.

Adam Clark – Managing Director | **New York** | **Tel: (212) 357 – 5177**

Adam Clark serves as Chairman, CEO and President of the Goldman Sachs Trust Company, N.A. and is a member of the Strategic Wealth Advisory Team, where he provides tax and wealth planning education focused on gift and estate tax planning, income tax planning and philanthropic planning. Adam also has extensive experience in the international tax area, having advised high net worth clients with multi-jurisdictional tax and financial interests, including non-U.S. investments and families of multiple citizenship and residence. He has also helped many families to satisfy their U.S. tax reporting obligations with respect to interests in non-US structures, such as offshore trusts and foreign investment vehicles. Prior to joining as a member of the Strategic Wealth Advisory Team in the Goldman Sachs' New York office, Adam was a managing director at WTAS LLC, where he led the international private client group, helping domestic and international families with their tax, financial planning and business interests. Adam holds an LL.B in English law and German law from the University of Liverpool and achieved the BGB (German civil law) from the University of Würzburg. Adam also serves on the board of Fiver Children's Foundation, an organization that provides youth development programs to underserved communities throughout New York City and Central New York.

Strategic Wealth Advisory Team (continued)

Private Wealth Management

Biographies

Michael L. Duffy – Vice President | **Atlanta** | **Tel: (404) 846 – 7224**

Michael L. Duffy serves two roles at Goldman Sachs: (i) Southeast Trust Strategist for the Goldman Sachs Trust Companies and (ii) Southeast representative of the Strategic Wealth Advisory Team (SWAT). Prior to joining Goldman Sachs in May 2007, Michael was a Senior Director of New Business Development with Mellon Financial. Before joining Mellon, Michael served as a Vice President and Wealth Advisor in the JPMorgan Private Bank, where he provided counseling and planning services to ultra-high net worth families. Preceding his tenure at JPMorgan Private Bank, Michael practiced law in Palm Beach, Florida with Alley, Maass, Rogers & Lindsay, P.A. where he was central to the firm's income tax, transfer tax and sales tax practices. Michael started his career after law school as an in-house research associate for Coopers & Lybrand. Michael was awarded his B.A. from Flagler College, his J.D. from Ohio Northern University and his LL.M. in Taxation from the Georgetown University Law Center. Although he does not currently practice law, he is a member of the American Bar Association and the Florida, North Carolina, South Carolina and Atlanta Bar Associations. Michael is currently serving a two-year term as Treasurer on the Board of the Atlanta Estate Planning Council.

Cathy Bell – Vice President | **Houston** | **Tel: (713) 654 – 8462**

Cathy joined the Strategic Wealth Advisory Team (SWAT) in May 2009, after spending 17 years with Stewart Title in Houston, Texas working in their property information technology division. Cathy received her B.B.A. in Finance from the University of Texas and her M.B.A. from the University of Houston. Cathy is a current board member of a local chapter of the National Charity League.

Jason Danziger – Vice President | **Dallas** | **Tel: (214) 855 – 1134**

Jason is a member of the Goldman Sachs Strategic Wealth Advisory Team. He works with Private Wealth Management clients and their own advisors to help achieve long-term goals using a variety of income tax, gifting and estate planning techniques. Prior to his current role, he assisted Private Wealth Management clients in the Texas region with the construction of comprehensive financial plans and general income tax and estate planning advice. Before joining Goldman Sachs, he was a Financial Planner and Assistant Vice President for a regional trust company in Houston. Jason began his career in public accounting, specializing in tax compliance for flow-through entities and oil and gas companies. Jason received his B.S. in Finance and Accounting from Washington University in St. Louis and a Master's in Public Accounting focusing in Tax from the University of Texas at Austin. He is a Certified Public Accountant (CPA) and a Certified Financial Planner (CFP).

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