SOME OF THE BEST ESTATE PLANNING IDEAS WE SEE OUT THERE©
(That Also Have the Merit of Playing Havoc With Certain “Conventional Wisdom”)

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SOME OF THE BEST ESTATE PLANNING IDEAS WE SEE OUT THERE©
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I. INTRODUCTION

This is a fun paper for the author. One of the many benefits of the job that I and others at my employer have is that we get to see some outstanding planning ideas by practitioners.[1] One of the other benefits of this job is that I get to work with some outstanding practitioners in our group, who have helped me with certain ideas presented in this paper.[2] While probably having no hope of being introduced on the Late Show with David Letterman, the purpose of this paper is to introduce to the reader the top 10 ideas that the author has seen in the past year that the author finds himself in the position of talking about with our client's tax advisors.

As the reader will be able to ascertain, the paper largely adopts the case study approach. The examples, in most cases, assume very significant estates. There is a method to that madness. Each of the ideas presented are inherently being "stress tested" by those significant estates. Stated differently, if the idea performs well in the large estate environment, chances are the idea will also perform very well for smaller estates.

The paper explores not only some of the top ideas that this author has stumbled across, but also tries to focus on a wide range of planning topics and/or purpose based planning strategies that the practitioner may encounter.

II. BEST NON-TAX PLANNING IDEA – OR WHY INVESTMENT PROFESSIONALS LOVE THE USE OF FAMILY LIMITED LIABILITY COMPANIES AND/OR LIMITED PARTNERSHIPS FOR TRUSTEE INVESTORS

A. Introduction.

The conventional wisdom this author sometimes hears on this subject is as follows: "for the passive trustee investor, there does not exist any substantive non-tax investment reason to invest in a family limited partnership;" or "Congress has not expressed its intent in the Internal Revenue Code as to under what circumstances, for transfer tax purposes, family limited partnerships should be recognized apart from its owners as a permissible organizational form for passive investors in marketable stocks and bonds." This "conventional wisdom," under the circumstances discussed below, is incorrect.

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[1] This list includes Jonathan Koslow and Dan Hastings of Skadden, Arps, Slate, Meagher & Flom LLP; John Porter and Stephen Dyer of Baker Botts L.L.P.; Carlyn McCaffrey of Weil, Gotshal & Manges LLP; Ellen Harrison of Pillsbury Winthrop Shaw Pittman LLP; Richard Dees of McDermott, Will & Emory; Ron Aucutt of McGuireWoods LLP; Mil Hatcher of Jones Day; Dan Daniel of Wiggin & Dana LLP; Dave Cornfeld of Husch & Eppenberger, LLC; and Jonathan Blattmacher of Milbank, Tweed, Hadley & McCloy LLP.

[2] Many thanks to Jeff Daly, Cliff Schlesinger, Karey Dye, Gretchen Clayton, Melinda Kleehamer, David Searls, and Syida Long.

Congress, for tax purposes, has generally allowed the taxpayer to conduct his financial affairs in the form the taxpayer wishes and does not by statute "second guess" the investment reasons of why the taxpayer chooses that form. In fact, for the passive investor who wishes to create trusts for his family and invest in alternative investments, as modern portfolio theory seems to require, the use of the family limited partnership "wrapper" around those is almost a requirement. This section of the paper explores why.

B. Investment and Trustee Management Reasons For the Use of Closely Held Limited Partnerships for the Investor Who Wishes to Create Trusts and Invest in Alternative Investment Classes, as Modern Portfolio Theory Seems to Require.

1. The case for diversification into several asset classes, including so-called alternative investments.

a. Introduction.

During the latter half of the 1990s, the United States witnessed explosive growth in the scope and breadth of wealth held by executives and entrepreneurs. As a result, many very wealthy individuals and families hold a significant portion of their wealth in the stock of one corporation. Over time, and particularly the period 2000 to 2002 with respect to the technology sector, the number of fortunes that have been made and lost as a result of the performance of a single stock brings into focus the risks associated with ownership of large, concentrated stock positions. A successful wealth preservation and estate plan for individuals and families with concentrated stock positions should address preservation of the value of the position and tax efficient diversification. With apologies to many of my economist colleagues who systematically quantify and measure risk, the following discussion is intended merely to highlight for my fellow civilians the benefits of asset diversification.

Most commentators credit Harry Markowitz, a 1990 Nobel Prize winner in Economic Science, with presenting and focusing on the notion that investors should be interested in risk as well as return. Prior to 1950, judgments about the performance of a security were expressed in terms of how much money the investor made or lost. Markowitz's key insight was the role of diversification. Most investors today grasp that the use of a diversified portfolio will improve risk by decreasing volatility (i.e., variance of return). Developing a sound asset allocation policy that seeks to identify an appropriate mix of assets (e.g., cash, fixed income, domestic equities, international equities and alternative investments) can improve the return of a portfolio as compared with the desired level of risk.

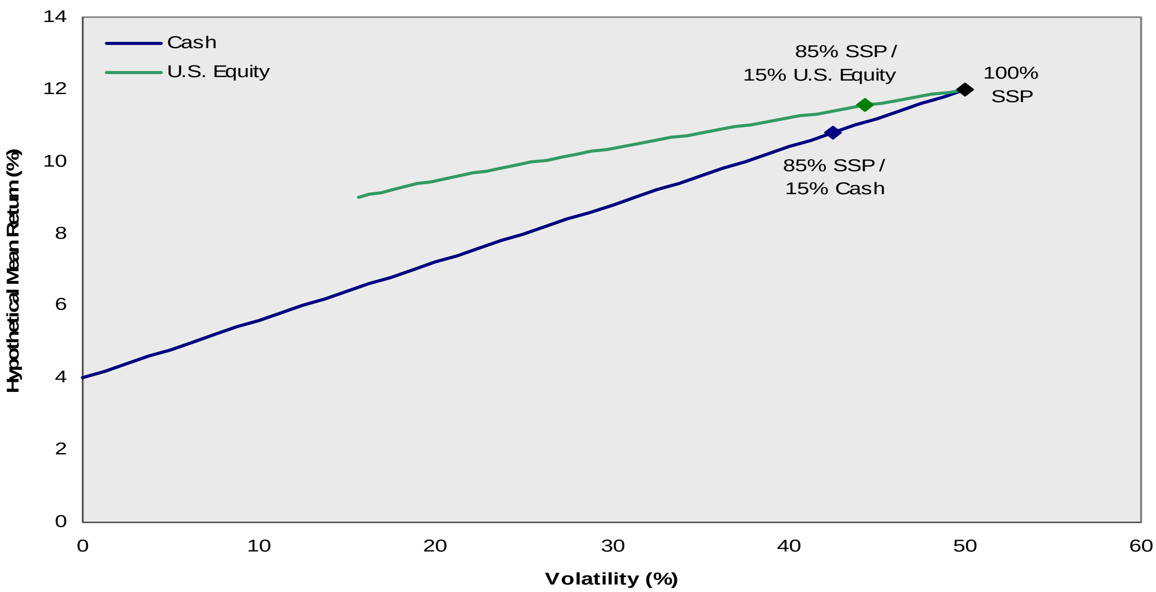
The volatility of the NASDAQ during April 2000 provides a clear example of how quickly wealth can evaporate. Days like April 14, 2000 where the NASDAQ fell 9.7% tend to make even the most optimistic single stockholders consider taking stock off the table.

One important factor is to understand the difference between mean and median. The mean value of a one-dollar lottery ticket is 90¢. The median value of a lottery ticket is, obviously, near "0". Generally, only about 1/3 of the stocks beat the mean average of their respected index. Stated differently, for the universe of clients who have most of their wealth in one stock, two out of three of those clients will *not* beat the mean average of the stock market. The role of diversification is to achieve for those clients a return closer to the mean than the median.

b. Simplified examples analyzing the effect of diversification.

Individuals who have a concentrated single stock position (SSP) often establish barbell positions – all investable assets in cash and all equity in the concentrated position. The straight line in Figure 1 illustrates the risk/return tradeoff for cash ranging from 100% of assets (the leftmost point of the line) to 0% of assets (the rightmost point of the line, or 100% SSP).

Figure 1.



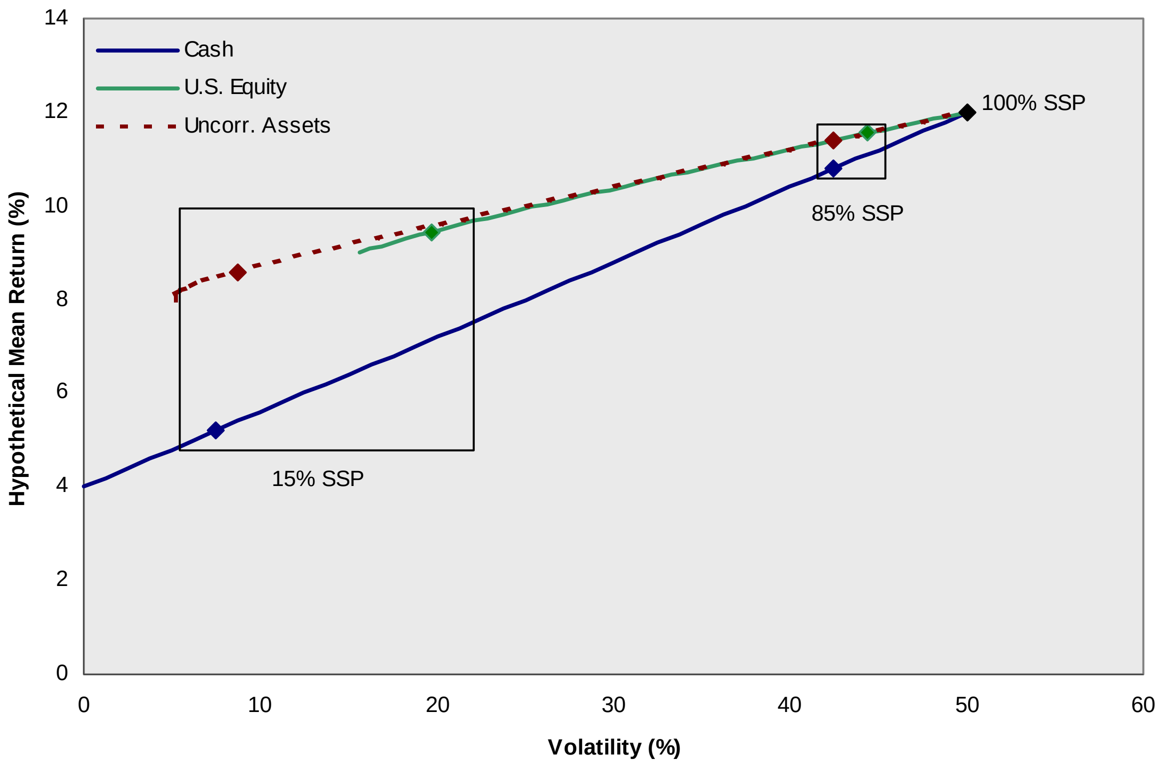
As an example, please note the above 85% SSP/15% cash point. With this allocation, the investor modestly reduces the volatility of the portfolio to 43% from the hypothetical 100% SSP volatility of 50%. This SSP/cash strategy offers a measure of security and peace of mind while providing the flexibility to take advantage of unusual investment opportunities. The disadvantage is the lowering of hypothetical return potential.

As an alternative to holding investable assets in cash, an aggressive investor might place those assets in a well-diversified U.S. equity portfolio. However, if the performance of the SSP is fairly highly correlated with the performance of the broad U.S. equity market, adding U.S. equity will result in only a slight reduction in portfolio risk.

The allocation of 85% SSP/15% U.S. equity is representative of the portfolios of many single stockholders. However, other asset classes, such as uncorrelated alternative assets (e.g. market neutral hedge funds, private equity investments in real estate or oil and gas) and international equity, with lower correlations to the SSP, may act as better diversifiers. Figure 2 illustrates the effect of mixing the SSP with “ideal” uncorrelated assets. In comparison to cash, with 15% invested in uncorrelated assets (and 85% in the SSP), a modest gain in return may be achieved at the same level of volatility (42%) as the SSP/cash portfolio. However, truly uncorrelated investments are difficult to obtain. Even many hedge funds that claim market neutrality are found to have significant correlations to other asset classes. For example, because many long-short equity managers tend to tilt long during bull markets, these managers are likely to show substantial positive correlations with the equity market.

Figure 2.

Barbell Portfolios Consisting of SSP and Other Asset Classes.



All three portfolios with 85% SSP are clustered near a volatility of 42%-46%. This volatility is around three times the historical 14% volatility of the S&P 500.[3] Regardless of how the remaining 15% of the portfolio is invested, the total risk is dominated by the volatility of the SSP. This observation implies that theoretical asset allocation can do little to improve the risk/return tradeoff if the equity position is highly concentrated. Shareholders who wish to reduce their overall portfolio risk over time generally consider a regular selling program that will gradually reduce the stock concentration.[4]

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[3] Monthly return data obtained from Wilshire Associates (1975-1999).

[4] If an investor has the ability to use leverage by borrowing against the SSP position, that might allow greater exposure to diverse asset classes while still holding the SSP. However, utilization of leverage leads to a greater risk of monetary loss.

As holdings of the SSP drop below 50% of assets, the importance of asset allocation increases. Figure 2 shows that with only 15% of assets in the SSP, a wide range of portfolio volatilities and returns are possible, depending on the asset allocation. At this level of SSP exposure, some very high net worth investors choose a hybrid strategy in which they establish a pool of very safe money. For example, suppose one third of total assets invested in short duration fixed income was sufficient to support the current lifestyle forever, even if all other investments went to zero. In this case, the investor might choose a “barbell” strategy in which the non-fixed income assets are invested very aggressively, reasoning that the upside potential is unlimited, and even disastrous equity market performance will have no lifestyle impact.

For investors whose total wealth is overwhelmingly dominated by the SSP, another approach to managing assets is to view the investable portion of assets separately. In this case, an asset allocation policy for the investable assets that is consistent with long-term goals and objectives can be established. As shares of the SSP are liquidated, the proceeds could be invested in a wide range of asset classes in the proportions prescribed by the long-term asset allocation plan. However, one disadvantage to this simple approach occurs when, at the outset, only modest funds are available for investment. In this case, the dollar amount available for investment in certain asset classes may be insufficient to meet various investment minimums (e.g. uncorrelated alternative assets and private equity).

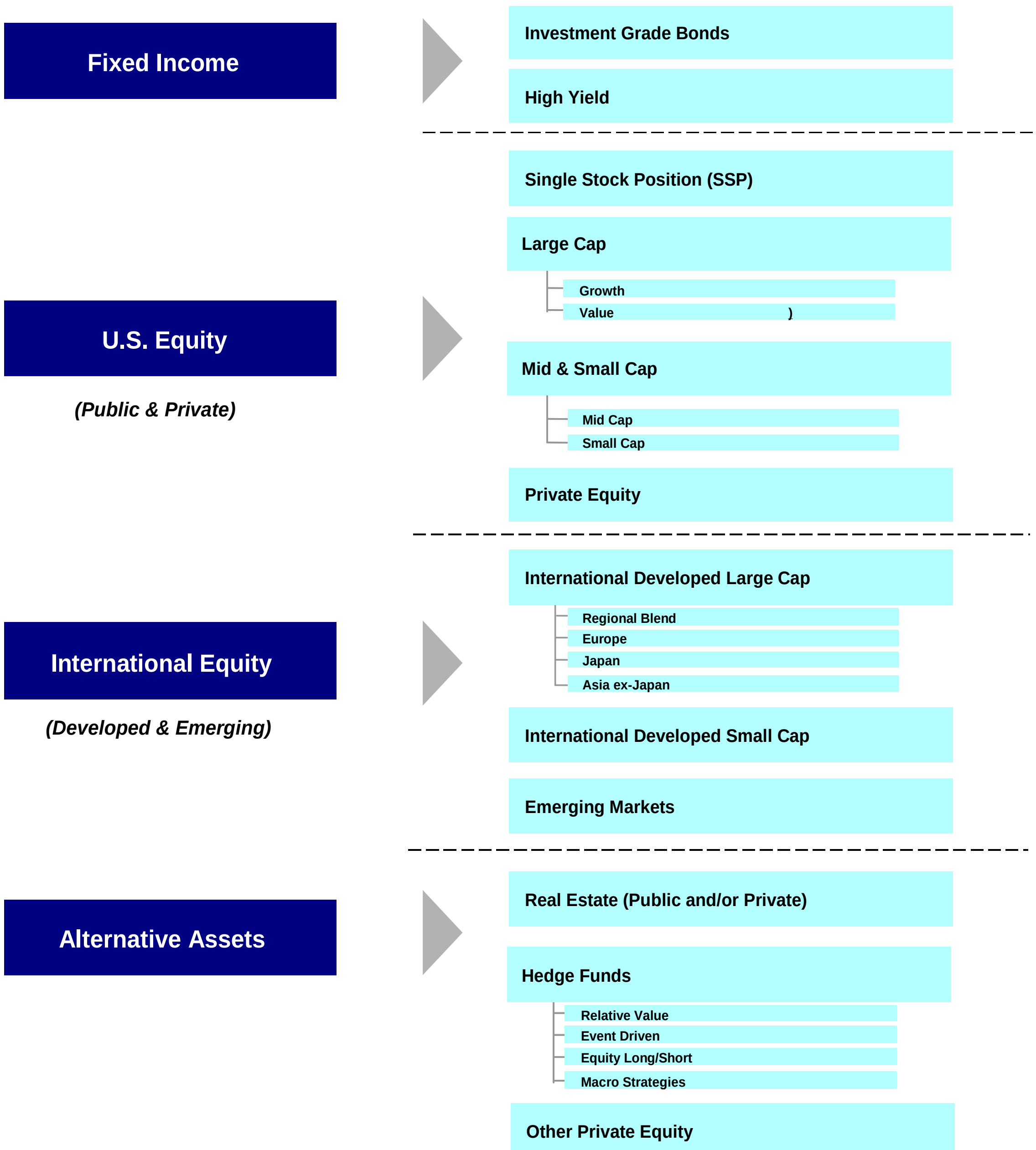
An alternative plan might be to select a target allocation based on where an investor wants to be in a few years. At the outset, the investor may fill in asset class “buckets” that tend to have low correlation with the SSP position: fixed income, international equity, and uncorrelated alternative assets. As the SSP position is further reduced, there will be a gradual increase in the commitment to U.S. Equity.

In contrast to public investments, private equity commitments might be made at the onset since drawdowns for these investments typically extend for several years after commitment. Once SSP holdings are reduced to a small fraction of assets (e.g. 15%), the investor will have steadily moved toward a well-diversified allocation with significant allotments to U.S. equity, international equity, and private equity. Figure 3 shows how the broad asset class allocation may ultimately be broken down into tactical implementations. The actual proportions invested in each asset class will be determined by an investor’s goals, risk tolerance, tax status, and a combination of qualitative and quantitative judgments.

The problem with private equity commitments, which are very important in reducing risk for the desired return for an investor, is that the *trust* investor has great difficulty, in many cases, investing in that desired asset class. The reasons are noted below. The cure is the use of a closely held family limited partnership or a family limited liability company “wrapper”.

Figure 3.

Sample Strategic Asset Allocation Implementation Plan



2. The first investment reason certain trusts are benefitted by the creation of family limited partnerships: closely held family limited partnerships may facilitate the ability of smaller trusts to hold alternative investments and follow modern portfolio theory.

Example 1: Client Wishes to Create Several Trusts For the Benefit Of Family Members and Follow Modern Portfolio Theory

Marvin and Maggie Modern have substantial assets including over $30,000,000 in financial assets. They are believers in modern portfolio theory and the need for an asset class of alternative investments.

Marvin and Maggie Modern wish to give $300,000 to separate trusts for each of their grandchildren. Marvin and Maggie understand modern portfolio theory and the importance of diversification. They want the grandchildren's trusts to invest for the greatest risk-adjusted return and are concerned that the trusts will not be large enough to meet SEC limitations on who may invest in certain alternative asset classes.

In addition to current gift planning, Marvin and Maggie want to provide a qualified terminal interest marital deduction trust ("QTIP") for the surviving spouse under their estate plans. Many of their personal alternative asset investments are held in private equity partnerships now. Marvin and Maggie worry that these investments could cause income tax fairness issues for the QTIP trust – that is, they worry that the surviving spouse, as income beneficiary, may bear a disproportionate amount of income tax liability on the alternative investments - but still feel strongly that the QTIP trust should have exposure to alternative asset classes.

When Marvin and Maggie asked their investment adviser to fund a series of GRATs with alternative investments, their advisor explained that the alternatives manager might not be willing to divide the title to those investments to make annuity payments over time. Even if the manager did permit the division of the alternative investment between two separate owners (the annuitant and the GRAT), potential transfer complications may make it difficult to make the annuity payment within 105 days of its due date if the request to divide is not timely.

Marvin and Maggie ask their attorney, Pam Planner, how to structure their investment portfolio so the trustees for their grandchildren's individual trusts, the survivor's QTIP trust and the proposed GRATs can invest in the broad array of asset classes necessary to maximize risk-adjusted return under modern portfolio theory.

Pam Planner recommends that Marvin and Maggie transfer their significant investment portfolio to a partnership or limited liability company so they have an investment entity that meets the accredited investor and qualified purchaser tests under applicable securities laws. The family limited partnership ("FLP") will not be created for the purpose of accessing a specific hedge fund or private equity investment, and the FLP will have a mix of investment assets. At a later date, Marvin and Maggie could give $300,000 worth of partnership interests to their grandchildren's trusts instead of cash. The survivor's QTIP trust could own partnership interests as well. The partnership, with its larger pool of capital common to all trusts, could own a diversified portfolio.[5]

a. Securities laws.

Alternative investments often come in partnership or LLC wrappers for a reason. Managers of hedge funds and private equity funds generally seek one or more exemptions from registration under U.S. securities laws for two reasons. First, the cost to comply with the initial disclosure and ongoing reporting requirements of major U.S. securities legislation is substantial. Large companies who seek to raise capital in the public market can more easily bear these costs than smaller funds which target more narrow investment objectives. Second, federal law strictly limits the amount of leverage fund managers can use in certain funds available to the general investing public. That limitation prevents managers from using a number of debt-financed investment techniques. Some sophisticated investors, however, want access to portfolios that employ leverage.

Generally, private equity and hedge fund partnerships operate under two basic formats. In broad brush, these partnerships either (1) admit no more than 100 investors who are "accredited investors" (defined below), or (2) in the case of U.S. organized partnerships, admit no more than 499 investors who are "qualified purchasers" (defined below) and in the case of non-U.S. organized partnerships, admit no more than 299 investors who are "qualified purchasers."

Most hedge fund managers seek the latitude to pursue a broad array of investment strategies, some of which are not available within the regulatory and leverage restrictions under the Investment Company Act of 1940 (the "1940 Act"). But first, to understand the background of that legislation and to review the definition of "accredited investor," it is helpful to understand the history of two significant securities laws enacted in the 1930s.

b. The Securities Act of 1933 and the Securities Exchange Act of 1934.

Congressional members introduced major legislation to address the securities market after the U.S. financial market crash of 1929. It enacted many of these legislative initiatives during the Great Depression. The thesis of the 1930s legislation is that the securities markets operate more efficiently and transparently if investors have more information to evaluate a company generally and its proposed offering of securities specifically before making a purchase. Accordingly, the Securities Act of 1933 (the "1933 Act") regulates securities offered or sold to the general investing public in the United States by the original issuer. "Securities" for this purpose is broadly defined and can include partnership interests in private equity, hedge funds and other alternative investments. To ensure prospective investors have a significant amount of financial information, a company must file an extensive registration statement with the Securities and

[5] The investing benefits to a trust investing in a closely held family partnership is one of the reasons the Tax Court rejected the IRS's Internal Revenue Code Sections 2035(a)(1), 2036(a)(2), 2038 and 2035 arguments in *Mirowski v. Commissioner*, T.C. Memo 2008-74 (March 26, 2008). See pages 10-12, 18-19 and 40 of that Opinion.

Exchange Commission ("SEC") about its operations and a detailed prospectus about the specific securities for sale unless an exemption from registration applies.

Most securities trading occurs between holders who have no direct relationship with the issuing company. Those transactions fall under the rubric of "secondary trading." The 1933 Act addressed only the original issuance of securities. To cover secondary trading, Congress enacted the Securities Exchange Act of 1934 (the "1934 Act"). The 1934 Act created the SEC. It provided rules for securities associations and exchanges.[6] It also required companies with regulated securities available in the secondary market to file extensive updated company information with the SEC regularly.

The 1933 Act provides issuing companies with a number of exemptions from registration. Because the registration requirements of the 1933 and 1934 Acts are time consuming and expensive, especially for smaller companies or funds, and failure to comply leads to substantial penalties, finding an exemption is highly desirable. Regulation D under the 1933 Act grants an exemption from registration to a company that sells its securities in a private placement to what are known as "accredited investors."[7]

As defined by Rule 501 of Regulation D, the term "accredited investor" includes, among other things:

- Any natural person whose individual net worth, or joint net worth with the person's spouse, exceeds $1 million at the time of the purchase;

- Any natural person whose individual income exceeded $200,000 in each of the two most recent years or joint income with that person's spouse exceeded $300,000 for those years and a reasonable expectation of the same income level in the current year;

- Any corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5 million;

- A trust with total assets in excess of $5 million, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) (for this purpose, Rule 506 (b)(2)(ii) defines a "sophisticated person" as "one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment"); and

- Any entity in which all of the equity owners are accredited investors.

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[6] Examples include the New York Stock Exchange (NYSE), the American Stock Exchange (AMEX) and the National Association of Securities Dealers (the association that operates NASDAQ), brokers, transfer agents and clearinghouses.

[7] 17 C.F.R. § 230.501 *et seq*.

Marvin and Maggie easily qualify as accredited investors under Regulation D because of their income and personal net worth. As such, they are free to acquire investments that can be offered only to accredited investors. When they fund the FLP with cash and various investments, the FLP will also qualify as an accredited investor since all the equity owners of the FLP will be accredited investors. In addition, the FLP itself will qualify because it will own well over $5 million in assets and will not be formed with the acquisition of a specific investment in mind.

If the Moderns sell LP interests to the grandchildren's trusts through a private sale without a general solicitation, the sale will generally not trigger 1933 or 1934 Act registration requirements. However, in the absence of full disclosure at the time of sale, the purchaser could technically later seek to exercise a rescission right pursuant to Rule 10b-5 of the 1934 Act. The successful exercise of a rescission right would be to the detriment of the FLP only to the extent that the assets of the FLP have declined in value since the time that the sale was made, and accordingly a rescission right will not negatively impact the FLP if its assets have increased in value since the time of sale. In addition, the Moderns will need to consult with their counsel to determine whether any state law requirements must be met in connection with such a sale. In certain circumstances, state laws may also provide for rescission rights similar to those that exist under Rule 10b-5 of the 1934 Act. Alternatively, if the Moderns were to give FLP interests to their grandchildren's trusts and the GRATS as a bona fide gift, neither federal securities law nor state law would apply to such gift.

c. Investment Company Act of 1940.

The 1940 Act regulates companies that at the same time invest and trade in securities, and also offer their own securities for purchase to investors. The most common examples of entities subject to the 1940 Act are publicly traded open-end and closed-end mutual funds. Mutual funds allow investors with smaller amounts of capital to own a diversified portfolio of stocks, bonds or other securities. The 1940 Act can also apply to private equity, hedge funds and other alternative investments, but it impacts hedge funds most directly. If the 1940 Act applies, a company must make extensive disclosures to prospective investors about the company, the fund it offers and the fund's investment objectives.

The 1940 Act goes beyond disclosure requirements. An investment company registered under the 1940 Act has strict limits on the amount of leverage it can use. It may not issue debt or other senior securities unless its asset coverage (i.e., its assets to debt ratio) is at least 300% after considering the debt issuance. Moreover, an investment company registered under the 1940 Act may not pay any dividends on its common stock if its asset coverage in respect of outstanding indebtedness drops below 300%. Debt holders must also be given control of the board of directors of the investment company if asset coverage drops below 100% for a year or more. Leverage can substantially increase an investor's return, although it can also quickly magnify losses as well. For widely traded public mutual funds accessed by investors with limited capital, the debt coverage ratio is protective. Many hedge fund managers, however, wish to employ leverage either as a consistent investment strategy or opportunistically, and some investors want access to those strategies.

The key exemption to registration under The 1940 Act for hedge fund managers is called the "qualified purchaser" exemption. It provides an exemption for issuers whose outstanding securities are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers.[8]

The 1940 Act goes on to define a "qualified purchaser" as one of the following:

- A natural person (including any person who holds a joint, community property or other similar shared ownership interest in an issuer with that person's qualified purchaser spouse) who owns not less than $5 million in "investments" (as defined by the SEC);

- Any person acting for its own account or the accounts of other qualified purchasers who in the aggregate owns and invests on a discretionary basis at least $25 million in "investments";

- A company that owns not less than $5 million in "investments" and that is owned directly or indirectly by two or more natural persons who are related as siblings, spouses, direct lineal descendants by birth or adoption, spouses of such persons, the estates of such persons, or foundations, trusts or charitable organizations established by or for the benefit of such persons (a "family company");

- A trust not formed for the specific purpose of acquiring the securities offered and as to which the trustee or other person authorized to make decisions with respect to the trust, and each person who has contributed assets to the trust are qualified purchasers; and

- A company in which all beneficial owners of all securities issued are qualified purchasers which was not formed for the specific purpose of acquiring the securities offered.[9]

Section 2(a)(8) of the 1940 Act also provides:

> "Company" means a corporation, a *partnership*, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not; or any receiver, trustee in bankruptcy or similar official or any liquidating agent for any of the foregoing, in his capacity as such. (*Emphasis added*).

Marvin and Maggie's joint net worth in excess of $30 million exceeds the threshold of $5 million in investments for an individual to be a qualified purchaser. When they fund the FLP with

[8] Investment Company Act of 1940 § 3(c)(7) provides an exemption from registration for "any issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities. Securities that are owned by persons who received the securities from a qualified purchaser as a gift or bequest, or in a case in which the transfer was caused by legal separation, divorce, death, or other involuntary event, shall be deemed to be owned by a qualified purchaser, subject to such rules, regulations, and orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors."

[9] Section 2(a)(51) of the 1940 Act and Rule 2a51-3 of the 1940 Act.

cash and investments of $20 million, the FLP itself will be a qualified purchaser because all of the initial equity owners of the FLP (Marvin and Maggie) are qualified purchasers. The FLP will also qualify as a qualified purchaser under a different provision if its investment portfolio grows to $25 million. The FLP also qualifies under the "family company" exception which requires only $5 million in investments because of the family relationship between the Moderns and the future owners.[10] Finally, Marvin and Maggie's transfers to the grandchildren's trusts and the GRATs are acceptable because securities received from a qualified purchaser as a gift or bequest are deemed to be owned by a qualified purchaser.[11]

d. The outcome.

Marvin and Maggie want to move forward with their advisor's recommendations. At a recent family meeting they described the plan to their sons. Marvin and Maggie propose to establish an FLP in which each of them will initially own a .3% interest as a GP and a 49.5% interest as an LP, so that together they will own 99.6% of the partnership interests. They invite each of their sons to invest a *pro rata* amount equal to .2% of the partnership's initial value in exchange for GP interests. As GPs, Marvin and Maggie, and the survivor of them, will control the FLP's investment policy and administrative decisions. Their sons, as GPs, will determine the partnership's distribution policy.

Marvin and Maggie intend to invest the FLP in a $20 million diversified portfolio of investments. A reasonable portion of the portfolio, based on the GPs' statement of the FLP's investment objectives and risk parameters, will access alternative investment vehicles designed to participate in a wide variety of market opportunities, including risk arbitrage, venture, mezzanine, real estate and distressed investing. To fill in their specific asset allocation to these categories, Marvin and Maggie, with the help of their investment advisor, will select individual managers as well as "fund-of-funds" investments.

Once Marvin and Maggie have fully funded the FLP's investment portfolio, they will transfer LP interests to the grandchildren's trusts and to a series of nearly zeroed-out GRATs for their children. To the extent Marvin or Maggie receive LP interests as annuity payments from the GRATs, they plan to transfer the interests to new GRATs or to trusts for the grandchildren over time. Their ultimate goal is to transfer 100% of the LP interests to their children and grandchildren before the death of the surviving spouse. With proper planning, however, any FLP interests that have not been transferred by the death of the first spouse can be held in a marital trust for the surviving spouse.

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[10] Section 2(a)(51)(ii) of the 1940 Act; *Cf.* ABA Letter, SEC No-Action Letter, at Section C, Question 4 (Apr. 22, 1999); Meadowbrook Real Estate Fund, SEC No-Action Letter (August 26, 1998).

[11] See footnote 8.

Marvin and Maggie explain to their family that the FLP is necessary to satisfy investment managers with large minimums, to keep a diversified pool of assets together, and to facilitate transfers for investment and estate planning purposes. They intend to engage a qualified appraiser to determine the fair market value of their LP interests at the time of each gift. On the administrative side, they will hire tax preparers to keep the books of the FLP and to make all the required federal and state tax filings. They will maintain separate bank and brokerage accounts for the FLP.

3. The second investment reason certain trusts are benefitted by the creation of family limited partnerships: closely held family limited partnerships facilitate income only (so-called simple) trusts to be fully diversified, as modern portfolio theory seems to require.

Smaller trusts may access alternative investments through a closely held partnership as described above. The second investment advantage of family limited partnerships for certain trusts is for income only trusts. Even income only trusts with an asset base large enough to permit stand alone alternative investing can benefit from a partnership wrapper because of the way distributions from a closely held partnership are characterized for income and principal trust accounting. Although mandatory income trusts are not as common today as they were in the past, they continue to be important for QTIP.

a. Closely held limited partnerships could be a tool to manage distribution fairness issues associated with distributions (or lack of distributions) from alternative investments for income only trusts.

Hedge funds and private equity investments are generally offered as private partnership structures to certain investors. These investments pose certain challenges to mandatory income and income-only trusts. Hedge funds tend to produce short-term capital gains due to their short-term tactical trading strategies. Private equity investments, on the other hand, tend to generate long-term capital gains due to their buy and hold strategies.[12] In either case, these private investment partnerships generally distribute little or no "income" as that term is defined for fiduciary accounting purposes, which means that their cash returns are not income which the trustee is obligated to distribute.[13] As a consequence, to produce the requisite income, a trustee may be forced to invest the trust portfolio in high dividend and high interest bearing investments, and away from growth stocks, hedge funds and private equity, thereby skewing the desired risk adjusted return profile of the trust's portfolio. Recent changes in the laws of many states permitting adjustments between principal and income by the trustee, and/or permitting trust "income" to be defined as a unitrust amount (a fixed percentage of the trust's value, revalued annually) have eased this pressure somewhat, but do not solve the problem presented by hedge fund and private equity investments. Unlike marketable securities, hedge fund and private equity investments may be difficult to revalue annually, as required under a unitrust definition of

[12] *See* generally IRC §1222; private equity managers generally produce long-term capital gains through selling their underlying investments in portfolio companies, IPOs, and leveraged recapitalizations.

[13] IRC §2056(b)(7).

income. Often it will not be possible to distribute units of such interests to trust beneficiaries in satisfaction of the unitrust amount or as part of an adjustment from principal to income, because beneficiaries are not and perhaps cannot qualify as investors in the fund. Additionally, most general partners of alternative investments have the right to decline transfer requests. Satisfaction of an adjustment or of a unitrust amount may therefore require other trust assets to be distributed, potentially distorting the trust's overall asset allocation.

b. Trusts: Income-Only Marital Trusts.

Generally, for estate tax purposes the federal government allows a married couple to be treated as a single economic unit, which means that a married couple who plans properly may defer all federal estate taxation on the couple's assets until the death of the surviving spouse. U.S. citizens commonly use a "marital deduction power of appointment trust" or a "qualified terminable interest property trust" ("QTIP") to obtain this estate tax deferral. To qualify for the marital deduction, a surviving spouse must receive an income interest for life.[14] The trustee cannot circumvent this mandatory income requirement by investing in non-income producing property unless the surviving spouse gives the trustee permission to make that investment.[15]

A trustee who holds a partnership interest must exercise special care to observe the "qualifying income interest for life" requirement in a power of appointment trust or a QTIP trust as set forth in the Internal Revenue Code ("Code").[16] There is no bright-line rule that applies to a partnership interest but, in addition to the surviving spouse's right to compel the trustee to make the property productive, at least one expert suggests that the partnership might have to pay at least 3% of its net asset value per year to satisfy the income requirement of the Code and Treasury Regulations.[17] However, no case or published ruling actually sets forth this percentage requirement.

[14] Treas. Reg. §20.2056(b)-7(d)(2) (concerning QTIP trusts) provides for the application of the principles of Treas. Reg. §20.2056(b)-(5) & 2056(b)-(5)(f) (power of appointment trusts) regarding the surviving spouse's right to all income for life; Treas. Reg. §20.2056(b)-5(f)(1) provides: "[T]he surviving spouse is 'entitled for life to all the income from the entire interest or a specific portion of the entire interest'…if the effect of the trust is to give her substantially that degree of beneficial enjoyment of the trust property during her life which the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust. Such degree of enjoyment is given only if it was the decedent's intention, as manifested by the terms of the trust…that the trust should produce for the surviving spouse during her life such an income, or that the spouse should have such use of the trust property as is consistent with the value of the trust corpus and with its preservation. The designation of the spouse as sole income beneficiary for life of the entire interest or a specific portion of the entire interest will be sufficient to qualify the trust unless the terms of the trust and the surrounding circumstances considered as a whole evidence an intention to deprive the spouse of the requisite degree of enjoyment."

[15] Treas. Regs. §20.2056(b)(5)(f)(5); *See, e.g.*, I.R.S. Priv. Ltr. Rul. 8931005 (marital trust funded solely with closely held stock qualified for marital deduction because wife had power to request sale).

[16] IRC §2056(b)(7)(B)(i)(II).

[17] Carol A. Cantrell, "Comparing S Corporations and Partnerships in Estate Planning," *ALI-ABA: Planning for Large Estates* (April 28 – May 2, 2008).

c. Partnerships: Basic Income Tax Primer.

Under Subchapter K of the Code, a FLP is treated as a pass-through entity for income tax purposes.[18] This means that while income and loss is determined at the partnership level and reported on IRS Form 1065 for informational purposes, items of partnership income or loss are allocated to each partner on Schedule K-1 of IRS Form 1065.[19] Each partner must then report his or her *pro rata* share of partnership income and loss, including certain separately stated items of partnership income, gain, loss, deduction or credit, on his or her individual IRS Form 1040.[20]

d. Trusts: Basic Income Tax Primer.

Under Subchapter J of the Code a trust can be treated as a separate tax paying entity, a conduit that distributes income and deductions to its beneficiaries, or a combination of both.[21] A trust must use a calendar year and pay income tax using tax tables set forth in the Code.[22]

A trustee must file an annual federal tax return, IRS Form 1041, for any domestic trust that has: (i) any taxable income for the year, (ii) gross income of $600 or more (regardless of taxable income), or (iii) a beneficiary that is a nonresident alien.[23]

Trust taxation is similar to the taxation of individuals.[24] The biggest exception is that a trust is generally allowed a deduction for amounts distributed to beneficiaries.[25] After a trustee has determined a trust's adjusted total income, it must complete Schedule B of IRS 1041 to determine whether there is a distribution deduction.[26] For simple trusts, like income-only marital trusts, the deduction will be the lesser of: (1) fiduciary accounting income (discussed immediately below) or (2) distributable net income (discussed below).[27] Failure to compute either trust accounting income or DNI correctly can result in the wrong taxpayer being taxed.

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[18] IRC §710.

[19] IRC §§702, 6031(a)&(b).

[20] A more detailed description of partnership taxation is set forth in Goldman Sachs Strategic Wealth Advisory Team, "Investment Rationales for Investment Partnerships," *SWAT Case Study* Vol. 1, Issue 3 (Part One).

[21] One notable exception to the separate tax paying entity classification is when a trust is classified as a grantor trust under IRC §§671-677, which causes all income and deductions to pass directly through to the grantor's personal tax return.

[22] IRC §644; IRC §1(e) (the top income tax bracket of 35% for trusts and estates in 2009 is reached when taxable income exceeds $11,150).

[23] *See 2007 Instructions for Form 1041 and Schedules A, B, D, G, I, J and K-1* (p. 4).

[24] IRC §641(b).

[25] "In effect, the concept of distributable net income gives statutory expression to the principle underlying trust taxation of estates and trusts, that is, that these separate taxable entities are only *conduits* through which income flows to beneficiaries except where income is accumulated by the estate or trust for future distribution," Senate Report No. 1622: 83d Congress 2d Session; H.R. 8300 (emphasis added).

[26] *See 2007 Instructions for Form 1041 and Schedules A, B, D, G, I, J and K-1* (p. 25).

[27] *See generally* IRS *Form 1041; Schedule B.*

A trust must report and pay income tax on its *pro rata* share of partnership income regardless of whether the trust receives partnership distributions. When distributions from a partnership are less than the trust's *pro rata* share of income from the partnership, the trust will need to find other sources of cash to pay tax on the undistributed income.[28]

e. Trusts: Basic Fiduciary Accounting Income Primer.

Fiduciary accounting is an accounting methodology that categorizes trust receipts, expenditures and disbursements; the ultimate goal of which is to determine the amounts a trustee may distribute or charge against an income beneficiary's share versus a remainder beneficiary's share. Consequently, a trustee is required to keep two sets of books; an income account for the income beneficiaries and a principal account for the remainder beneficiaries. Fiduciary accounting rules address these allocations; they do not address trust taxation.

If the document is silent as to which set of books an item of income or expense should be charged, a determination is made by looking at state law, which in most cases will be some version of the Uniform Principal and Income Act ("UPIA").[29]

f. Trusts: Distributable Net Income.

To determine the proportions of the income tax burden to be borne between the trust and its beneficiaries a trustee must calculate a trust's distribution deduction, which is the lesser of fiduciary accounting income ("FAI") or distributable net income ("DNI").[30]

While FAI is an accounting concept that is concerned with properly allocating income and expenses between beneficiaries, DNI is a federal tax concept that: (i) places a ceiling on the income distribution deduction of a trust, (ii) determines the amount that is includible in a beneficiary's income, and (iii) determines the character of the distribution received by a beneficiary.[31]

DNI is basically a trust's taxable income; modified as follows: (i) no distribution deduction, (ii) no personal exemption, (iii) capital gains not included, unless allocated to FAI or paid, credited, or required to be distributed to a beneficiary or paid or set aside for charitable purposes, (iv) capital losses are not taken into account, except to the extent they reduce the amount of capital gains actually paid or credited to beneficiaries, (v) no exclusion for gain from certain small business stock under IRC §1202, and (vi) tax-exempt interest is included, net of disallowed deductions attributable to such interest.[32]

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[28] Steve B. Gorin, "Effect of Tax Distributions From Flow-Through Entities to Trusts: Proposed Changes to the Uniform Principal & Income Act," *Memorandum to Joint Editorial Board for Uniform Trusts and Estates Act* (March 20, 2008).

[29] IRC §643(b).

[30] *See generally* IRC §661(a).

[31] IRC §643(a); §661; Treas. Regs. §§1.652(b)-2(a), 1.662(b)-1.

[32] IRC §643(b); Treas. Reg. §1.643(d)-2; IRS *Form 1041, Schedule B* (lines 1-7).

g. Trusts: Uniform Principal and Income Act.

Completed by the Uniform Law Commissioners in 1997 and amended in 2000, the UPIA revised the Uniform Principal and Income Act of 1931 and 1962. The model act has been adopted by a majority of States.[33] The latest version of the UPIA is intended to reflect changes in a trustee's fiduciary accounting obligations brought about by the recognition of MPT practices; in particular the Prudent Investor Act.[34]

Under the UPIA, a trustee must allocate a distribution from an entity like a FLP to the income ledger.[35] Distributions received in a partial liquidation of an entity are credited to the principal ledger.[36]

To the extent tax is required to be paid by a trust, the trustee must fairly allocate the cost of the tax payment between the income beneficiaries and the remainder beneficiaries.[37]

h. Trusts: Prudent Investor Act.

Promulgated by the Uniform Law Commissioners in 1994, by 2008 the Uniform Prudent Investor Act had been adopted by most States. The Uniform Act allows for a wide variety of trust investments so long as such investments in the aggregate would be deemed reasonable given the purpose of the trust. This is a break from common law which tended to limit investments by creating lists of appropriate and inappropriate investment choices. Under old trust doctrine, each investment was considered to stand on its own. There was no consideration given towards how one investment worked in tandem with another investment.

According to the Commissioners' website, forty-four States, as well as the District of Columbia and Virgin Islands, had adopted the Uniform Prudent Investor Act by the end of 2008.[38] However, in the six states that are missing from that list (Delaware, Florida, Georgia, Kentucky, Louisiana and New York), there are prudent investor statutes that adopt the overall-portfolio

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[33] Adopted by 41 States as March 2009. *See generally* website for The National Conference for Commissioners on Uniform State Laws at http://www.nccusl.org.

[34] Id.

[35] Unif. Principal & Income Act §401(b) (1997 Act).

[36] Unif. Principal & Income Act §401(d) (1997 Act); A distribution will be considered a "partial" liquidation if the entity indicates that it is such, or if the total amount distributed equals 20 percent of the entity's gross assets. A well-known example occurred in 2004 when Microsoft declared a dividend that exceeded 30 percent of its then book value. Because the distribution exceeded 20 percent of Microsoft's gross assets, it was a "partial" liquidation and trustees should have classified its receipt as principal, despite the fact that Microsoft did not intend to liquidate its business.

[37] Unif. Principal & Income Act §505(c) (1997 Act).

[38] *See generally* the website for The National Conference for Commissioners on Uniform State Laws, http://www.nccusl.org.

standard and reject the old law investment-by-investment test.[39] In this regard, at least, the principles of the Uniform Act have been adopted in all the States.

Using new prudent investor standards, trusts are no longer restricted to using common trust funds, U.S. large cap stocks and U.S. Treasury securities. Today, modern portfolio theory has greatly expanded trust investment options. In theory, trustees are free to invest among a broad spectrum of asset classes if the trust's portfolio, taken as a whole, is designed to achieve the desired level of risk and return. Depending on the purpose of the trust, investments in alternative investment partnerships and other alternative investments (e.g., real property, art, etc.) can be prudent.

i. Trusts: Allocating taxes between trust and beneficiaries.

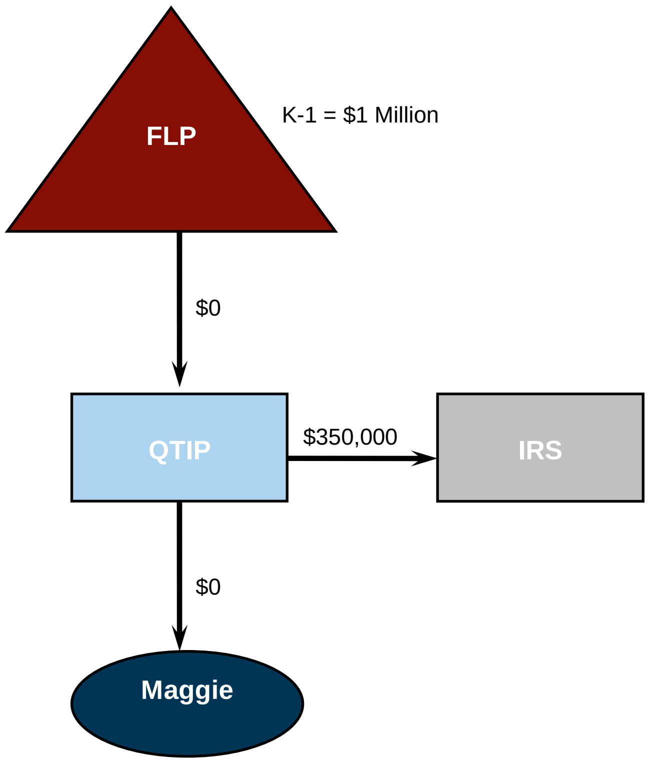
When a trust owns an interest in a partnership, the trust must report its *pro rata* share of the partnership's taxable income each year, regardless of whether the partnership makes a distribution to the trust. The trust must pay the income taxes and then allocate the tax burden between income and principal. In 2008 the Uniform Law Commission amended Section 505 of the UPIA to help clarify how to allocate the taxable income received from a pass-through entity. The goal of newly amended Section 505 is to ensure that the trustee will have enough money to pay the trust's taxes before making distributions to income beneficiaries.[40]

[39] Delaware: Del. Code Title 12, §3302(b); Florida: Fla. Stat. 518.11(1)(a)&(b); Georgia: O.C.G.A. § 53-8-1(c); Kentucky: KRS § 286.3-277(2)(corporate trustees), KRS § 386.454 (elective for individual trustees); Louisiana La. R.S. 9:2127; New York: EPTL §11-2.3(b)(4)(A).

[40] Steven B. Gorin and Carol A. Cantrell, "UPIA Amendment Clarifies Tax Allocation Between Income and Principal When Mandatory Income Trust Owns Pass-Through Entity," *Probate & Property*,(January/February 2009); Steve B. Gorin, "The 505 Fix: Trustees of Mandatory Income Trusts Saved by a Change to the UPIA" *Trusts & Estates* (December 2008).

Example 1(a) Partnership distributes nothing. *In year 1 alternative investment partnership makes no distributions during the year. The K-1 indicates that QTIP is subject to tax on $1 million.*

Result - In year 2 the FLP must file IRS Form 1065 for informational purposes. Since the alternative investment partnership made no distributions to the QTIP there is no FAI. Assuming that the QTIP and the spouse, Maggie, are in the 35% bracket, the QTIP must file IRS Form 1041 and find other resources to pay income taxes of $350,000.[41] *The taxes should be charged against principal under UPIA §103(a)(4) and §505(c)(4). If the partnership distributes this income in later years the trustee must then decide whether to reduce the income beneficiary's distribution and allocate the difference to principal under UPIA §506(a)(3) in order to maintain tax fairness between the beneficiaries.*



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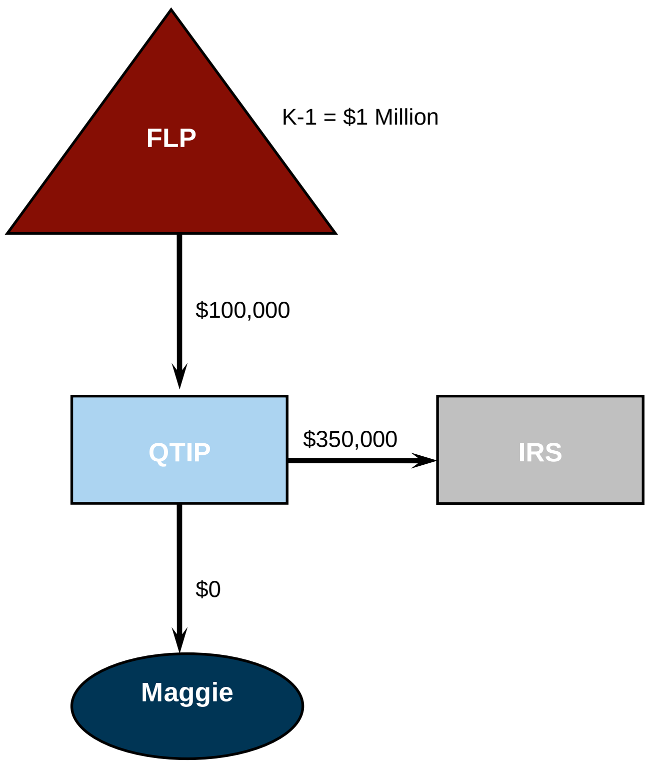
[41] $1 million multiplied by 35% = $350,000.

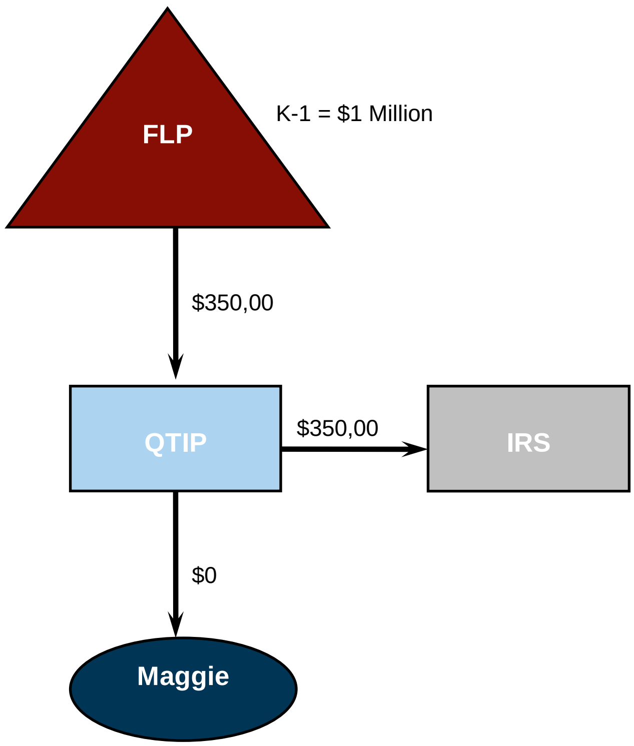
Example 1(b) Partnership distributes less than tax due, trust distributes nothing – *QTIP receives a Schedule K-1 reflecting taxable income of $1 million. The partnership distributes $100,000 to QTIP.*

Result - QTIP's tax is $350,000. QTIP must use the entire $100,000 to pay its tax and raise another $250,000 to pay the balance of the tax. The remaining $250,000 should be charged against principal. Maggie receives nothing.



Example 1(c) Partnership distributes tax due – *QTIP receives a Schedule K-1 reflecting taxable income of $1 million; partnership distributes $350,000 designated as tax distribution.*

Result – QTIP's tax is $350,000. QTIP uses entire $350,000 to pay its taxes. Maggie receives nothing.



In every case a trustee must allocate taxes between income and principal.[42] The comments to the recently amended UPIA Section 505 provide:

> Because the trust's taxes and amounts distributed to a beneficiary are interrelated, the trust may be required to apply a formula to determine the correct amount payable to a beneficiary. This formula should take into account that each time a distribution is made to a beneficiary, the trust taxes are reduced and amounts distributable to a beneficiary are increased. The formula assures that after deducting distributions to a beneficiary, the trust has enough to satisfy its taxes on its share of the entity's taxable income as reduced by distributions to beneficiaries.

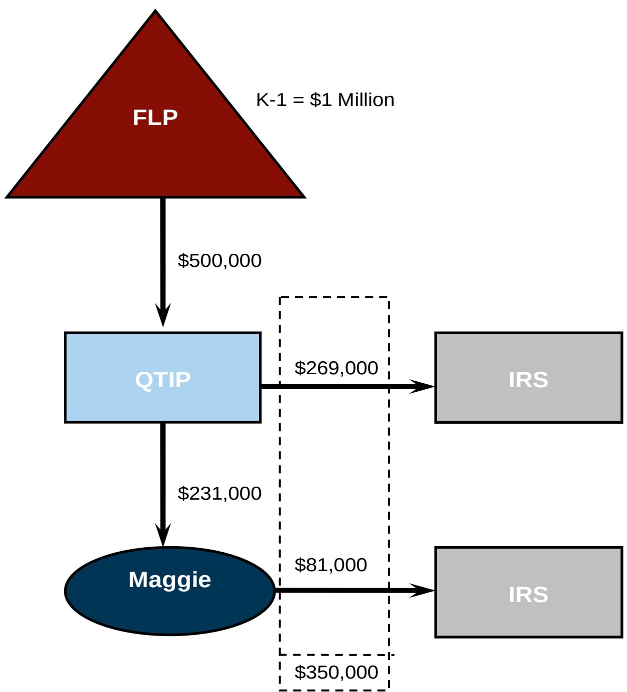
[42] Unif. Principal & Income Act §505(c)&(d)(1997 Act as amended by 2008 technical correction to codify interrelated calculation for distribution deductions (*aka* "Gamble Ordering Rule")).

The algebraic formula is called “an infinite series approaching a finite sum” and it is expressed as follows: D = (C-R*K)/(1-R), where: D = distribution to income beneficiary, C = cash paid by the entity to the trust, R = tax rate on income and K = entity’s taxable income.

Example 1(d) Partnership distributes more than tax due, trust makes required income distribution – *QTIP receives a Schedule K-1 reflecting taxable income of $1 million. FLP distributes $500,000 to QTIP designated as income.*

Result - QTIP’s tax is $269,231. Applying the algebraic formula, QTIP must pay $230,769[43] *to Maggie so that after deducting the payment, QTIP has exactly enough ($269,231) to pay its tax on the remaining taxable income from FLP. Maggie will report $230,769 on her own personal income tax return, paying taxes of $80,769.*

Because QTIP withheld $269,231 to pay its taxes and Maggie paid $80,769 in tax, Maggie essentially bore the entire $350,000 tax burden on the $1 million of entity taxable income.[44] *Depending upon how future distributions from the partnership, and the taxes attributable to them, are allocated between principal and income, an adjustment from principal in favor of Maggie under UPIA §506(a)(3) may be warranted at some point.*



[43] Payment to beneficiary = $230,769; D = ($500,000 – 350,000)/(1-.35) = $230,769.

[44] *See* comments under Amendment 2 of recently amended UPIA §505(c)&(d).

The interrelated calculation in Example 1(d) occurs only when the entity distributes an amount greater than enough to pay the tax on its taxable income, but less than its total taxable income. When the entity distributes less than enough to pay the tax on the trust's share of the entity's taxable income as in Example 1(b), the trust must retain the entire distribution to pay its income tax. When the entity distributes more than its taxable income, the trust's tax liability attributable to its share of the entity's taxable income is zero because the distributions to the income beneficiary of the trust are enough to fully reduce the trusts share of the entity's taxable income to zero.

j. Possible Equitable and Flexibility Solution For the Trustee That Owns or Desires to Own Alternative Investments: Placing Alternative Investments in FLP Structures.

Placing assets in a partnership arguably gives a trustee greater flexibility to treat income and remainder beneficiaries fairly on distribution and tax apportionment issues. For example, before selling a capital asset that was held longer than twelve months, a trustee could place the asset inside a FLP, sell the asset, and distribute less than 20% of the sales proceeds. For tax purposes, any gain would be taxed as long-term capital gains. But for UPIA purposes, the distributed gains would be characterized as income (i.e., not principal) and credited to the income beneficiary's ledger.

This practice may allow a trustee of a marital trust to be a partner in a FLP that invests in private equity investments which traditionally produce long-term capital gain. Stated differently, a FLP could invest in low distribution investments that are appropriate on a risk-adjusted return basis and the distribution policy of the partnership can, in effect, fairly convert what would be considered principal distributions into income distributions for trust accounting purposes.[45] As a result, the FLP can create the investment and distribution flexibility that a family may need to comply with MPT, a flexibility that is not subject to the same fiduciary constraints that would apply under a statutory power to adjust from principal to income, or a fiduciary power to distribute principal.

In addition, by careful management of a closely held limited partnership, an income-only trust could operate like the best features of a unitrust without the negative attributes. A unitrust may operate more evenly when there is a smoothing formula that takes into account the average trust value over several years (a period of time which many QTIPs do not have) and a "collar" provision to ensure that the distributions are neither too high nor too low. The problem is that under UPIA, an income-only trust that is converted into a unitrust will not have a "smoothing" formula or a "collar" provision. Those correcting features for a unitrust are not needed with an income-only trust that invests in a closely held limited partnership, assuming the cash distribution

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[45] *See Crisp v. United States*, 34 Fed. Cl. 112 (1995); Stacy Eastland, Managing Director of Goldman, Sachs & Co., "Family Limited Partnerships: Current Status and New Opportunities," *ALI-ABA Planning Techniques for Large Estates Course of Study* (November 18, 2008).

policy of the partnership management is reasonable or the partnership agreement provides for a "smoothing" formula subject to a "collar" provision.[46]

Limited partnerships could also be a tool for income-only trusts to manage fairness issues of who pays income taxes on the alternative investments between income and remainder beneficiaries. As noted above, there are two possible areas of tax fairness contention for income-only trusts under UPIA Section 505. They occur when a private equity partnership does not distribute enough money for the trust beneficiary to pay taxes and when the private equity partnership does distribute enough to pay taxes, but distributes less than its total income.[47] Consider the following:

Example 1(e) A FLP owns a wide variety of assets in different asset classes – *The FLP makes two distributions a year to the QTIP. The first FLP cash distribution is designated as trust accounting income by the FLP. The second distribution to the QTIP is specifically designated to pay the trust's taxes on its undistributed taxable income from its FLP investment. The first distribution is $2,500,000. The second distribution is $75,000. The FLP owns an alternative asset class investment like the asset in Example 1(d). Like Example 1(d), the FLP receives a $500,000 cash distribution from the alternative investment on taxable earnings of $1,000,000. The FLP's other asset classes produce $1,500,000 of ordinary net income and $500,000 of net long term capital gain. The source for both FLP distributions could be from existing FLP cash or cash flow from any asset class owned by the FLP, including cash that would not be FAI of the current year if held directly by the QTIP but becomes FAI because it is a distribution from an entity. By boosting the QTIP's FAI beyond what it would be if the FLP assets were held directly, the FLP helps the QTIP to "match" FAI and DNI, so that nothing need be withheld by the QTIP and the full $2,500,000 of ordinary income is both distributed, and taxed, to Maggie.*

Result - The first distribution is paid to Maggie and she pays income taxes on that distribution, to the extent it carries out DNI. The FLP, with that second distribution, has effectively designated the character of the payment as corpus (i.e., it is not to be distributed to Maggie) under UPIA Section 401(f) by stating that it is to pay the trust's income taxes. The $75,000 enables the trust to pay its tax (at 15%) on the $500,000 capital gain that was not part of DNI. Unlike Example 1(d), in this case there may not be any need in the future to make an adjustment from principal in favor of Maggie. The FLP does not eliminate the need to make distributions and pay taxes in a way that is fair to the income and remainder beneficiaries, but it increases the flexibility available to attain these goals.[48]

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[46] Id. at p.13.

[47] *See* Examples 1(c) and 1(d) in this paper.

[48] *See* I.R.S. Priv. Ltr. Ruls. 200531008, 200531009 and 20053202 (payment made by entity to a trust, where entity designated payment for taxes, was allocated to corpus).

4. The third investment reason certain trusts are benefitted by family limited partnerships: the closely held family limited partnership has the management capacity to carry out the partnership's capital gains income to the income only beneficiary for income tax purposes.

The third advantage of a closely held family limited partnership for certain trusts is that it may be possible under operation of I.R.C. Section 643(a) to allow all or a portion of the closely held family limited partnership capital gain to be included in DNI that is carried out to the income beneficiaries for tax purposes. Under UPIA Section 401, a distribution of cash from an entity to a trust may be deemed to have carried out capital gain income as trust accounting income. Final regulations under I.R.C. Section 643(a) avoided the question by stating:

> One commentator [the AICPA[49]] requested examples of the effect on DNI of capital gains from a passthrough entity and income from a passthrough entity that is more or less than the trust accounting income from that entity. These issues are beyond the scope of this project.[50]

The reason why the IRS "ducked" this question is that gains from the sale of assets held by a partnership are typically gains in which the trustee has no absolute authority or control. Therefore, the trustee cannot directly allocate those gains to corpus or to income or establish a regular practice of doing one or the other, a key determinant of whether gains are in DNI under I.R.C. Section 643(a). The trustee can only allocate receipts from the entity between income and principal according to the trust agreement or UPIA Section 401. See also *Crisp v. United States.*[51] That court held that it was reasonable for the trustee to allocate capital gain profits from a privately held partnership to income.

C. If the Closely Held Family Limited Partnership Facilitates the Indirect Ownership of a Fully Diversified Portfolio By Smaller Trusts and Income Only Trusts, Will that Partnership Be Recognized For Transfer Tax Purposes?

It is clear, under certain Supreme Court holdings, in determining the value for gift and estate tax purposes of any asset that is transferred, the legal rights and interests inherent in that transferred property must first be determined under state law (*unless federal law supersedes state law, and in the case of determining if an asset is to be recognized as a partnership interest, as will be addressed below, federal tax law has even more liberal standards than state law*).[52] After that determination is made, the federal tax law then takes over to determine how such rights and interests will be taxed.[53] In its legislative history to various revenue acts, Congress has endorsed

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[49] Tax Notes Today, 2001 TNT 97-26 (May 17, 2001) (Comments by the AICPA to Treasury regarding the proposed regulations to revise the definition of trust income under Section 643(b)).

[50] T.D. 9102.

[51] *Crisp v. United States*, 34 Fed. Cl. 112 (1995).

[52] Occasionally, federal law does supersede state law in this context. For instance, federal law determines what is charity for purposes of I.R.C. § 2055, not state property law.

[53] *See* United States v. Bess, 357 U.S. 51 (1958); Morgan v. Commissioner, 309 U.S. 78 (1940).

these principles, which had been developed under case law. For instance, the reports to the 1948 changes in the estate taxation of community property provide that those changes restore the rule by which estate and gift tax liabilities are to depend upon the ownership of property under state law.[54]

In a 1996 federal district court case in New Hampshire, *Hilco Property Services, Inc. v. United States*,[55] District Judge Joseph A. Di Clerico, Jr. found that the estate tax lien statutes were not applicable to the assets of the partnership and would only apply to the partnership interest in a case where an individual, through a gift deed, conveyed property to an oral partnership on her death bed and was incoherent at the time of that conveyance. The Court found that under the laws of New Hampshire, a valid partnership existed with respect to that property (because of estoppel theories) and that the Service would be bound by the state law property rights and encumbrances with respect to that property. The court delineated an excellent synopsis of the controlling authorities:

> [The Government argues] that although the taxpayer's property rights are defined by state law, the extent of the IRS interest, including the priority of the lien, are determined by federal law.
>
> Federal law governs issues of federal tax lien priority. *E.g., Progressive Consumers Federal Credit Union v. United States*, 79 F.3d 1228, 1234-35 (1st Cir. 1996) (listing authorities); *Gardner v. United States*, 34 F.3d 985, 987 (10th Cir. 1994); *In re Adler*, 869 F. Supp. 1021, 1026-27 (E.D.N.Y. 1994). However, "it is equally well-settled that in the application of a federal revenue act, state law controls in determining the nature of the legal interest . . . in the property to be reached by the statute." *Progressive Consumers Federal Credit Union*, 79 F.3d at 1235 (*quoting Aquilino v. United States*, 363 U.S. 509, 513, 80 S. Ct. 1277, 1280, 4 L. Ed. 2d 1365 (1960)); *accord Avco Delta Corp., Canada Ltd. v. United States*, 459 F.2d 436, 440 (7th Cir. 1972) ("federal court must look to state law to determine the nature of the legal interest which the taxpayer had in the property sought to be reached.") (*citing Aquilino*, 363 U.S. at 512-13, 80 S. Ct. at 1280). This is because "state law created legal interests and rights in property [while] federal law determined whether and to what extent those interests will be taxed." *United States v. Irvine*, 511 U.S. 242, —, 114 S. Ct. 1473, 1481, 128 L. Ed. 2d 168 (1994); *accord United States v. Bess*, 357 U.S. 51, 55, 78 S. Ct. 1054, 1057, 2 L. Ed. 2d 1135 (1958) (federal tax laws "creat[e] no property rights but merely atta[ch] consequences, federally defined, to rights created under state law").

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[54] *See* H. REP. NO. 2543, 83rd Cong. 2nd Sess., 58-67 (1954); H.R. REP. NO. 1274, 80th Cong. 2nd Sess., 4 (1948-1 C.B. 241, 243); S. REP. NO. 1013, 80th Cong., 2nd Sess., 5 (1948-1 C.B. 285, 288) where the Committee Reports on the 1948 changes in the estate taxation of community property states: "Generally, this restores the rule by which estate and gift tax liabilities are dependent upon the ownership of property under state law." *See also* the reports of the Revenue Act of 1932 that define "property" to include "every species of right or interest protected by law and having an exchangeable value." H.R. REP. NO. 708, 72nd Cong., 1st Sess., 27-28 (1932); S. REP. NO. 665, 72nd Cong., 1st Sess., 39 (1932).

[55] 929 F. Supp. 526 (D. N.H. 1996).

Finally, in the federal tax lien context, it makes no difference whether the state law principles used to determine the relevant property interest arise under statute or common law, *e.g.*, *Gardner v. United States*, 814 F. Supp. 982, 984-85 (D. Kan. 1993), or arise through equitable doctrines of estoppel, *e.g.*, *Avco Delta Corp. Canada, Ltd.*, 459 F.2d at 440-41.[56]

Another excellent synopsis of the relevant case law and authorities for the proposition that state law controls in determining the nature of the legal interest that is transferred for estate tax purposes and, in particular, a partnership interest is found in a brief filed by the government in a Fifth Circuit Court of Appeals Case.[57] The case concerned the estate taxation of a Louisiana partnership interest. The Justice Department, in one of its briefs in that case, provided that synopsis, which the Court quoted in its opinion:

It is now well established that state law is determinative of the rights and interests in property subject to federal estate taxation. In *Morgan v. Commissioner*, 309 U.S. 78 [626], 60 S. Ct. 424, 84 L. Ed. 585 (1940), the Supreme Court said (p. 80): 'State law creates legal interests and rights. The federal revenue acts designate what interests or rights, so created, shall be taxed.' *Estate of Rogers v. Commissioner*, 320 U.S. 410, 414, 64 S. Ct. 172, 88 L. Ed. 134 (1943); *United States v. Dallas Nat. Bank*, 152 F.2d 582 (C.A. 5th 1945); *Smith's Estate v. Commissioner*, 140 F.2d 759 (C.A. 3d 1944). *See Aquilino v. United States*, 363 U.S. 509, 513, 80 S. Ct. 1277, 4 L. Ed. 2d 1365 (1960); *Commissioner v. Chase Manhattan Bank*, *supra* [259 F.2d 231 (5th Cir. 1958)], p. 249; *United States v. Hils* (C.A. 5th 1963) [318 F.2d 56]. * * *

The courts must determine the substance of the state property law provisions and apply the estate tax provisions to the property interests so determined.[58]

In a 1999 tax court case, *Estate of Ethel S. Nowell v. Commissioner*[59], then Chief Tax Court Judge Cohen held that, as a matter of law, in granting the taxpayer's motion for summary judgment, a hypothetical willing buyer would only assume that he could purchase an assignee interest and not a limited partnership (because of the limitations of state property law):

In determining the value of an asset for Federal estate tax purposes, State law first determines precisely what property is transferred. Morgan v. Commissioner, 309 U.S. 78, 80, 60 S.Ct. 424, 84 L.Ed. 585 (1940); Estate of Bright v. United States, 658 F.2d 999, 1001 (5th Cir. 1981). After that determination is made, the Federal tax law takes over to determine how such rights and interests will be taxed. United States v. Bess, 357 U.S. 51, 55, 78 S.Ct. 1054,

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[56] *Id.* at 547-48.

[57] *Aldrich v. United States*, 346 F.2d. 37 (5th Cir. 1965).

[58] *Id.* at 38, 39.

[59] TC Memo 1999-15 (Jan. 26, 1999).

2 L.Ed.2d 1135 (1958). Thus, State law must be consulted to determine what property interests were transferred at a decedent's death.

State law determines the nature of the interest being transferred. Federal law determines how the transferred interest is taxed. However, in applying this principle, it is not the label used by state law that is determinative, but rather the substantive rights and obligations conferred by state law. Thus, state law could label an entity a "charity", but whether the entity is exempt from federal taxation depends on whether it is organized and operated, as permitted by state law, in a manner that meets the requirements of I.R.C. Section 501(c)(3).

Similarly, state law may label an entity a "partnership", but its federal tax treatment turns whether the rights and obligations of the parties, as determined by state law, fit within the Internal Revenue Code's definition of "partnership". Here, however, the Code is more liberal than state law. Congress clearly intends that partnerships in which the family partners follow the agreement and conduct a financial operation should be regarded as partnerships for federal tax purposes and the partners should be treated as owning partnership interests and not treated as owning undivided interests in the partnership assets.[60]

Stated differently, federal tax law has a more liberal standard than state law in recognizing a partnership apart from its owners. Under federal tax law (including federal transfer tax law), a partnership is considered to be created and recognized independent of its owners if that group of owners agree to divide profits and carries on *any* financial operation (i.e., it does not have to be a trade or business operation). I.R.C. Section 7701(a)(2) provides that for estate, gift and generation-skipping tax purposes, where not otherwise *distinctly expressed or manifestly incompatible* with the intent of the collective provisions of the Internal Revenue Code:

> *The term partnership includes a* syndicate, *group*, pool, joint venture, or other unincorporated organization, *through or by means of which any* business, *financial operation*, or joint venture *is carried on*, and which is not within the meaning of this title, a trust, estate or corporation.[61] *(Emphasis added.)*

Clearly, Congress has provided for a very liberal definition for determining when a partnership (including a family partnership) will be recognized for transfer tax purposes apart from its family owners. It is not necessary for a family group to conduct an operating business to have a recognized partnership. By the explicit terms of I.R.C. § 7701(a)(2), any financial operation (*e.g.*, a passive investment in stocks and bonds) by a family group which is not conducting its affairs as a trust, an estate, or a corporation will be a tax recognized partnership under all provisions of Chapters 1, 11, 12, 13 and 14 of the I.R.C..[62] Congress clearly intended that an individual would always be treated as a partner of a partnership for purposes of Chapters

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[60] In *Mirowski v. Commissioner*, T.C. Memo 2008-74 (2008), Judge Chiechi specifically found that financial activities are sufficient (i.e., lack of business activities is not important) to demonstrate substantive non-tax reasons for the recognition of a family limited partnership. See pages 50-51, and 54-55 of that Opinion.

[61] I.R.C. § 7701(a)(2) (emphasis added).

[62] *Id*.

1, 11, 12, 13, and 14 of the Code, if that individual is a member of a group that conducts any financial operation, including investing in stocks and bonds, unless that group is a trust, an estate, or a corporation.

A key question which is addressed by the "check the box" regulations under I.R.C. § 7701(a)(2) is whether an arrangement or undertaking constitutes a separate entity (*e.g.*, a partnership or a corporation) recognized apart from the owners. Treas. Reg. § 301.7701-1(a) (effective January 1, 1997) retains the existing concept that undertakings, arrangements, or entities that do not have a joint profit motive would not be treated as separate entities for federal income tax purposes.[63] The regulations retain the examples found in the old regulations. *However, it is clear that if a joint profit motive does exist, the family entity will be recognized for federal estate tax purposes apart from its owners.*

The regulations define "business entity" as an entity recognized for federal tax purposes that is not a trust under Treas. Reg. § 301.7701-4 or otherwise subject to special treatment under the I.R.C. A business entity with two or more owners is classified as either a corporation or a partnership for all federal tax purposes (including federal estate, gift or generation-skipping tax purposes). Any business entity having two or more members that is not a *per se* corporation, as defined in the Regulations, is defined to be a partnership.[64]

Congress and the Treasury have long recognized that it is common and proper (and should be recognized for tax purposes) for groups to use the partnership form of organization to hold only passive securities:

a. The IRS, because of I.R.C. § 7701(a)(2), has always recognized that "passive investment clubs," through which investors engage in passive investment activities, may be conducted in the partnership form of ownership for *all* federal tax purposes.[65]

b. In addition to I.R.C. § 7701(a)(2), the I.R.C. liberally defines the term "partnership" in sections 761(a) and 6231(a).

c. Specific rules that apply only to partnerships holding passive investment assets appear in the I.R.C. and the Treasury Regulations:

(1) Under I.R.C. § 721, taxpayers contributing assets to a partnership that is deemed an "investment company" (generally, one made up of over 80% *marketable*[66] stocks or securities, or

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[63] Treas. Reg. § 301.7701-1(a).

[64] Treas. Reg. § 301.7701-2(c)(1).

[65] *See* Rev. Rul. 75-523, 1975-1 C.B. 257 (because of I.R.C. § 7701(a)(2), a partnership was recognized for tax purposes even though the only purpose of the partnership was to invest in certificates of deposit) and Rev. Rul. 75-525, 1975-1 C.B. 350 (because of I.R.C. § 7701(a)(2), a partnership form of ownership was recognized for tax purposes even though the only purpose of the partnership was to invest in marketable stocks and bonds).

[66] It should be noted that "marketable" is broadly defined.

interests in regulated investment companies or real estate investment trusts) will recognize gain or loss on contribution unless each partner's contributed stock portfolio is substantially diversified (see the new regulations under section 368 and the discussion in this paper concerning the avoidance of income tax problems).

(2) I.R.C. § 731(c)(3)A(iii) addresses the favorable tax treatment of distributions of marketable securities made to partners of "investment" partnerships (which is defined under I.R.C. § 731(c)(3)(C)(i) as a partnership which has never engaged in a trade or business and substantially all of its assets are passive securities).

(3) Treas. Reg. § 1.704-3(e)(3) contains a special aggregation rule for "securities" partnerships (at least 90% of the partnership's non-cash assets consist of stocks, securities and similar instruments tradable on an established securities market).

(4) Treas. Reg. § 1.761-2(a) expressly confirms that investment partnerships are to be treated as partnerships under subchapter K (unless a contrary election is made).

(5) The final anti-abuse regulation acknowledges that the "business" activity of a partnership may be investing assets: "Subchapter K is intended to permit taxpayers to conduct joint business (*including investment*) activities through a flexible economic arrangement without incurring an entity-level tax."[67]

The Service has not only provided in its regulations for a liberal definition of when a partnership is created and recognized, but has also taken that position in its revenue rulings. For instance, the Service, because of I.R.C. § 7701(a)(2), has always recognized that "passive investment clubs," through which investors engage in passive investment activities, may be conducted in the partnership form of ownership for all federal tax purposes.[68]

Case law, interpreting I.R.C. Section 7701(a)(2), has also taken a very liberal view of when a partnership is created and recognized for federal tax purposes apart from its owners.[69]

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[67] Treas. Reg. § 1.701-2(a) (emphasis added). The parenthetical language referring to investment as a business activity was added after the release of the proposed regulation. *Compare* Prop. Reg. § 1.701-2(a).

[68] *See*, Rev. Rul. 75-523, 1975-2 C.B. 257 (because of I.R.C. § 7701(a)(2), a partnership was recognized for all federal tax purposes even though the only purpose of the partnership was to invest in certificates of deposit); Rev. Rul. 75-525, 1975-2 C.B. 350 (because of I.R.C. § 7701(a)(2), a partnership form of ownership was recognized for tax purposes even though the only purpose of the partnership was to invest in marketable stocks and bonds).

[69] *See Commissioner v. Culbertson*, 337 U.S. 733 (1949); *Lusthaus v. Commissioner*, 327 U.S. 293 (1946); *Commissioner v. Tower*, 327 U.S. 280 (1945); *Evans v. Commissioner*, 447 F.2d 547, 550 (7th Cir. 1971); *Winkler v.*

The *Winkler*[70] case is very instructive as to how liberal the courts have been in applying I.R.C. Section 7701(a)(2) to family partnerships and upholding the creation and recognition of family partnerships for estate and gift tax purposes. The Tax Court upheld the recognition of a partnership (and denied the Service gift tax and estate tax deficiencies), even though: (i) the only assets of the partnership were lottery tickets; (ii) the partnership was initially an oral partnership where many of the provisions were undefined; (iii) the accountants for the Winkler's initially reported the cash consideration involved in the lottery tickets as a gift; (iv) the patriarch was in poor health and died shortly after the creation of the partnership; (v) the division of the profits did not follow state law; (vi) all of the consideration for the winning Lotto ticket was provided by the matriarch; and (vii) the descendants of the patriarch and matriarch were 50% owners of the partnership.[71]

The Tax Court found that the Winklers engaged in an activity that constitutes permissible partnership activity under I.R.C. Section 7701(a)(2) for federal gift, and estate tax purposes: the activity of pooling their money to purchase family Lotto tickets. Thus, the Court found that the Winklers, in good faith and acting with that financial purpose, intended to join together in the present conduct of a partnership enterprise.[72] As a consequence, the Court found that there were no gift tax or estate tax deficiencies.

The *70 Acre Recognition Equipment Partnership*[73] case is another case that is instructive as to the liberal standard the courts are applying in determining whether a partnership is created and recognized for federal tax purposes. The Court found in this case that a partnership was created and recognized for federal tax purposes independent of the two owners (Booth Creek Investment, Inc. and State Savings & Loan Association of Lubbock) even though: (i) the owner's accounting firm had admitted the nonexistence of a valid partnership in a letter to the Service; (ii) there was no written partnership agreement; (iii) State Savings did not contribute capital services except for a promise to extend credit; (iv) State Savings had no right to jointly manage the subject real estate; and (v) State Savings did not agree to share in the losses.[74]

Commissioner, 73 T.C.M. (CCH) 1657 (1997); *70 Acre Recognition Equip. Partnership v. Commissioner*, 72 T.C.M. (CCH) 1508 (1996); *Frazell v. Commissioner*, 88 T.C. 1405, 1412 (1987); *Wheeler v. Commissioner*, 37 T.C.M. (CCH) 883 (1978).

[70] *Winkler*, 73 T.C.M. (CCH) 1657.

[71] Id.

[72] *Id*. at 1663.

[73] 70 Acre Recognition Equip. Partnership, 72 T.C.M. (CCH) 1508.

[74] Id.

III. BEST FINANCIAL ENGINEERING PLANNING IDEA – THE PRIVATE CALL SPREAD OR PUT SPREAD OPTION THAT IS CONTRIBUTED TO A GRAT

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "GRATs only work if markets increase;" or "private derivatives are too difficult to use in family estate planning." The above "conventional wisdom," under the circumstances discussed below, is incorrect.

B. What is a GRAT?

The first inquiry is what is a GRAT? A GRAT (a grantor retained annuity trust) is an irrevocable trust to which the grantor transfers an asset in exchange for the right to receive a fixed amount annuity for a fixed number of fiscal years (the "Annuity Period").[75] When the trust term expires, any GRAT balance remaining is transferred tax-free to a designated remainder beneficiary (*e.g.*, the grantor's issue or a "defective grantor trust" for the benefit of the issue).[76] If a grantor makes a gift of property in trust to a member of the grantor's family while retaining an interest in such property, the taxable gift generally equals the fair market value of the gifted property without reduction for the fair market value of the retained interest.[77] However, I.R.C. Section 2702 provides that for a gift of the remainder of a GRAT in which the grantor retains a "qualified interest", defined to include a guaranteed annuity, the taxable gift will be reduced by the present value of the qualified interest, as determined pursuant to a statutory rate determined under I.R.C. Section 7520(a)(2) (the "Statutory Rate"). In general, the Statutory Rate requires an actuarial valuation under prescribed tables using an interest rate equal to 120 percent of the Federal midterm rate in effect for the month of the valuation.[78]

A grantor's ability to determine the size of the guaranteed annuity and the annuity period at the outset allows the GRAT to be constructed so that the present value of the grantor's retained

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[75] The GRAT may also be structured to terminate on the earlier of a period of years or the grantor's death, with a reversion of the entire corpus to the grantor's estate on premature death, but doing so will reduce the value of the retained interest.

[76] I.R.C. § 2702 provides the statutory authority for such transfers after October 8, 1990. I.R.C. § 2702(a) uses the "subtraction-out" method to value retained interests of split interests transfers. Under I.R.C. § 2702(b), a qualified interest includes any interest that consists of a right to receive fixed amounts. The value of a remainder interest in a GRAT that meets the requirements of § 2702 is computed by subtracting the present value of the grantor's annual annuity payments from the contributed properties' current fair market value. The grantor must recognize a taxable gift to the extent of any computed remainder interest. The present value of the grantor's annual annuity payment is computed by discount rates set by the Service under I.R.C. § 7520. The IRS Tables change monthly to reflect an interest rate assumption of 120% of the mid-term adjusted Federal Rate for that month under § 1274(d)(1).

[77] *See* I.R.C. Section 2702(a)(2)(A). Absent Section 2702, the amount of the gift would be reduced by the value of the retained interest. *See* Regulations section 25.2511-1(e).

[78] *See*, I.R.C. Section 7520(a)(2). Certain exceptions set forth in Regulations section 25.7520-3(b) do not appear to be applicable to the facts discussed in this paper.

interest approximately equals the value of the property placed in the GRAT, resulting in a "zeroed out" GRAT.[79] Thus, a GRAT could be structured, where there is no, or a relatively modest, taxable gift. If the GRAT does not earn a yield or otherwise appreciate at a rate equal to the Statutory Rate, all the trust property will be returned to the grantor in payment of the retained annuity, and no transfer of property to the GRAT's beneficiaries will occur. If the grantor dies during the GRAT term, all of the GRAT property should be included in the grantor's gross estate and be subject to estate tax, with a reduction for any gift tax paid upon creation of the GRAT. If, however, the grantor survives the GRAT term and the GRAT earns a yield or otherwise appreciates at a rate that exceeds the Statutory Rate, the amount of such excess value should pass to the GRAT's designated beneficiaries free of transfer tax.

1. Advantages of a GRAT.

a. Valuation advantage of a GRAT.

Under the regulations, the grantor's retained annuity rights may be defined in the trust instrument as a percentage of the fair market value of the property contributed by the grantor to the trust, *as such value is finally determined for federal tax purposes*. For example, the trust agreement might provide for payments of 53% per year for two years, where the 53% annual payment amount is derived from the initial value. This type of language operates as a built-in revaluation clause, mitigating the risk of a surprise gift on revaluation of the transferred property by the Service. This feature can be especially beneficial with contributed assets that reasonable people (and unreasonable people) could differ as to the initial value (e.g., a private derivative or option).

b. Ability of grantor to pay for income taxes associated with GRAT gift tax-free and substitute assets of the GRAT income tax-free.

A GRAT can be designed to be an effective trust for estate and gift tax purposes and income tax purposes (i.e., a so-called grantor trust). That is, the trust will not pay its own income taxes, rather the grantor of the trust will pay the income taxes associated with any taxable income earned by the trust. (*See* the above discussion with respect to grantor trusts.)

I.R.C. Section 671 through 677 contain rules under which the grantor of a trust will be treated as the owner of all or any portion of that trust, referred to as a "grantor trust." If a grantor retains certain powers over a trust, it will cause the trust to be treated as a grantor trust. If the

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[79] The possibility of completely "zeroing out" a GRAT was negated by Example 5 of Regulations section 25.2702-3(e). Example 5 was invalidated by *Walton v. Comm'r*, 115 T.C. 589 (2000), acq., Notice 2003-72, 2003-44 I.R.B. 964. Final regulations reflecting *Walton* and containing a revised Example 5, have been issued. T.D. 9181 (February 24, 2005), 70 F.R. 9,222-24 (February 25, 2005). Prior to its acquiescence, the Service, in Revenue Procedure 2002-3, 2002-1 I.R.B. 117, §4.01(51), announced that it will not issue a favorable private letter ruling in circumstances where the amount of the guaranteed annuity payable annually is more than 50 percent of the initial net fair market value of the property transferred to the GRAT or if the present value of the remainder interest is less than 10 percent of the transferred property's initial net fair market value. The regulations do not include any such 50/10 limitation, nor would such a limitation be consistent with the *Walton* case itself, which involved a zeroed-out GRAT. However, the no-ruling policy is still in effect. Rev. Proc. 2006-3, 2006-1 I.R.B. 122, §4.01(50).

grantor is treated as the owner of any portion of a trust, I.R.C. Section 671 provides that those items of income, deductions, and credits against the tax of the trust that are attributable to that portion of the trust are to be included in computing the taxable income and credits of the grantor to the extent that such items will be taken into account in computing the taxable income or credits of an individual. An item of income, deduction or credit included under I.R.C. Section 671 in computing the taxable income and credits of the grantor is treated as if received or paid directly to the grantor.[80] Thus, if the private investor contributes assets to an intentionally defective grantor trust, the assets will grow (from the point of view of the trust beneficiaries) income-tax free. Furthermore, the IRS now agrees that there is no additional gift tax liability, if the private investor continues to be subject to income taxes on the trust assets and there is no right of reimbursement from the trust.[81]

Under Rev. Rul. 85-13,[82] a grantor is treated as the owner of trust assets for federal income tax purposes to the extent the grantor is treated as the owner of any portion of the trust under I.R.C. Section 671-77. In that ruling, it was held that a transfer of trust assets to the grantor in exchange for the grantor's unsecured promissory note is not recognized as a sale for federal income tax purposes.[83]

Similarly, if the grantor is treated as the owner of the trust property and transfers property into the trust in exchange for property previously held by the trust, such transfer will not be recognized as a sale, exchange or disposition for federal income tax purposes.[84] Thus, no gain or loss is realized by the grantor or the trust. The basis of the property transferred into the trust is unaffected by the transfer, and neither the grantor or the trust acquires a cost basis in the assets transferred from or to the trust.

Thus, if the assets of the GRAT, any time during the term of the GRAT, have significant appreciation, the grantor is in a position to substitute other assets to lock in the profit of the GRAT. As a practical matter, the ability to substitute assets may be used by the grantor of a GRAT to "lock in" appreciation in the investment of a GRAT prior to the end of the Annuity Period by substituting other assets of equal value that are less likely to fluctuate, if at the time of such substitution the yield or appreciation of the investments of a GRAT surpasses the Statutory Rate. In this connection, Treasury Regulation Section 25.2702-3(b)(5) requires the governing instrument of a GRAT to prohibit additional contributions to the GRAT after its inception. It might be argued that the power to swap assets of equal value constitutes a power to make an additional contribution. However, to date the Service has not made this connection. In addition,

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[80] Treas. Reg. Section 1.671-2(c).

[81] *See* Rev. Rul. 2004-64, 2004-27 I.R.B. 7 (July 6, 2004).

[82] Rev. Rul. 85-13, 1985 – 1 CB 184.

[83] *See also,* PLR 91-46-025 (August 14, 1991) (finding that transfer of stock to grantor by trustees of grantor trust in satisfaction of payments due grantor under the terms of the trust does not constitute a sale or exchange of the stock).

[84] *See* PLR 90-10-065 (December 13, 1989).

numerous private letter rulings have approved GRATs containing a power of substitution without raising or reserving as to this issue.[85]

c. Synergy with other techniques.

A GRAT may be a means to transfer enough wealth to a trust for the benefit of the next generation in order to provide leverage for other future estate planning techniques. If the GRAT, or GRATs, that a grantor and a grantor's spouse create are successful (e.g. 10% of the family's wealth is transferred downstream to the grantor's family or to trusts for the grantor's family), further leveraging with respect to other transfer tax planning techniques could occur. For instance, assume that a GRAT or GRATs that are created by a grantor and a grantor's spouse transfer approximately 10% of the family's net worth to a grantor trust for the benefit of their family. The grantor and the grantor's spouse could transfer their remaining assets to a trust in exchange for a note that is equal to the fair market value of what has been transferred. In that fashion, the grantor has achieved a freeze of his or her estate (except for the interest carry on the note) while paying no (or very little) gift tax. That trust could also purchase life insurance to equal approximately 50% of the projected principal amount due on the death of the surviving spouse.

d. Comparatively low hurdle rate.

Currently, the Statutory Rate has been ranging between 2% and 3%. In today's relatively low interest rate environment for US Treasury it is certainly possible, and for certain investments probable, that the investments of a GRAT will exceed that hurdle rate.

e. High leverage.

A GRAT can be created where the grantor retains an annuity amount that is almost equal to the value of the assets there were originally placed in the GRAT. Stated differently, significant leverage can be created by creating an annuity that is almost equal to the value of the assets placed into the GRAT. As noted above, if there is appreciation above the Statutory Rate, the appreciation above the Statutory Rate will accrue to the remainderman. In comparison, most practitioners believe that other leveraged gifting techniques, including a sale to a grantor trust, should have more equity associated with the transaction (e.g., for example, some practitioners advocate at least 10% equity with a sale to a grantor trust, which usually results in a taxable gift).

f. Non-recourse risk to remaindermen.

Another financial advantage of the GRAT technique is that if the asset goes down in value, the remaindermen have no personal exposure. Furthermore, there is no added cost of wasting significant gift tax exemptions of the grantor. For instance, assume for the sake of comparison, that at the time of the sale to the grantor trust, the grantor trust had 10% - 15% equity.

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[85] *See*, e.g., PLR 200220014 (Feb. 13, 2002); PLR 200030010 (Apr. 26, 2000); PLR 200001013 (idem, 200001015 (Sept. 30, 1999)); PLR 9519029 (Feb. 10, 1995); PLR 9451056 (Sept. 26, 1994); PLR 9352007 (Sept. 28, 1993); PLR 9352004 (Sept. 24, 1993); PLR 9239015 (Jun. 25, 1992).

If the asset goes down in value, that equity of the trust could be eliminated and the exemptions that were originally used to create that equity could also be eliminated.

2. Financial reasons why a GRAT may not succeed.

A famous University of Texas football coach, Darrell Royal, once explained why he disdained the forward pass, “Three things can happen when you throw a pass and two of them are bad.” To a certain extent the same thing can be said about investments that are placed in a GRAT. If the investment goes down (the equivalent of a pass interception), or if an investment only increased modestly (the equivalent of a pass incompletion), the GRAT will be unsuccessful in transferring wealth to the remainderman. Thus, because of investment performance, many GRATs may not be successful.

a. Some assets are not volatile.

Generally, assets that have a chance to have a significant result over the Annuity Period have a possible wide variance of possible investment outcomes. A stable asset portfolio, while in another context is generally desirable, is not a desirable portfolio for a GRAT. If the leading objective of the GRAT is to produce a transfer of wealth to the remainderman, variance of return (or risk) is a friend, not an enemy. Thus, the challenge for the practitioner for clients that have a stable portfolio of assets is how to make the GRAT an effective technique.

b. Some GRAT investments are only profitable if the investment is long.

Another challenge for the practitioner in dealing with many clients’ normal asset portfolio is that the assets are only profitable if the markets in which the assets are invested increase. Markets do not always increase in value, nor do the assets which find much of their return related to that market always increase in value. Thus, if the markets are flat, or if the markets are decreasing in value, many of the GRATS created during that period will be unsuccessful.

c. Financial engineering may ameliorate those financial concerns.

As will be discussed below, both of these financial reasons why a GRAT may not succeed may be ameliorated by using intra-family options obtained pursuant to a cashless collar (e.g., puts, calls, call spreads and put spreads). Volatility and investing short may not be objectionable from a family’s investment point of view, if the profit and the volatility of the transaction stay within the family.

C. Vocabulary of the Financial Engineer.

Before this section of the paper examines the integration of financial engineering with estate planning, it is perhaps useful to explore basic financial engineering concepts. While financial engineering may seem somewhat like a mysterious foreign language to some estate planners, the path may be made easier once the vocabulary of that foreign language is learned. The discussion below attempts to outline some of that vocabulary.

1. What is a call option?

A call option is a contract under the terms of which a buyer acquires an option ("call option") to purchase stock held by a seller under certain conditions. The cost of acquiring the call option (the "purchase price") will typically be a portion of the value of the stock at the time the call option is purchased (the "initial value"). Under the terms of the call option, if the stock price stands at or above a specified value (the "target value") on a specified date (the "target date"), the buyer will acquire the right to purchase the stock at a specified price (the "exercise price"). If the stock price is less than the target value on the target date, the call option is not exercisable. If the stock does not appreciate to the target value, the buyer loses the purchase price of the call option to the seller. If the stock does appreciate to the target value, the seller loses the stock while retaining the purchase price and exercise price, the sum of which is, however, less than the then stock value.

2. What is a call spread option?

A call spread option is similar to the call option except that part of the proceeds from the purchase price of selling the call option is in turn invested in another call option, which has a target value below the target value of the original call option. Thus, if a seller of a call option invests the proceeds of that sale in another call option, which has a lower target value, the seller will enhance his net worth, if the stock price on the target date is between the target value for the first selling call option transaction and the second purchasing call option transaction.

3. What is a put option?

A put option is a transaction in which a buyer enters into a contract with seller, whereby the outside buyer acquires an option ("put option") to sell certain stock under certain conditions to the seller. The cost of acquiring the put option (the purchase price) will typically be a portion of the value of the stock at the time the put option is purchased. Under the terms of the put option, if the stock price stands at or below a specified value (the target value) on a specified date (the target date), the buyer will acquire the right to sell the stock to the seller at a specified price (the exercise price). If the stock price is more than the target value on the target date, the put option is not exercisable. If the stock does not depreciate to the target value, the buyer loses the purchase price of the put option. If the stock does depreciate to the target value or below, the seller of the put option must purchase the stock at the exercise price from the buyer or settle the difference in value for cash.

4. What is a put spread option?

A put spread option is similar to the put option except that the proceeds from the purchase price of selling the put option are in turn invested by the seller in another put option that has a higher target value than the target value of the original put option. Thus, if a seller owns a put option, that has a higher target value than the put option that it is the obligor of, the seller will enhance his net worth if the stock price on the target date is between the target value of the first "selling" put option transaction and the second "purchasing" put option transaction.

D. A Sample Use of Intra-Family Derivatives in Combination With a GRAT.

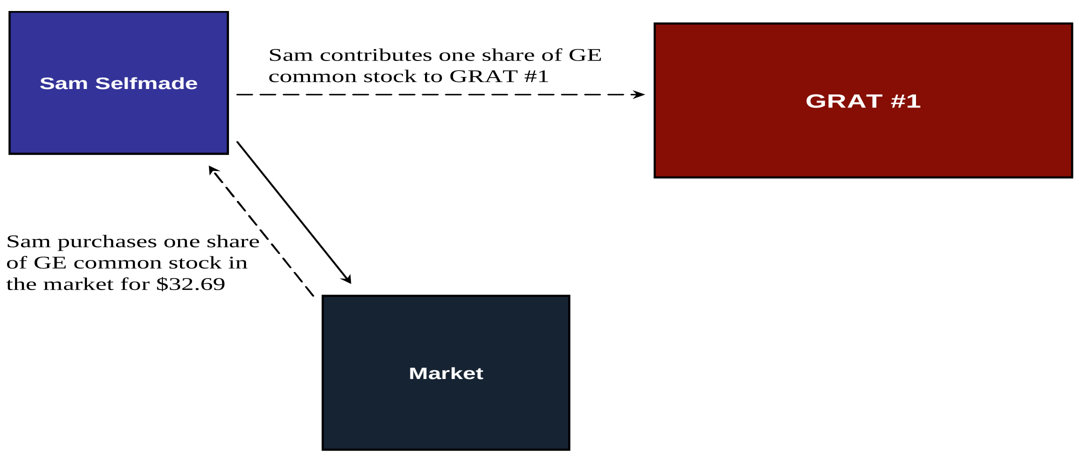
Example 2: Grantor of GRAT Enhances the Likelihood of Exceeding the Statutory Rate By Contributing a Derivative (Which is the Result of a Private Transaction With the Grantor's Spouse, or a Marital Trust That is Also a Grantor Trust) to a GRAT

Many years ago, Sam Selfmade's company merged with General Electric. Sam received General Electric stock as a result of that merger. In 2005, Sam, with his wife Sally and their children put some of their General Electric stock in a family limited partnership. Sam and Sally still own a significant part of their General Electric stock outside of the partnership. Both Sally and the trustee of the marital deduction trust for her benefit believe it would be economically beneficial from their perspective to hedge their GE stock positions with a financial counterparty (as many other GE investors do everyday).

Sam Selfmade explores if he should be that financial counterparty. Sam Selfmade, on July 31, 2006, also wishes to compare over a one year period the possible results from entering into a variety of private derivative hedging transactions involving GE stock with either his spouse, Sally Selfmade, or a marital deduction trust he created for her benefit, acting as the financial counterparty, and contributing his derivative to a GRAT.

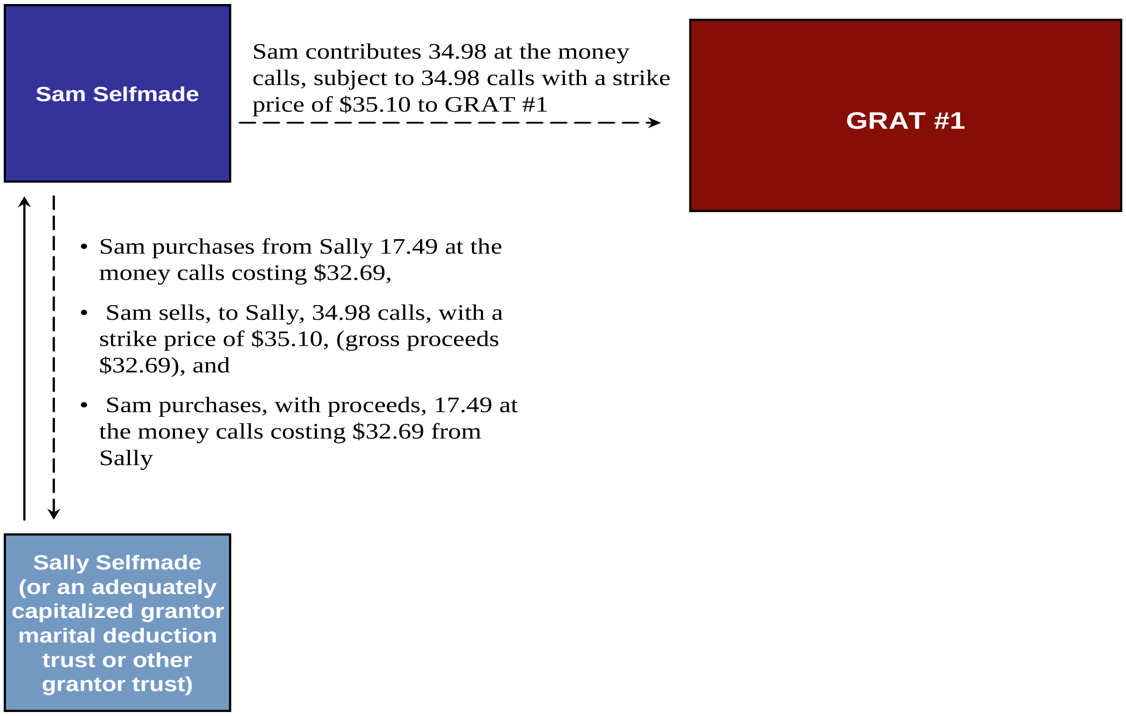
Sam wishes to compare the various results if he simply contributes his GE stock to a traditional GRAT, which is noted on the flow chart below as Transaction 1. See the illustration below:

Transaction 1



Under Transaction 2, Sam purchases 34.98 at the money calls and sells 34.98 calls with an out of the money strike price of $35.10 from Sally Selfmade, or from a marital deduction trust that is adequately capitalized and is also a grantor trust (with a difference between those two amounts being worth $32.69, which Sam pays either to Sally Selfmade or the trust); Sam Selfmade contributes his at the money calls subject to the calls that are out of the money to a GRAT. In lieu of cash, Sam could use some of his partnership units to either pay Sally, or the marital deduction trust, for the premium on the call spread option. See the flow chart below:

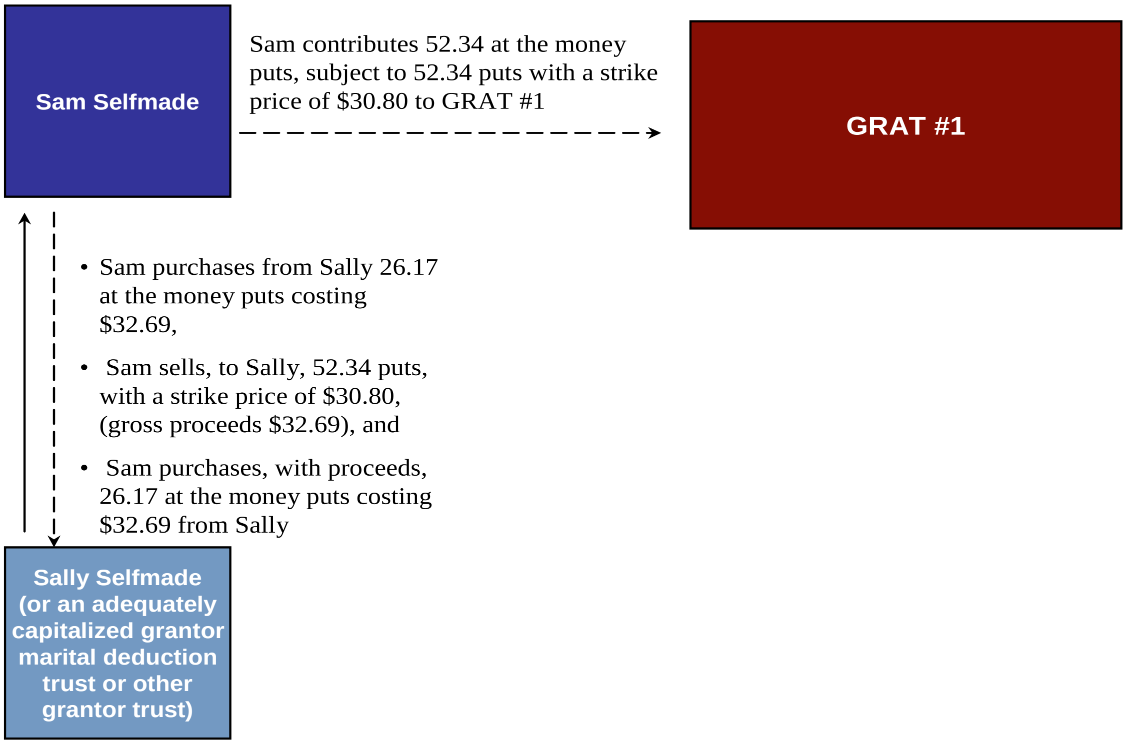
Transaction 2



* Assuming that Sam Selfmade is willing to contribute, to a GRAT, assets that have a net value of $32.69. Transactions are assumed to take place on July 31, 2006.

Under Transaction 3, Sam Selfmade purchases from Sally Selfmade, or the trust, 52.34 at the money puts and sells to Sally Selfmade 52.34 out of the money puts with a strike price of $30.80. In lieu of cash, Sam could use partnership units to either pay Sally, or the marital deduction trust, for the premium on the put spread option. Sam Selfmade contributes the at the money puts subject to the out of the money puts to a GRAT. See the flow chart below:

Transaction 3



* Assuming that Sam Selfmade is willing to contribute, to a GRAT, assets that have a net value of $32.69. Transactions are assumed to take place on July 31, 2006.

As noted above, Sam Selfmade may purchase either the call spread option or the put spread option with assets in kind (e.g., an interest in the family corporation or partnership). Similarly, if Sally Selfmade, or her marital deduction trust, later become liable to the GRAT because of the obligations of the option contract, that obligation may be settled in kind.

Below is a chart summarizing the results of the Schedules attached to this outline. This chart summarizes the GRAT remainderman's return at the end of one year as a percentage of assets in the GRAT. *See* Schedules 1 to 4 attached to this paper.

GRAT Remainderman's Return at the End of One Year as a Percentage of the Initial Value of the Assets in GRAT

Stock Price	Increase (Decrease) in the Value of GE Stock	Transaction 1 Traditional GRAT With Stock	Transaction 2 GRAT With Call Spread	Transaction 3 GRAT With Put Spread
$10.00	-69.41%	0.00%	0.00%	196.44%
$15.00	-54.11%	0.00%	0.00%	196.44%
$20.00	-38.82%	0.00%	0.00%	196.44%
$25.00	-23.52%	0.00%	0.00%	196.44%
$27.00	-17.41%	0.00%	0.00%	196.44%
$28.00	-14.35%	0.00%	0.00%	196.44%
$29.00	-11.29%	0.00%	0.00%	196.44%
$30.00	-8.23%	0.00%	0.00%	196.44%
$30.80	-5.78%	0.00%	0.00%	196.44%
$31.00	-5.17%	0.00%	0.00%	164.42%
$32.00	-2.11%	0.00%	0.00%	4.29%
$33.00	0.95%	0.00%	0.00%	0.00%
$35.00	7.07%	0.87%	140.99%	0.00%
$35.10	7.37%	1.17%	151.69%	0.00%
$41.00	25.42%	19.22%	151.69%	0.00%
$50.00	52.95%	46.75%	151.69%	0.00%
$55.00	68.25%	62.05%	151.69%	0.00%
$60.00	83.54%	77.34%	151.69%	0.00%

Transactions are assumed to take place on July 31, 2006.

As noted above, only those transactions in which there is not any possibility that the marital trust will be exhausted may be utilized with the trust being the financial counterparty. All of the transactions may be utilized with a spouse. A quick review of the chart shows that significant results will be attained in either the private call spread transaction (see Transaction 2) or the private put spread transaction (see Transaction 3). If GE stock increases from July 31, 2006 to July 31, 2007, by 7.37% in a traditional GRAT that has shares of GE stock, the remainderman will have an actuarial interest on July 31, 2006 that is only equal to 1.17% of the initial value of the assets in the GRAT. Contrast that result with a call spread transaction (see Transaction 2), in which the remainderman beneficiary receives an amount equal to 151.69% of the initial value of the assets in the GRAT. Stated differently, in dollars and cents, assume the initial value contributed to the GRAT has a value of $3,269,000 (whether it has 100,000 shares of GE stock or 3,498,000 call spread options). If a traditional GRAT is utilized with only GE stock, $38,247.30 will accrue to the remainderman. However, if the call spread transaction is utilized, $4,959,000 will accrue to the remainderman beneficiaries.

In similar fashion, very leveraged results can accrue with a put spread transaction. If the GE stock should decrease by 5.78% over a one year period the traditional GRAT (Transaction 1) is a failure. However, if Sam and Sally Selfmade (or her marital deduction trust) enter into a put spread transaction (Transaction 3) 196.44% of the initial assets in the GRAT at the end of year one will accrue to the remainderman beneficiaries. Stated differently, in dollars and cents, under the traditional GRAT with 100,000 shares of GE, nothing passes to the GRAT remainderman. However, if the put spread transaction is utilized, $6,422,000 will accrue to the GRAT remainderman.

Naturally, the question is why do Transaction 2 and Transaction 3 perform so well in comparison to the traditional GRAT technique? The answer is leverage, or in the case of a GRAT, double leverage. For every dollar of the stock price increases in the traditional GRAT (Transaction 1) above $2.03, there is $1.00 of profit that accrues to the remainderman beneficiaries of the GRAT. The grantor is entitled to the first $2.03 of profit in the first year. The stock needs to increase to about $35.00 before the remainderman beneficiaries in a traditional GRAT receive anything. In Transaction 2 (the call spread option) for every dollar GE increase above $1 of GE stock (i.e., once the stock price hits $34.72) almost $35.00 of value accrues to the remainderman. Once the stock grows more than $1.00, all of that value accrues to the family remainderman beneficiaries on a very leveraged basis. Stated differently, for every dollar increase in value, once that break even point has been obtained, $34.98 accrues to the remainderman beneficiary until the inherent limitations of the call spread price of $35.10 is hit.

Are the results any different with a more volatile stock like eBay? Please see the chart below and Schedules 5 through 8 attached to this paper.

GRAT Remainderman's Return at the End of One Year as a Percentage of the Initial Value of the Assets in GRAT

Stock Price	Increase (Decrease) in the Value of Stock	Transaction 1 Traditional GRAT With Stock	Transaction 2 GRAT With Call Spread	Transaction 3 GRAT With Put Spread
$10.00	-58.45%	0.00%	0.00%	136.22%
$15.00	-37.68%	0.00%	0.00%	136.13%
$20.00	-16.91%	0.00%	0.00%	136.04%
$21.00	-12.75%	0.00%	0.00%	78.80%
$22.00	-8.60%	0.00%	0.00%	18.54%
$23.00	-4.45%	0.00%	0.00%	0.00%
$24.00	-0.29%	0.00%	0.00%	0.00%
$25.00	3.86%	0.00%	0.00%	0.00%
$26.00	8.02%	1.82%	0.00%	0.00%
$27.00	12.17%	5.97%	24.02%	0.00%
$29.00	20.48%	14.28%	112.91%	0.00%
$31.00	28.79%	22.59%	201.80%	0.00%
$31.35	30.25%	24.05%	217.36%	0.00%
$32.00	32.95%	26.75%	217.36%	0.00%
$41.00	70.34%	64.14%	217.36%	0.00%
$42.00	74.49%	68.29%	217.36%	0.00%
$50.00	107.73%	101.53%	217.36%	0.00%

Transactions are assumed to take place on July 31, 2006.

As can be ascertained from a comparison of the two charts, a smaller movement in the GE stock produces the same result as a much larger movement in the eBay stock. This is logical since eBay is much more volatile (i.e., has much greater range of expected outcomes in value) than the GE stock. Thus, using call spread options and put spread options for almost any stock, after taking into account volatility, may have a decent chance for producing a significant estate planning result. Not only does this private derivative technique seem to have universal appeal for most stocks, it also could be utilized with respect to almost any closely held businesses, because the interest in the closely held business could be used as the currency to pay the premiums and other obligations under the option contracts.

E. Refinements of the Technique.

What if Sam Selfmade purchases both a call spread option and a put spread option from the marital deduction trust for Sally's benefit, and then contributes each option to different GRATs with different annuity payouts and different remainderman provisions? Investors sometimes make that purchase (the so-called "winged-tip" strategy) when they are betting on market volatility. There are circumstances when neither strategy would work (because that stock is flat or the markets are flat). Even so, in most instances one of the GRATs will always work and the failure of the other will be costless (apart from administrative costs). This bothers the practitioner who applies a "too good too be true" test.

A more conservative approach, and just as an effective approach in the long term, would be for Sam Selfmade to use his judgment as to whether GE stock is going to be higher or lower and purchase a call spread or put spread option, but not both. If Sam's judgment is incorrect, he could do another transaction at a later time. Eventually, Sam's judgment will presumably be correct, and at that time he will have a successful GRAT with this cascading GRAT strategy.

Assuming Sam's judgment is eventually correct, Sam and his family will not be disadvantaged by the cascading GRAT strategy except for the continuing legal costs in creating the GRATs. One way to ameliorate that concern, and to create evidence as to the fair market value of the private call spread option or put spread option, is for Sally Selfmade, or her marital deduction trust, to sell, for a premium, a very small part (e.g. 5%) of the transaction to an independent third party. If the private call spread option expires worthless, the independent third party call spread option will also expire worthless. The Selfmade family will, under those circumstances, "pocket" the third party premium, which could pay for the legal costs of creating the unsuccessful GRAT that holds the private call spread option.

The annuity payout percentage of the GRAT that is funded with a private derivative should be around 90% of the original fair market value in first year and around 12% in the second year. The result, or success of the transaction, will be known by the end of year one. In effect, the large annuity payout in year one creates a GRAT that performs similar to a one year GRAT. It should be noted, there is not any express support or prohibition in the treasury regulations with respect to decreasing annuity payouts for GRATs.

As noted above, the payment of the premium by Sam to the grantor marital trust could be "in kind" (e.g., shares of a subchapter S trust or family limited partnership units). Likewise, the marital deduction trust could settle the option contract "in kind". In this manner, the technique could be used to transfer, assuming a successful GRAT, any of the client's assets.

F. Advantages of Grantor of GRAT Entering Into Financial Engineering With a Spouse of Grantor, or a Marital Deduction Trust, That is Also a Grantor Trust and Contributing that Position to a GRAT.

1. Advantage of a grantor selling or buying an option either from grantor's spouse, or a marital deduction trust that is also a grantor trust, and contributing that position to a GRAT in comparison to the GRAT selling or buying an option from the grantor.

It may not be possible for a grantor of a GRAT to enter into direct option transactions with the trustee of the GRAT after the grantor contributes stock subject to the proposed options to the GRAT. The purchase or sale of an option by a grantor could be deemed in part a taxable gift by the grantor despite the fact that the purchase price equals the fair market value of the option. The reason is that part of the consideration paid to a purchaser and exerciser of the option is the initial value of the stock at the time of the option.[86] The grantor already beneficially owns the initial value of the stock through the grantor's annuity interest in the GRAT. Thus, the Service may take the position that a GRAT cannot compensate the grantor for the full value of the option in a transaction that occurs after the creation of the GRAT.

2. Income tax advantage.

The GRAT could be structured as a wholly grantor trust as to the grantor. It is not, however, a grantor trust as to the grantor's spouse. Thus, the spouse's payments to or receipts from the GRAT could result potentially in taxable income to the grantor (through the GRAT) or to the spouse if the GRAT and the spouse are treated as the independent parties to the transaction for income tax purposes. A transaction between two spouses, by contrast, does not result in taxable income or gain. *See* I.R.C. Section 1041.

As noted above, under Rev. Rul. 85-13, a grantor trust is deemed to have no existence with respect to transactions between the grantor and the trust. To say that transactions between the grantor and the trust are treated as transactions between the grantor and himself is not quite the same as saying that transactions between a third party and the trust are treated as transactions between the third party and the grantor. The latter conclusion, however, follows logically from the former, and this extension of Rev. Rul. 85-13 has been endorsed by two private rulings. LTR 8644012 and LTR 200120007 hold that a transfer between H (or H's grantor trust) and W's grantor trust is treated the same way as a transfer between H and W and is governed by I.R.C.

[86] However, the argument has been made that a grantor may receive full consideration for certain types of options. If the GRAT wrote covered calls to the grantor, the grantor receives the consideration of "capping" the amount that would go to the GRAT remainderman. The problem with that analysis is the grantor could place an upper limit on the amount going to the remainderman by the language of the GRAT instrument without paying additional consideration to the GRAT for a call option. For instance, the grantor could provide in the document that any amounts passing to the remaindermen are capped at a certain dollar amount with the rest reverting back to the grantor.

Section 1041. Therefore, there should be no income tax consequences to the transactions explored below.[87]

One of the problems with options is that they may be income tax inefficient. This disadvantage disappears in transactions between grantor trusts having the same grantor and, as noted above, would also appear to disappear with respect to transactions between a spouse and a grantor trust created by the other spouse, since the profit of the transaction would be a profit that is exempt from taxation under I.R.C. Section 1041.

3. Family financial advantage.

As noted under the facts of this hypothetical, Sally and/or the trustee of the marital deduction trust (as do many other investors everyday) wish to hedge their GE stock exposure with a financial counterparty. There are advantages for Sally or the trustee of the marital deduction trust using Sam as the financial counterparty instead of a financial institution. The obvious advantage of an intra-spouse option, or a transaction with a marital deduction trust that is also a grantor trust, is that any potential profit, loss, or financial inefficiencies (commissions, flat market, etc.), stays in the family. From a cohesive family's point of view, if the totality of the profits, losses, inefficiencies and costs remain with the family, there should be no downside, except for the shifting of value between various members of the family.

Stated differently, from the cohesive family's point of view, shifting value between family members is certainly more palatable than the shifting of the value from family members to outside third parties and/or financial institutions.

G. Potential Considerations With Respect to a Grantor of a GRAT Entering Into Financial Engineering With Either the Spouse of Grantor, or a Transaction With a Marital Deduction Trust That is Also a Grantor Trust.

1. Volatile investments (including call options and put options) should not jeopardize the retained annuity of a GRAT from being a "qualified interest."

If a grantor contributes an option to the GRAT, it could be argued by the IRS that the annuity should be valued at less than the value of the option because the grantor annuitant cannot share in the potential "upside" of the option beyond the Statutory Rate, but can fully share in its "downside." The IRS could argue a hypothetical willing buyer of the annuity would not be

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[87] *Rothstein v. U.S.*, 735 F.2d 704 (2nd Cir. 1984) held that a transaction between a grantor trust and a grantor was not disregarded for income tax purposes. This case has not been overruled and stands as authority of a high level against the income tax analysis herein. However, the IRS disagreed with the case in Rev. Rul. 85-13 and, it appears, has never departed from Rev. Rul. 85-13 or relied on the case even when to do so would have favored the government. As a practical matter is seems that Rothstein may be ignored.

willing to pay the full price of the option because he or she does not acquire the full value of the option.[88]

This argument, if asserted, should not prevail because it reduces to the contention that certain assets are too volatile to be valued under Section 7520 and there is no precedent to support that position. On the contrary, the clear language Congress used in I.R.C. Section 2702(a)(2)(B) mandates valuation under Section 2702 for qualified interests, and nothing in the Treasury Regulations under Section 2702 suggests that the potential volatility of the GRAT's investments should disqualify an otherwise qualified interest or that volatility *per se* is the basis for an exception to Section 2702's ordinary valuation mechanisms. Moreover, no precedent requires the current value of a gift made through a GRAT, which may subsequently fluctuate substantially in value, to be determined pursuant to a method which is different than that generally prescribed by Section 7520.

2. If a grantor of a GRAT enters into a transaction with either his spouse, or with a marital deduction trust that is also a grantor trust, and the grantor then contributes the grantor's position in the option transaction to a GRAT, the transaction should be treated for transfer tax purposes, the same as if the grantor had a transaction with an independent third party.

Ordinarily, the gift tax applies separately to an individual and his or her spouse. The actions of one are not attributed to the other. Stated differently, for gift tax purposes, spouses are almost always treated as different parties with respect to potential donees. On occasion, however, a court will recharacterize a transfer for federal gift or estate tax purposes to determine that a person other than the donor in form should be regarded as the true donor.[89] It is possible that a court might apply the doctrine of "integrated transaction" or "substance over form" or "step transaction" or some other equitable doctrine to recharacterize the transaction. The application of these doctrines is subject to a case-by-case analysis and depends on the facts of a particular case. Thus, it is not possible to say with certainty that no such doctrine could be applied to every transaction with the grantor's spouse. Generally, it would appear that it would be more difficult to apply those equitable doctrines to an independent trustee, if the grantor enters into a transaction with a marital deduction trust that is also a grantor trust.

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[88] Regulations section 25.2512-1 defines the value of the property as the price at which such property would change hands between a willing buyer and willing seller, neither being under compulsion to buy or sell, and both having reasonable knowledge of the relevant facts. However, recent case law (for instance, *see, Kimbell v. US,* 371 F.3d 257 (5th Cir. 2004)) has made it clear that the "willing buyer-willing seller" test determines the amount of the gift, when a gift is deemed to occur, not whether there *is* a gift.

[89] *See United States v. Estate of Grace*, 395 U.S. 316 (1969), *rev'g* 393 F.2d 939 (Ct. Cl. 1968) (reciprocal trust created by a decedent's spouse is treated as if it was created by the decedent); *Estate of Schuler v. Comm'r*, 282 F.3d 575 (8th Cir. 2002) and *Sather v. Comm'r,* 251 F.3d 1168 (8th Cir. 2001) (annual exclusions denied after reciprocal gifts to nieces and nephews were recast as gifts by each donor to his own children); and *Griffin v. United States*, 42 F. Supp.2d 700 (W.D. Tex. 1998) (husband's gift to wife followed by wife's gift to children is recast as a gift by husband to children). *See also, Brown v. U.S.,* 329 F.3d 664 (9th Cir. 2003) (wife's payment of gift tax on split gift attributed to husband under step transaction doctrine where husband had given wife funds to pay the tax).

If the option position contributed to the GRAT appreciates at a rate greater than the Statutory Rate and the option position owned by the grantor's spouse depreciates, an amount should pass to the GRAT's remainder beneficiaries without further gift tax, although the two positions in the aggregate may not produce a yield greater than the Statutory Rate. For this reason, the Service might contend that the two positions should be viewed as a whole in determining the gift tax consequences of the arrangement, and that a taxable gift occurs, not by reason of the GRAT *per se*, but by reason of the grantor's adoption of an investment strategy pursuant to which any increased value passing to the GRAT remaindermen is substantially matched by a decreased value in the grantor's spouse's own assets or the marital deduction trust's own assets.

However, these doctrines have not been applied, and should not be extended to, recharacterize the subject matter of a gift to include other property owned or acquired by the donor (much less, a donor's spouse) which has not been transferred under state property law for the benefit of any donee. (This assumes the grantor's spouse does not contribute the option to another GRAT with the same remainderman as the first GRAT.)

Secondly, it is clear that Congress anticipated that there would be transactions between spouses. Generally, Congress has encouraged those anticipated transactions with favorable treatment. Congress has made it clear that inter-spousal transactions are to be income tax-free (see I.R.C. Section 1041), gift tax-free (see I.R.C. Section 2523), and are not to be subject to estate taxes (see IRS Section 2056).

Thirdly, it is axiomatic that the federal gift tax is to be applied by looking solely at the gifted property (here the contributed option), without reference to other property retained by the donor or owned by other family members. For example, in Revenue Ruling 93-12,[90] the Service held that when a grantor transfers shares in a corporation, the extent of the family's control over the corporation which is attributable to non-transferred shares is not to be considered in determining the value of the transferred interests.

Fourthly, there does not appear to be any precedent that should alter the federal transfer tax consequences attributable to the transfer of property to a GRAT, on account of a family member of the grantor, or a trust for the benefit of a family member, personally "hedging" the gifted property. Whether the grantor's spouse owns or acquires an offsetting position to that held by the GRAT should not factor into the calculation of the gift tax incurred upon creation of the GRAT by the grantor and should have no effect on the amount of the taxable gift, even if the grantor's spouse obtains the option position as part of an overall strategy which includes the gift.

Some or all of the following facts should help defeat any attempt to attribute the grantor's actions to the grantor's spouse or *vice versa*:

(i) The option transactions could be structured to relate to the grantor and grantor spouse's market exposure. Stated differently, the option transactions could "track" the market exposure of the grantor and grantor's spouse. For instance, if

[90] 1993-1 C.B. 202. *See also, Estate of Lee v. Comm'r*, 69 T.C. 860 (1978).

the grantor has a broad basket of stocks, using options relating to a broad market index may be appropriate. On the other hand, if the grantor has a concentrated portfolio, using options relating to that market sector or concentrated stock may be appropriate. If the grantor has a closely held business, using an option that tracks a stock or index in the same business may be appropriate.

(ii) The grantor and the grantor's spouse (or the marital deduction trust or other grantor trust) uses their own funds.

(iii) An independent trustee or co-trustee makes the decision to retain the option.

A natural question is, if an equitable doctrine is applied to treat a grantor's spouse (or a marital deduction trust or other grantor trust) as the grantor, instead of as a third party, with respect to a potential donee, what are the worst possible gift tax consequences?[91] If the trustee of the GRAT owns an option position with the spouse, and if the grantor's spouse is treated as a deemed grantor, the transaction may be treated as a deemed contribution.

On its face, it would appear that such a position by the IRS, if adopted by the courts, would not be a disaster if the timing of the deemed equitable contribution by the spouse is at the time of the creation of the GRAT. All that it would mean is that there are two initial grantors (instead of one) and the formula annuity could be drafted under the GRAT instrument to adjust to cover that contingency. While the technique would not be successful because both positions of the option will be deemed contributed, it would not be a "disaster" (unless paying legal fees for a technique in which there was no gift tax nor an effective transfer is considered a "disaster").

Stated differently, the terms of GRAT should make it clear that if the option transaction is found to constitute a later additional contribution when the spouse or marital deduction trust as the financial counterparty, a new second GRAT will be created with that contribution and that contribution will not accrue to the original GRAT.

Another solution, if the practitioner feels the potential IRS argument is a risk, is to use a short term grantor retained uni-trust ("GRUT") that complies with I.R.C. §2702(b)(2), instead of using a GRAT. The GRUT could be designed to last for 13 months.[92] The GRUT would have two fiscal years with one of the years having a short period (e.g. one month). Alternatively, there could be a significant percentage payout in the first year in comparison to the second year. There is no prohibition against additional contributions to a GRUT. If there is an additional contribution, or deemed additional contribution, the uni-trust payment is simply adjusted upward. Thus, if the spouse (or marital deduction trust) is treated as a deemed grantor, instead of as a third party or counterparty, the retained GRUT payment will not be disqualified. However, assuming

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[91] There is obviously a greater than 50% actuarial chance that any proposed option transaction will not be successful in passing wealth to the remainderman. However, there will not be any gift taxes owed in a "zeroed out" GRAT, unless the GRAT is not qualified.

[92] *See Kerr v. Comm'r*, 292 F.3d 490 (5th Cir. 2002), *aff'g* 113 T.C. 449 (1999). (National Office of IRS and both courts found a GRAT was a valid GRAT even though it lasted 366 days.) *See also*, Reg. §§ 25.2702-3(c)(3) and 25.2702-3(d)(4).

the spouse is treated as a third party the short-term GRUT will not work quite as well as the short-term GRAT, because part of the appreciation, if the option transaction is successful, will be paid back to the grantor due to the adjustment in payments which will occur in the short second fiscal year of the GRUT. The amount paid to the grantor will increase on a pro-rata basis (e.g., 1/12), because the fair market value of the assets of the GRUT will increase in the short second fiscal year, which in turn increases the amount paid to the grantor in the second year.

3. If the spouse that is acting as a financial counterparty contributes that spouse's option position with other assets to another GRAT, will the transaction be respected for I.R.C. Section 2702 purposes?

There is added pressure on the technique, if the grantor's spouse takes his or her part of the family's hedged position and contributes that option with other assets to another GRAT. The spouse's contributed option is a potential liability that will lower the net value of the assets contributed to the second GRAT. If the potential liability disappears, because the option expires as worthless, the second GRAT's net worth obviously increases.

On occasion, as noted above, a court will apply certain judicially developed doctrines (e.g., the so-called "reciprocal trust doctrine") to recharacterize a transfer for federal gift or estate tax purposes. These doctrines are applied to determine that a person other than the donor in form should be regarded as the true donor.

In order to increase the likelihood that the spouse's transfer of his or her options to another GRAT will be respected, the transaction should be structured in which there is more than a remote chance that neither GRAT will be successful. Stated differently, if one of the GRATs will *always* be successful, then there may be a greater chance that a court will apply one of the equitable doctrines.

H. Use of Private Derivates to Hedge an Existing Grantor Trust and to Also Transfer Wealth From the Grantor to the Grantor's Family.

1. The technique.

Many times an existing grantor trust will have a significant position in a single stock or in an exchange traded fund ("ETF"). A prudent trustee may wish to hedge against the possibility that the single stock position and/or the ETF could depreciate in value and still enjoy the benefits of the stock or EFT increasing in value. One interesting method of providing greater protection for a stock's downside and/or an ETF's downside and also generate the possibility of enjoying greater upside under certain circumstances is to consider a strategy that some on Wall Street call the "twin win."

This strategy involves selling two out-of-the-money calls and using those proceeds to buy one out of the money call and two so-called "knock-out" puts. Since the out-of-pocket cash costs of the positions are neutral, the derivative is, on a net basis, cashless. A "knock-out" put differs from the classic put in that downside protections only exist for a limited amount. For instance, if a client wanted downside protection for the first 20% decrease over a 53 week period and was willing to undergo the risk for any risk below that 20%, the client should consider purchasing knock-out puts to that 20% level rather than puts that provided downside protection all the way to zero. Knock-out puts will be cheaper than classic puts and could put the client in the position to enjoy greater protection through that 20% threshold. For instance, the client may find that is much cheaper to buy two knock-out puts than one put that provides protection all the way down to zero.

Consider the following example.

Example 3: A Trust Wishes to Hedge its ETF Investment By Entering Into a Twin-Win Derivative With its Grantor

Tom Trustee enters into a cashless derivative with Connie Counterparty who is the grantor of the trust and Connie contributes her position to a GRAT.

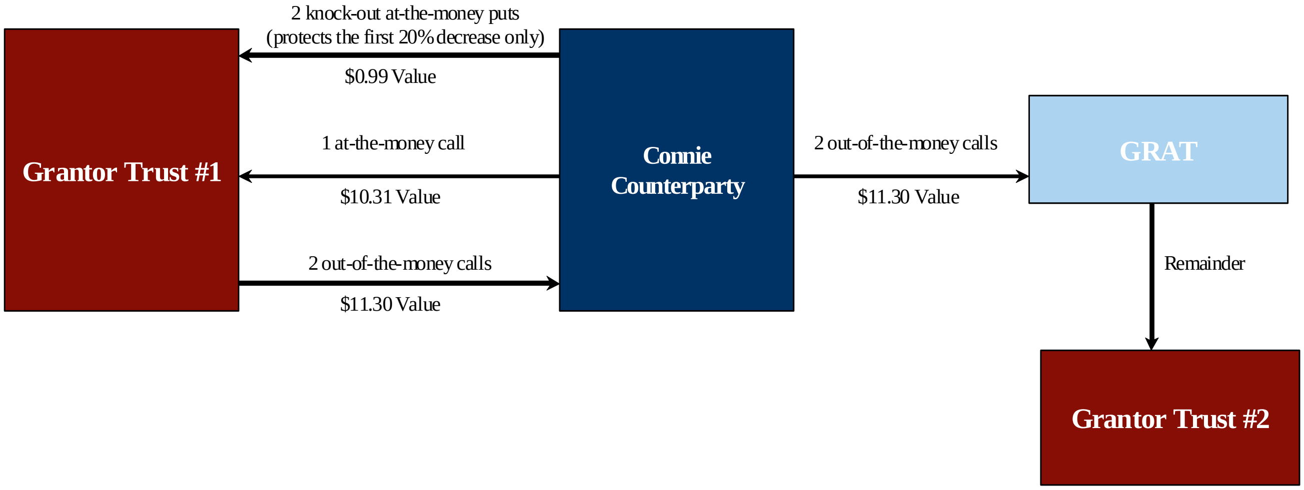
Tom Trustee is trustee of a grantor trust that was created many years ago by Connie Counterparty. The trust has a significant position in an ETF that mimics the S&P 500 stock index. On March 2, 2009, Tom decides to hedge the ETF position. Tom approaches a big investment bank and buys two out-of-the-money calls with respect to his S&P 500 index ETF that are 13% out-of-the-money. These two call positions are a 53 week European style options. The proceeds of the sale of those two out-of-the-money call positions are then utilized to buy one at-the-money call position that is also a 53 week option and two knock-out puts that protect the ETF for any decrease that does not exceed 20% of the position of the ETF in 53 weeks. Thus, Tom is in a position to enjoy a $2.00 profit for every dollar increase in the value of the ETF position until it increases more than 13% and will enjoy $1.00 increase every time the ETF position decreases by $1.00 until it decreases by more than 20%. Tom will not regret the trade unless the stock index grows by more than 26% in the 53 week period.

Connie Counterparty learns about the trade that Tom Trustee is entering into with the investment bank. Connie suggests to Tom that she would like to do the same trade with Tom. That is, Connie will purchase two out-of-the-money call positions from Tom, as trustee, and Tom, as trustee, can use those proceeds to buy from her at-the-money call position and two knock-out puts. All of the positions with Connie will also be 53 week options.

The ETF simulating the S&P 500 on March 2, 2009 is worth $70.60. The sale of two out-of-the-money call positions that are 13% above that $70.60 price (or $79.78) will bring to Tom $11.30 for each share of the ETF. That $11.30 can be redeployed to buy one at-the-money call, which is worth $10.31 and two at-the-money knock-out puts, which will protect the first 20% of downside of the ETF (the downside knock-out level is $56.48). The knock-out at-the-money puts will cost 99¢.

After Connie enters into the transaction with Tom, she decides to transfer her two out-of-the-money call positions to a new GRAT. The GRAT could have as it remainderman a different grantor trust (Grantor Trust #2) with different provisions.

The proposed transaction with Connie Counterparty is graphically demonstrated below:



2. Outcome.

The beneficiaries of the old grantor trust benefit under most scenarios projected for the S&P 500 in that 53 week period. Additionally, if Connie contributes her out-of-the-money call positions that she owns from the grantor trust to a new GRAT, in which the remainderman beneficiary is a new grantor trust, the family will always be in a better position, or the same position, if the hedging transactions had not been entered into with Connie. See the chart below:

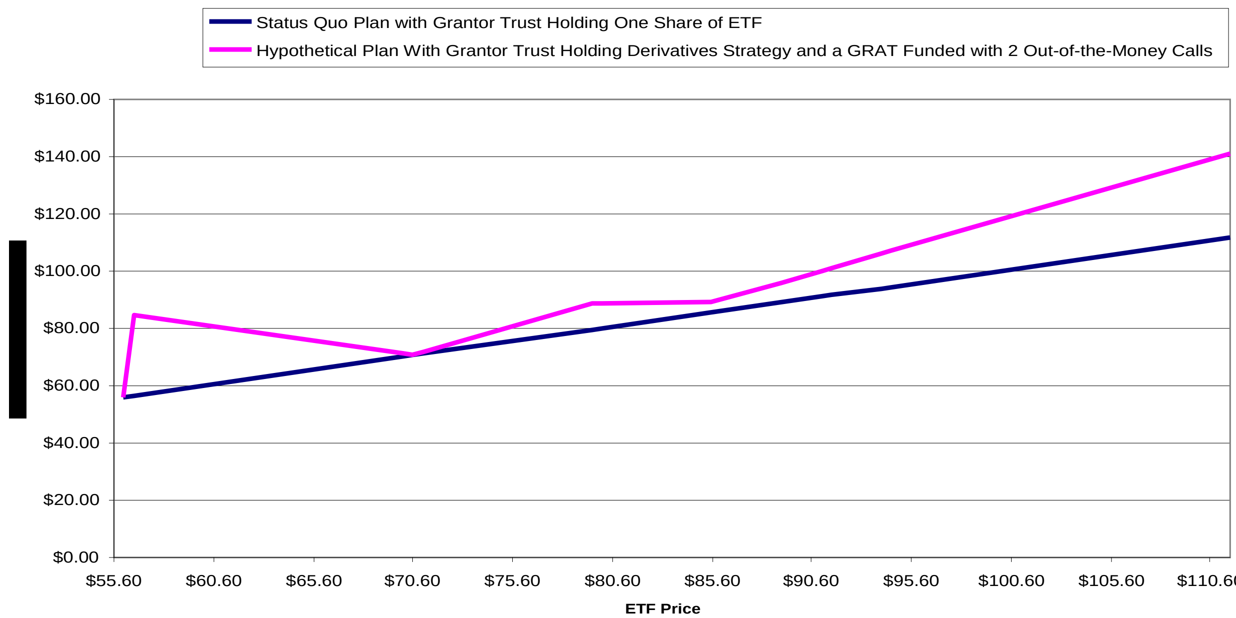
Numeric Summary Comparison of Results from the Perspective of Connie Counterparty's Family

Assumptions:		Status Quo with Grantor Trust Holding One Share of ETF		Hypothetical Plan With Grantor Trust Holding Derivatives Strategy and a GRAT Funded with 2 Out-of-the-Money Calls		
Estimated ETF Value	**Percentage Increase or Decrease in Value of ETF**	Estimated Profit/(Loss) Realized at the End of One Year Grantor Trust (Holding 1 Share of ETF)	**ESTIMATED TOTAL ASSETS TO BENEFICIARIES** **Trust Total ($)**	Estimated Profit/(Loss) Realized at the End of One Year Grantor Trust #1 (Derivatives Grantor Trust)	Estimated Profit/(Loss) Realized at the End of One Year Grantor Trust #2 (2 OTM Call GRAT Beneficiary)	**ESTIMATED TOTAL ASSETS TO BENEFICIARIES** **Trust Total ($)**
$56.10	-20.54%	($14.50)	**$56.10**	($14.50)	$0.00	**$56.10**
$56.60	-19.83%	($14.00)	**$56.60**	$14.00	$0.00	**$84.60**
$70.10	-0.71%	($0.50)	**$70.10**	$0.50	$0.00	**$71.10**
$70.60	0.00%	$0.00	**$70.60**	$0.00	$0.00	**$70.60**
$71.10	0.71%	$0.50	**$71.10**	$1.00	$0.00	**$71.60**
$79.60	12.75%	$9.00	**$79.60**	$18.00	$0.00	**$88.60**
$80.10	13.46%	$9.50	**$80.10**	$18.36	$0.00	**$88.96**
$85.60	21.25%	$15.00	**$85.60**	$18.36	$0.08	**$89.03**
$89.10	26.20%	$18.50	**$89.10**	$18.36	$7.08	**$96.03**
$91.10	29.04%	$20.50	**$91.10**	$18.36	$11.08	**$100.03**
$91.60	29.75%	$21.00	**$91.60**	$18.36	$12.08	**$101.03**
$94.10	33.29%	$23.50	**$94.10**	$18.36	$17.08	**$106.03**
$94.60	33.99%	$24.00	**$94.60**	$18.36	$18.08	**$107.03**
$111.60	58.07%	$41.00	**$111.60**	$18.36	$52.08	**$141.03**

* This derivative strategy involves a "cashless" purchase of one at the money call and two modified at the money puts. The purchases are funded by a sale of two out of the money calls. More specifically, two 53 week out of the money (13% above current market price) calls are sold. The proceeds of that sale are used to purchase one 53 week at the money call and two 53 week at the money puts. However, the puts are designed to have no value if the stock declines by more than 20%.

The line graph below also illustrates that Connie's family will always be better off if they enter into the hedging transaction with Connie and if Connie contributes her position in the hedge to a new GRAT:

Graphic Summary Comparison of Results from the Perspective of Connie Counterparty's Family



This material is based on the assumptions stated herein. In the event any of the assumptions used do not prove to be true, results are likely to vary substantially from the examples shown herein. These examples are for illustrative purposes only and no representation is being made that any client will or is likely to achieve the results shown. Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, and thus may not reflect material economic and market factors, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight.

With significant movements of the ETF, almost 20% down or over 40% up, significant improvement will occur in Connie Counterparty's family's net worth in various trusts. That improvement will accrue at the expense of Connie Counterparty. While that wealth will be transferred from Connie Counterparty to one or more trusts for the benefit of her family, that transfer should accrue with minimum gift taxes assuming the GRATs that Connie creates are near zeroed out GRATs.

IV. BEST FAMILY LIMITED PARTNERSHIP PLANNING IDEA – SELL IT

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "do not engage in family limited partnership planning unless it can be demonstrated that the partnership uniquely solves a substantive non-tax problem;" or "discounting a client's assets is a much better estate planning tool than grantor trusts or freezing a client's estate." This "conventional wisdom," under the circumstances discussed below, is incorrect.

B. A Perspective of Modern Integrated Estate Planning.

It is useful for the reader to have a healthy perspective of where we are in the estate planning world, at the current time, in developing a context with respect to the problems associated with I.R.C. Section 2036(a)(1) and I.R.C. Section 2036(a)(2). The IRS has lost almost all of its major attacks against using the family limited partnership for estate planning purposes, other than potentially applying those two sections. For instance, its substance over form attack, I.R.C. Section 2703(a) attack, and its gift on formation attack all have been spectacularly unsuccessful. The IRS has had some success on the amount of the appropriate discount associated with the limited partnership interest when it is transferred during lifetime. Transfers of limited partnership interests during a donor partner's lifetime are entitled to a discount (albeit the amount of the discount may be subject to dispute). Generally (because of operation of I.R.C. Section 2036), the only arena in which the IRS is currently successful in denying any discount is with partnership interests that are held by a decedent at his death, when there are not any financial reasons for the creation of the partnership.

Furthermore, not only are valuation discounts being allowed for partnership transfers during a donor partner's lifetime, but the IRS currently concedes that most of the important aspects of the sale to defective grantor trust technique, including: (i) there is not any capital gains tax with respect to the sale of a family limited partnership interest to a properly capitalized grantor trust and (ii) the donor/selling partner does not owe any gift taxes when that donor is indirectly paying the income taxes on behalf of the beneficiaries of a grantor trust. Thus, the estate planning context, or perspective, of discussing the applicability of I.R.C. Section 2036 inclusion may be summarized by the following example.

Example 4: The Sweet Deal

Cal Client is in his office when Dan Deal knocks on his door and tells Cal that he has "a heck of a deal for him." Dan states that he would like to sell most of his assets to Cal for 65¢ on the dollar. Cal tells Dan that he likes the price, but he does not want to buy any of the assets for cash. Cal wonders if Dan would still be willing to sell his assets for 65¢ on the dollar, if it was all for a seller financed note from Cal. Dan tells Cal that because he likes him so much he will be happy to accept a note from Cal. Cal then informs Dan that while he likes the 65¢ on the dollar, he likes the fact that he can buy all the assets for a seller financed note, he does not like to pay much interest on the note and wonders if Dan will still offer that deal if the interest rates are comparable to US Treasury interest rates. Again, Dan tells Cal that because he likes him so much he will be happy to do that deal. Cal then informs Dan that while he likes the price of 65¢ on the dollar, and he also likes the fact that he can purchase the assets for a seller financed note at US Treasury interest rates, he will only buy the assets if he will have no personal liability on the note (i.e., the note will be non-recourse). Dan, once again agrees to Cal demands. An increasingly impatient Dan asks Cal if there are any other deal points. Cal says there is just one more. Cal tells Dan that he does not like paying income taxes. Cal will only do the deal if Dan will agree to pay all of the income taxes associated with the assets he is purchasing from Dan. Dan agrees.

This writer suspects that the above "deal" may not be made commercially very often. However, something very similar to that deal can be made by one generation to a grantor trust for the benefit of the next generation and few, if any, gift taxes may be owed, assuming the trust for the next generation is adequately capitalized. If a taxpayer sells a limited partnership interest to an adequately capitalized grantor trust in exchange for a note, from the perspective of the beneficiaries of the trust, the above "deal" in Example 4 is effectuated. The beneficiaries of the trust are acquiring the assets (at least in he long-run) for a note that is equal to 65% of the eventual liquidation value of the partnership interest that is non-recourse to the beneficiaries, individually, at the low AFR rates and which can be paid back with pretax dollars (since the trust is a grantor trust).

The interesting fact is the IRS generally does not contest (assuming the trust is adequately capitalized) the legal efficacy of this technique, with the exception of the amount of the discount associated with the partnership interest. As will be demonstrated later in this paper, the partnership valuation discount, assuming the taxpayer has a reasonable life expectancy, is the *least* important factor in shifting wealth from one generation to another. Being able to sell an asset with a relatively modest interest rate and indirectly pay the income taxes associated with that asset, are much more important factors from an estate planning perspective than the valuation discount (over the long term). However, being able to take the discount is important over the short term (thus, making it more important for the taxpayer who has a short life expectancy), or if a sale or some other transfer is not effectuated and the taxpayer dies owning the partnership interest.

C. The I.R.C. Section 2036(a)(1) Problem For Decedents' Who Retain a Significant Family Limited Partnership Interest.

1. Brief summary.

The I.R.C. Section 2036(a)(1) attack involves partnerships where the taxpayer dies still owning the vast majority of the partnership interests (unless, as in a handful of cases, the taxpayer transfers the partnership interests during his lifetime and retains the income associated with the transferred partnerships interests). While the IRS has not enjoyed success with most of its attacks on valuation discounts with respect to retained partnership interests, it has enjoyed some success with its I.R.C. Section 2036(a)(1) attack. The good news for the taxpayer is this attack is entirely preventable.

If the taxpayer does not transfer the partnership interests during her lifetime (whether by sale or gift), the courts may ignore the valuation discount at death, assuming the following factors are present:

a. Either the taxpayer fails to demonstrate that there is at least *one* substantial non-tax reason to establish the partnership, or the capital accounts of the partnership do not reflect interests proportionate to the contributed property; and

b. The taxpayer and the partnership have practices that demonstrate an implied or actual agreement to retain possession or enjoyment of the income of the contributed assets to the partnership back to the taxpayer.

It should be noted that the above attack is not available to the IRS on lifetime transfers of partnership interests (which occur at least three years before the taxpayer's death). Stated differently, there is not a gift tax equivalent of I.R.C. Section 2036(a)(1).

If prerequisites of I.R.C. Section 2036(a)(1) inclusion apply, presumably, the taxpayer will also not be taxed under I.R.C. Section 2033 for the fair market value of his retained interest in the partnership since that result in over a 100% inclusion. That would also seem to be manifestly incompatible with Congressional intent. In fact, because of the presence of I.R.C. Section 2033 inclusion, as this paper will explore, that might preclude I.R.C. Section 2036 inclusion.

2. Analysis of case law.

a. Key cases that have not been reviewed by a circuit court.

The I.R.S. was successful in applying I.R.C. Section 2036(a)(1) to bring back contributed assets to a partnership in the *Estate of Charles E. Reichardt v. Commissioner*.[93] Judge Colvin agreed with the I.R.S. that the substance of the partnership transaction was that Mr. Reichardt and his children had an implied agreement to allow Mr. Reichardt to continue to substantively enjoy the property contributed to the partnership and retain the right to income from the partnership assets during his lifetime in the same manner he had before the creation of the partnership. The Court found that the transfers to the partnership did not affect Mr. Reichardt's enjoyment of the property. Mr. Reichardt also continued to manage the property in the same fashion that he had before. The Court also found that Mr. Reichardt commingled partnership and personal funds, enjoyed the use of the personal residence, which was contributed to the partnership, without paying rent, and that Mr. Reichardt was solely responsible for the partnership's business activities.

The Service was successful in arguing the applicability of I.R.C. Section 2036 in the *Estate of Harper v. Commissioner*, T.C. Memo. 2002-121 (May 15, 2002). The decedent, at age 85 and under treatment for advanced cancer, created a partnership shortly before he died. The initial partners were his daughter and son as general partners and the decedent had a 99% limited partnership interest (which was held in a revocable trust). The decedent transferred almost 94% of his assets to the partnership. He subsequently transferred a 60% limited partnership interest to his children. The decedent retained the remaining limited partnership interest and converted it to a preferred limited partnership interest paying a guaranteed return of 4.25%.

The Service argued that the partnership should be ignored because it lacked economic substance, or alternatively, all of the assets the decedent transferred to the partnership should be included in his estate under I.R.C. Section 2036. The Estate argued that the partnership assets

[93] 114 T.C. No. 9 (March 1, 2000).

should not be included under I.R.C. Section 2036 either because there was full consideration for the transfers, or the decedent did not have the legal right to retain the income of the property that was transferred to the partnership or did not retain the legal right to affect the income that was distributed from the partnership.

The full Tax Court disagreed with the Estate's position with respect to the I.R.C. Section 2036 issue based on the following facts: (i) there was a significant delay in transferring the assets to the partnership; (ii) the decedent's assets and the partnership's assets were commingled; (iii) the general partners seemed indifferent to formalities of the operation of the partnership; (iv) there were disproportionate distributions to the decedent and his Estate; (v) partnership assets were sold to generate funds to pay estate taxes; (vi) distributions were not made on considerations relating to the partnership, but were instead based on the needs of the decedent's contemporaneous debts and needs, which "buttresses the inference that the decedent and his Estate had ready access to the partnership cash when needed"; (vii) distributions were made before the partnership had hired an accountant to maintain appropriate accounting records; (viii) guaranteed payments were not made according to a fixed schedule; (ix) the Court observed "the objective record belies any significant predeath change, particularly from the standpoint of economic benefit..."; (x) the unilateral nature of the formation of the partnership by only the decedent; and (xi) almost all of the decedent's assets were transferred to the partnership.

The Tax Court and other courts in several other cases have found that there is a "transfer" for I.R.C. Section 2036(a)(1) purposes when there is no business purpose to the partnership other than saving taxes, because the meaning of the term "bona fide" as it is used in I.R.C. Section 2036(a)(1) is not satisfied in that situation.[94] It should be noted that the term "bona fide," as used in the gift tax regulations (Treas. Reg. Section 25.2512-8), according to many of these same courts, is satisfied for gift tax purposes, if the transaction is not a sham (a much easier test to satisfy).[95]

[94] *See Estate of Schauerhamer v. Commissioner*, T.C. Memo 1997-242; *Estate of Thompson v. Commissioner*, T.C. Memo 2002-246; *Kimbell v. United States*, 2003-1 USTC ¶ 60,455 (N.D. Tex. 2002) (discussed below); *Estate of Strangi v. Commissioner*, 2003-145 (discussed below); *Estate of Ida Abraham*, T.C. Memo 2004-39; and *Estate of Lea k. Hillgren*, T.C. Memo 2004-46; *but see Estate of E. Stone, III*, Tax Court Memo 2003-309. This case was decided after the *Strangi* case. This case established (again in a Memorandum decision with Judge Chiechi being the author of the opinion) that the Tax Court did not necessarily mean that all transfers to all partnerships would not be for adequate and full consideration for purposes of determining if I.R.S. Section 2036 would apply. The Court under much more compelling facts that *Strangi* found that adequate business and financial reasons existed for the creation of the partnership and that even though the fair market value of the partnership interests that the decedent received for the contribution into the partnership was less than the value of the assets that the transaction was bona fide and for adequate and full consideration. Furthermore, there was no commingling of personal assets with the partnership assets, the children made meaningful contributions to the partnership, each family member had their own counsel and the decedent retained adequate assets to fund their lifetime spending needs. Similarly, the Tax Court found for the taxpayer in *Schutt v. Comm.*, Tax Court Memo 2005-126 (2005). *Also see*, *Mirowski v. Commissioner*, T.C. Memo 2008-74 in which Judge Chiechi found IRC Sections 2036(a)(1), 2036(a)(2), 2038 and 2035 did not apply.

[95] Another reason these courts may be reluctant to find a gift on formation is that according to Treas. Reg. § 2511-1(h)(1) the only possible gift is to the partners of the partnership, and if the taxpayer is essentially the only partner, one cannot metaphysically make a gift to one's self.

Usually, under these cases, some combination of the following facts is also present: (1) personal use assets are contributed (with no rental arrangement); (2) personal expenses are directly paid out of the partnership; (3) the donor partner has no other source of income, other than the partnership assets and the partnership could distribute under the agreement an amount that is lower than those needs; and (4) there is no change in management rights. Obviously, each of those factors needs to be eliminated if there is any danger that the original contribution to the partnership will not be treated as a bona fide "transfer" for I.R.C. Section 2036(a)(1) purposes.

In the Estate of *Bongard v. Comm'r,*[96] the full Tax Court reviewed two different near-simultaneous transfers involving the same family's wealth and found that one of the transfers involved an I.R.C. Section 2036 transaction, but the other transfer did not.

Empak, Inc., a successful manufacturer of electronics materials packaging, was established by Mr. Bongard in 1980. In 1996, Empak's shareholders, Mr. Bongard and trusts for Mr. Bongard's children, transferred all of their stock to a family-owned limited liability company ("WCB Holdings"). Almost immediately thereafter, a significant portion of WCB Holdings' nonvoting equity interests were transferred to a family limited partnership ("BFLP"). Certain partnership interests in BFLP were then given to Mr. Bongard's wife as part of a post-nuptial agreement.

Mr. Bongard, a healthy individual, died unexpectedly on November 16, 1998. In 1999, shortly after the decedent's death, Empak merged with a competitor and the surviving entity shortly thereafter went public.

A majority of the Tax Court found that there was a "transfer" for I.R.C. Section 2036 purposes to both WCB Holdings and to BFLP. The Court reasoned that the meaning of the word "transfer" as used in I.R.C. Section 2036 has a different meaning than it does for gift tax purposes (and has a much broader application).

The Court found, in determining whether a transfer meets a "bona fide sale for full and adequate consideration" exception, the phrase needs to be analyzed in two different sections. That is, the "bona fide" section and the "full and adequate consideration" section need to be analyzed separately.

The "full and adequate consideration" section is a test that is applied by the Tax Court in virtually the same objective way it was applied by the Fifth Circuit in *Kimbell*:

> Generally, so long as the interest received by contributors of the partners to a partnership or LLC corresponds to the percentage value of the property contributed, this test will be met.

However, with respect to the "bona fide" section, the majority of the Tax Court applied an arguably subjective standard:

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[96] *See Bongard v. Comm'r*, 124 T.C. 6141-03 (Filed March 15, 2005).

> In the context of family limited partnership, [this section] is met where the record established the existence of a legitimate and significant non-tax reason for creating the family limited partnership…

The Tax Court found the existence of legitimate and significant non-tax reasons for creating WCB Holdings, but did not find that those reasons existed with respect to the creation of BFLP. The court found that many of the protections that partnership (BFLP) purported to provide were already provided by WCB Holdings. The Court found that positioning the family company to facilitate a liquidity event, protection from creditors and lowering management fees was already adequately addressed by the formation of WCB Holdings. The Court found that other potential purposes of the partnership such as teaching family members how to manage assets, making gifts of family limited partnership interests and business management reasons did not exist because of the conduct of the decedent.

The majority of the Tax Court also points to a list of factors that would support the finding that the transaction of creating a partnership or limited liability company was *not* motivated by a legitimate and significant non-tax purpose: (i) the taxpayer standing on both sides of the transaction; (ii) the decedent's dependence on distributions from the partnership; (iii) the decedent's commingling of personal and partnership funds; and (iv) the decedent's actual failure to transfer property to the partnership.

The final prerequisite for applying I.R.C. Section 2036(a)(1) was whether Mr. Bongard had the right to possess assets or income of the partnership. The Court found that the decedent, in effect, possessed the enjoyment of the partnership assets because of an implied agreement with respect to that enjoyment. Even though Mr. Bongard had not used any of the income of the partnership, nor had he contributed personal use assets to the partnership, the Court found an "implied" agreement existed. The evidence for that implied agreement was Mr. Bongard's indirect "practical" control through his partial control of Empak and WCB Holdings. There is a vigorous dissent filed by Judge Chiechi pointing out that this part of the opinion flew in the face of the Supreme Court case *United States v. Byrum*[97]. As the dissent points out, Mr. Byrum retained many more controls than Mr. Bongard retained. It is interesting to note that the majority opinion of the Tax Court did not cite or distinguish *Byrum*.

Stated differently, the Supreme Court in *Byrum* required in order for possession or enjoyment of property to exist within the meaning of I.R.C. Section 2036(a)(1) the decedent must retain a "substantial economic benefit" from the property as opposed to a "speculative contingent benefit which may or may not be realized". It would seem that the Tax Court did not comply with this standard. That is certainly the standard that is now being applied in the Fifth Circuit, as noted below in the discussion with respect to the *Strangi* case.

Furthermore, it would seem that even if "practical" control had existed, that is not enough under I.R.C. Section 2036(a)(1), unless it is unilateral control. The important phrase "or in conjunction with someone else" does not exist for purposes of I.R.C. Section 2036(a)(1) as it does

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[97] *See United States v. Byrum*[97], 408 U.S. 125 (1972).

for I.R.C. Section 2036(a)(2) or I.R.C. Section 2038. It appears from the facts of *Bongard* that Mr. Bongard would have to persuade certain other individuals, who controlled the managing member interest of the underlying LLC, before there could be a "cash out". Under the facts, Mr. Bongard's so-called "practical" control was not unilateral, therefore, I.R.C. Section 2036(a)(1) should not have been applied.

b. Tax Court and Fifth Circuit analysis in the *Estate of Strangi* of whether I.R.C. Section 2036(a)(1) could include assets contributed to a partnership by a decedent, if the decedent never makes a taxable gift.

Judge Cohen amplified the Court's holdings in *Harper* in *Estate of Strangi v. Commissioner*, T.C. Memo 2003-145 (May 20, 2003). The Tax Court considered the applicability of I.R.C. Section 2036 to the Strangi family partnership on remand from the Fifth Circuit. *See Estate of Strangi v. Commissioner*, 293 F.3d., 279 (5th Cir. 2002). The Fifth Circuit affirmed the full Tax Court's opinion in *Estate of Strangi v. Commissioner*, 115 T.C. 478 (2000), that Chapter 14 arguments, gift on formation arguments and lack of economic substance arguments did not apply to the *Strangi* facts, but nevertheless reversed the decision because the Tax Court had not considered the applicability of I.R.C. Section 2036, saying the Tax Court was wrong in finding that the I.R.S. did not raise the I.R.C. Section 2036 issue in a timely fashion.

Under the facts of *Strangi*, the general partner (Stranco, a corporation) of the subject family limited partnership had the power to distribute the assets of the partnership "in the sole and absolute discretion of the managing general partner." The decedent owned all of the limited partnership units of the partnership, representing 99% of the partners' initial contributions. The decedent also owned 47% of the stock of Stranco, the 1% general partner. The decedent's issue owned the remaining 53% of Stranco. In the original *Strangi* case, the full Tax Court made the following fact-findings:

(i) The partnership was valid under state law and would be recognized for estate tax purposes.

(ii) The decedent's transfers of assets to the limited partnership and to the corporate general partner were not taxable gifts.

(iii) The decedent's interest in the limited partnership and the corporate general partner should be valued using the discounts applied by the I.R.S.' expert.

(iv) The Tax Court found that the I.R.S. would have the burden of proof of any fact issues relating to the application of I.R.C. Section 2036.

Judge Cohen held that I.R.C. Section 2036(a) applies to the decedent's contribution of assets to the partnership and to Stranco, and operates to include in the decedent's estate the underlying property of the partnership and the corporate general partner, even though the decedent under Texas law did not retain an interest in that property (for state law property purposes the partnership and/or the general partner were considered the owner of those contributed properties at the time of the decedent's death). The exception in I.R.C. Section 2036

(a) for transfers for full consideration did not apply, because “no bona fide sale, in the sense of an arm’s length transaction, occurred in connection with the decedent’s transfer of property to [the limited partnership and the corporate general partner].” Additionally, according to Judge Cohen, full and adequate consideration as that term is used in I.R.C. Section 2036 “does not exist where, as here, there has been ‘recycling’ of value through partnership or corporation solution.” Judge Cohen found that both I.R.C. Section 2036(a)(1) (retention of income) and I.R.C. Section 2036(a)(2) (retention of control over income) applied. The latter holding is particularly significant because it could be extended to partnership interests gifted by the decedent before death, though *Strangi* did not involve gifted interests.

Judge Cohen found that the facts and circumstances of this case indicated the probability of an implicit agreement to retain the income (or possession and enjoyment) of property transferred to the partnership in addition to the decedent's explicit rights as limited partner under the partnership agreement and applicable law. (Judge Cohen also suggested that the decedent's explicit rights under the arrangement might constitute a retention of income under I.R.C. Sec. 2036(a)(1), but this was *dictum* and was not the basis for the holding.)[98] Facts indicating an implied agreement sufficient to invoke I.R.C. Section 2036(a)(1) included the following: the transfer of most of the decedent’s assets to the partnership, continued occupation of transferred property (notably, the decedent's residence), use of entity funds for personal expenses and testamentary characteristics of the arrangement. The Court found that “[f]undamentally, the preponderance of the evidence shows that decedent as a practical matter retained the same relationship to his assets that he had before formation of [the limited partnership and the corporate general partner]... Furthermore, the record suggests that the impetus underlying a number of significant [partnership] disbursements was needs of decedent or his estate, rather than exigencies pertaining to [the corporate general partner] or the partnership itself."

The damage done by applying I.R.C. Sec. 2036 is that the partnership assets, because they are included directly in the gross estate, will be valued without the discounts applicable to a valuation of the partnership interests.

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[98] More specifically Judge Cohen found as follows:

> As a threshold matter, we observe that our analysis above of the express documents suggests inclusion of the contributed property under section 2036(a)(1) based on the "right to the income" criterion, without need further to probe for an implied agreement regarding other benefits such as possession or enjoyment. The governing documents contain no restrictions that would preclude decedent himself, acting through Mr. Gulig, from being designated as a recipient of income from SFLP and Stranco. Such scenario is consistent with the reach of the right to income phrase as we described it in Estate of Pardee v. Commissioner, 49 T.C. 140, 148
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> > (1967): Section 2036(a)(1) refers not only to the possession or enjoyment of property but also to "right to the income" from property. The section does not require that the transferor pull the "string" or even intend to pull the string on the transferred property; it only requires that the string exist. See McNichol's Estate v. Commissioner, 265 F.2d 667, 671 [3 AFTR 2d 1838] (C.A. 3, 1959), affirming 29 T.C. 1179 (1958). *** .

On July 15, 2005, the Fifth Circuit affirmed Judge Cohen's holding on I.R.C. Section 2036(a)(1), by holding that clear error was not made by her in applying the facts to the law. The Fifth Circuit declined to comment on Judge Cohen's analysis of I.R.C. Section 2036(a)(2). However, the Fifth Circuit, while not reversing the Tax Court on I.R.C. Section 2036(a)(1), differed with Judge Cohen in its analysis as to the standards or prerequisites as to when I.R.C. Section 2036(a)(1) should apply.

The Fifth Circuit, as it did in *Kimbell* (which is discussed below) delineate the prerequisites that must be demonstrated before I.R.C. Section 2036(a)(1) applies. One of the prerequisites is that the transferor must retain *substantial present* "possession or enjoyment" of property within the meaning of I.R.C. Section 2036(a)(1):

> . . . if he retains a 'substantial present economic benefit' from the property, as opposed to 'a speculative contingent benefit which may or may not be realized.' United States v. Byrum, 408 U.S. 125, 145, 150 (1972). IRS regulations further require that there be an 'express or implied' agreement 'at the time of the transfer' that the transferor will retain possession or enjoyment of the property. 26 C.F.R. § 20.2036-1(a).

Arguably, this differs from the more lenient standard the Tax Court seems to be adopting (see the discussion of *Bongard* above) that a speculative benefit (e.g., the transferor partner has the practical control to possibly turn partnership assets into cash (when in fact that has not occurred)) is enough. The Fifth Circuit found that the payments made prior to Mr. Strangi's death, the continued use of his transferred home and the post death payment of various taxes, debts and expenses were clearly "substantial and present" as opposed to speculative and contingent.

Particularly noteworthy, is the fact that the partnership seemed to determine its payments based on the need of Mr. Strangi or his estate. For instance, when it was necessary to pay the estate taxes, instead of the Estate selling its partnership interest to family members, or selling it through redemption, or borrowing money from a third party, the partnership made a significant proportionate distribution. Also, prior to Mr. Strangi's death, the partnership made monthly distributions from the partnership of $7,000 each month to supplement Mr. Strangi's social security and pension benefits and the Fifth Circuit found that if that $7,000 had not be paid, the $187,000 in retained liquid assets was not potentially enough to maintain Mr. Strangi in his lifestyle for his remaining life expectancy. This finding is somewhat difficult to understand, given that the Tax Court also found Mr. Strangi was suffering from a terminal illness. Based on those facts, the Fifth Circuit found that it was not clear error that an implied agreement existed to pay Mr. Strangi or his estate a substantial present economic benefit.

Another prerequisite before I.R.C. Section 2036(a)(1) can apply to the underlying assets of the partnership is that there does not exist a bona fide sale for adequate and full consideration in money or money's worth upon the creation of the partnership. The Fifth Circuit, as it did in *Kimbell* noted the exception contains two discrete requirements: (1) a bona fide sale and (2) adequate and full consideration. The Fifth Circuit noted the "adequate and full consideration" requirement was clearly satisfied because the capital accounts were properly and proportionately accounted for upon creation of the partnership (*see* Slip Opinion pages 16 and 17).

The Fifth Circuit, as it did in *Kimbell* (see the discussion below) noted that the inquiry as to whether a transfer of assets is "bona fide" is a purely objective inquiry. However, the Court noted that in *Kimbell* it had not stated precisely what this objective inquiry entails. The Court rejected the estate's contention that the only objective inquiry is whether the transferor actually parted with the transferred property and the transferee (e.g., the partnership) actually parted with partnership interests. The Court noted that the purported transfer in *Strangi* arguably deprives the transferor of literally nothing. As the Court noted:

> As such, the Estate's interpretation of the exception would render the term 'bona fide' superfluous, and must therefore be rejected. *See* Slip Opinion page 19.

The Court said the proper approach is that a sale will be considered "bona fide" if as an objective matter, it serves a "substantial business [or] other non-tax purpose."

The Estate offered five non-tax rationales for Mr. Strangi's transfer of the assets to the partnership: (1) deterring potential tort litigation by a former housekeeper; (2) deterring a potential will contest; (3) encouraging a potential corporate executor to decline to serve; (4) joint investment reasons for the partners; and (5) permitting centralized, active management for certain working interests. The Court found that there was not clear error by the Tax Court in rejecting these rationales. As the Court noted:

> In reviewing for clear error, we ask only whether the Tax Court's findings are supported by evidence in the record as a whole, not whether we would necessarily reach the same conclusions. *See* Slip Opinion page 20.

The most interesting discussion is the analysis with respect to the fourth rationale offered with respect to the joint investment vehicle. The Tax Court rejected this rationale because of the *de minimis* nature of the contribution by the other partners. The Fifth Circuit found that the Tax Court had not made clear error for the following reason:

> It is certainly true that the de minimis contribution of a minority partner is not, in itself, sufficient grounds for finding that a transfer of assets to a partnership is not bona fide. However, where a partnership has made no actual investments, the existence of minimal minority contributions may well be insufficient to overcome an inference by the finder of fact that joint investment was objectively unlikely. Such appears to have been the case here. Thus, it was not clear error for the Tax Court to reject the Estate's 'joint investment' rationale. *See* Slip Opinion page 22.
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> In short, although Strangi may have transferred a substantial percentage of assets that might have been actively managed under SFLP, the Tax Court concluded, based on substantial evidence, that no such management ever took place. From this, the Tax Court fairly inferred that active management was objectively unlikely as of the date of SFLP's creation. As such, we cannot say that

the Tax Court clearly erred in rejecting the Estate's 'active management' rationale. *See* Slip Opinion page 24.

c. District Court and Fifth Circuit analysis in the *Estate of Kimbell* of whether I.R.C. Section 2036(a) could include assets contributed to a partnership by a decedent, if the decedent never makes a taxable gift.

The Fifth Circuit, under the facts of the estate of Ruth Kimbell, had the opportunity to provide an analysis of what factors would need to be present for I.R.C. Section 2036 to apply to include assets contributed to a partnership.[99] Ruth Kimbell created a revocable trust in 1991 naming herself and her son, David, as co-trustees. On January 7, 1998, the trust, along with David and his wife, formed a limited liability company (LLC). The LLC had $40,000 in capital. Of the capital, $20,000 came from the trust for a 50% interest and David and his wife each contributed $10,000 for a 25% interest each. On January 28, 1998, the revocable trust and the LLC formed a Texas limited partnership. The limited partnership had $2.5 million in capital. Around $2.5 million was contributed by the revocable trust for a limited partnership interest and $25,000 was contributed from the LLC for a 1% general partnership interest. The revocable trust has a 99% limited partnership interest. Thus, Ruth Kimbell owned 99.5% of the partnership (either through her 99% limited partnership interest or her .5% interest in the LLC). On March 25, 1998, Ruth Kimbell died at the age of 96 (around two months after the partnership was created).

The partnership was to have a 40 year term. The partnership negated some of the fiduciary duties that are normally owed by a general partner. The owner of a 70% or more limited partnership interest (Ruth had a 99% limited partnership interest) could remove the general partner at any time.

At the time of Ruth Kimbell's death, the partnership assets were worth about $2.4 million. Approximately 15% of the partnership assets were oil and gas interests (with a vast majority being working interest) and approximately 85% of the assets were cash or marketable securities. The executor of Ruth Kimbell's estate filed an estate tax return reporting a 49% discount for lack of control of marketability. The I.R.S. took the position that the estate should include the assets that Ruth Kimbell originally contributed to the partnership and, thus, denied any discount. The executors paid the additional estate taxes and sued for a refund in the district court.

On January 14, 2003, the District Court held for the I.R.S. on a motion for summary judgment.[100] The District Court agreed with the I.R.S. that the assets contributed to the partnership should be included in Ruth Kimbell's estate because of operation of I.R.C. Section 2036. The Court held that the prerequisites of I.R.C. Section 2036 were met because the transaction was not a bona fide sale for adequate and full consideration. The Court reasoned that it was not an arm's-length transaction because she was on both sides of the transaction. The

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[99] *Estate of Kimbell v. United States*, 2004 U.S. App. LEXIS 9911 (5th Cir. 2004).

[100] *Kimbell v. United States*, 244 Fd2d 700 (2003).

Court was of the opinion that she did not receive adequate and full consideration because the transaction was a "paper truncation" and nothing changed in terms of the properties management. Relying on the *Harper* decision, the District Court also referred to the transaction as a mere "recycling of value" and, thus, not a transfer for consideration. The court found that Ruth Kimbell had retained the enjoyment of the property because her limited partnership interest gave her the right at any time to remove the general partner and appoint herself or some one else as general partner. Since the general partner had unlimited control and discretion as to making income distributions, Ruth Kimbell "retained the power to either personally benefit from the income of the partnership or to designate who could benefit from the income of the partnership."

On May 21, 2004, the Fifth Circuit reversed the District Court opinion and remanded the case back to the District Court for valuation considerations relating to whether the interest owned by Ruth Kimbell owned at the moment of death was a limited partnership interest or an assignee interest. It is this writers' understanding that this case has settled on those valuation considerations. The Fifth Circuit held that the contribution of assets for a limited partnership interest was not a transfer for purposes of the statutory prerequisite to I.R.C. Section 2036. It was not a transfer because it was a bona fide sale and it was for adequate and full consideration.

In general, with respect to the bona fide sale prerequisites the Fifth Circuit stated that the transferor must actually part with his or her interest and the transferee must actually part with the requisite adequate and full consideration. The requirement receives heightened scrutiny in interfamily transfers. However, the absence of negotiation is not a compelling factor, particularly when the exchange value is set by objective factors.

The Fifth Circuit followed its prior opinion in *Wheeler* in determining whether the transaction is a bona fide sale. It is not a bona fide transaction if the transaction is a disguised gift or a sham transaction. The Court noted that under the regulations, a bona fide sale requirement is complied with if it is made in good faith. The presence of tax planning motives do not prevent a sale from being bona fide if is otherwise real, actual or genuine for tax planning purposes.

The Court took the view that objective facts need to be considered in determining whether a bona fide sale took place. The Court noted several objective facts that supported the proposition that a bona fide sale occurred: (i) there is no commingling of personal assets; (ii) the decedent retained sufficient assets for support even if no distributions were made from the partnership; (iii) all partnership formalities were satisfied; (iv) assets were actually assigned to the partnership; (v) some of the assets contributed to the partnership required active management; (vi) certain business and financial strategies were satisfied that could not be satisfied by holding the assets in a revocable trust; (vii) certain administrative costs were lowered; (viii) certain recording costs were lowered by having the oil and gas properties in the partnership; (ix) certain marital property advantages could accrue from preserving the property as separate property for descendant owners; (x) an efficient vehicle for determining current and future management of the properties; (xi) alternative dispute resolutions were in place which may not have been possible using the trust alternative; and (xii) in general, the objective facts confirmed the necessitation of the purposes that were in the partnership agreement.

The Court concluded that the bona fide sale transaction was still present even though there were still *de minimis* contributions. In general, there is no *de minimis* test for determining whether the transaction is a sham.

The Court also determined that the transfer met the full consideration exception. The Court noted that the hypothetical willing buyer, willing seller test is not appropriate for determining whether or not adequate and full consideration has been received. That is a test that is used in measuring a gift when in fact a gift as occurred. It does not necessarily determine if a gift has occurred:

> We would only add to the Tax Court's rejection of the government's inconsistency argument that it is a classic mixing of apples and oranges: The government is attempting to equate the venerable "willing buyer-willing seller" test of fair market value (which applies when calculating gift or estate tax) with the proper test for adequate and full consideration under § 2036(a). This conflation misses the mark: The business decision to exchange cash or other assets for a transfer-restricted, non-managerial interest in a limited partnership involves financial considerations other than the purchaser's ability to turn right around and sell the newly acquired limited partnership interest for 100 cents on the dollar. Investors who acquire such interests do so with the expectation of realizing benefits such as management expertise, security and preservation of assets, capital appreciation and avoidance of personal liability. Thus there is nothing inconsistent in acknowledging, on the one hand, that the investor's dollars have acquired a limited partnership interest at arm's length for adequate and full consideration and, on the other hand, that the asset thus acquired has a present fair market value, i.e., immediate sale potential, of substantially less than the dollars just paid – a classic informed trade-off.

Thus, in the context of transfers to a partnership, the Fifth Circuit took the view that in determining whether adequate and full consideration was present, the following is an appropriate test:

> The proper focus therefore on whether a transfer to a partnership is for adequate and full consideration is: (1) whether the interests credited to each of the partners was proportionate to the fair market value of the assets each partner contributed to the partnership, (2) whether the assets contributed by each partner to the partnership were properly credited to the respective capital accounts of the partners, and (3) whether on termination or dissolution of the partnership the partners were entitled to distributions from the partnership in amounts equal to their respective capital accounts. Id. at 580. The answer to each of those questions in this case is yes. Mrs. Kimbell received a partnership interest that was proportionate to the assets she contributed to the Partnership. There is no question raised as to whether her partnership account was properly credited with the assets she contributed. Also, on termination and liquidation of the Partnership, the Partnership Agreement requires distribution to the Partners according to their capital account balances.

The Fifth Circuit also rejected the "recycling of value" position of the Tax Court and the District Court in the I.R.C. Section 2036 cases. The Court was of the view that that issue is better addressed by the bona fide sale prerequisite of the statute.

The Court did not analyze whether the perquisites of the statute were met with respect to the transfer to the LLC. Perhaps they were. On the other hand, perhaps those prerequisites were not satisfied by Mrs. Kimbell because the Court analyzed whether or not she retained an I.R.C. Section 2036(a)(2) power. Perhaps, although not stated, the fact that Mrs. Kimbell did not retain management rights while David Kimbell, in contributing assets to the LLC, did acquire management rights made the Court uncomfortable as to whether Mrs. Kimbell had received full and adequate consideration in comparison to the contribution that David had made. At any rate, the Court took the view that I.R.C. Section 2036(a)(2) did not apply because David Kimbell had the management rights to determine what the distributions would be to the partners of the partnership.

d. Tax Court and Third Circuit analysis in *Turner* (the so-called *Thompson* case) of whether I.R.C. Section 2036(a)(1) could include assets contributed to a partnership by a decedent, if the decedent never makes a taxable gift.

On September 1, 2004, the Third Circuit issued its opinion in *Turner*, executrix of the *Estate of Thompson v. Commissioner* ("the *Thompson* case"). The underlying facts in *Thompson*, most commentators agree, are extreme in establishing a pattern that supports an implied agreement that the partnership assets would be made available as desired by the decedent. The Third Circuit's analysis of whether a transfer has occurred for purposes of I.R.C. Section 2036 is quite different than the Tax Court's analysis in prior I.R.C. Section 2036 cases. While the analysis is similar to the Fifth Circuit's analysis in *Kimbell* there are important differences.

Unlike the implication of certain of the Tax Court opinions, the Third Circuit determines that the "bona fide" requirement does not require an arms-length transaction. However, the *Thompson* court seems to emphasis "legitimate business interests" more than the *Kimbell* opinion. The full consideration analysis of determining whether a transfer was made on contribution of assets to the partnership is also different than the Tax Court analysis. However this portion of the opinion clearly has a different analysis than the Firth Circuit's analysis in *Kimbell*. The Third Circuit adopts what certain cases have characterized as "equilibrium rule" (i.e. there was a dissipation of value in the estate when cash and near cash was transferred in return for discounted limited partnership interests). There are, of course, many transactions in which transfers will result in immediate discount, however, hopefully over the long haul value is added by the creation of an entity. The Third Circuit recognized that concern and said that the automatic transfer of marketable assets to an entity, the acquisition of closely-held enterprises, or the acquisition of undivided interests in real estate would not automatically constitute inadequate consideration for purposes of I.R.C. Section 2036(a). The Third Circuit took the view that it would not be applied in "routine commercial circumstances" or ordinary commercial transactions, even within families. However, their analysis would be applied to transactions that "obviously were used as tax dodges in circumstances that I.R.C. Section 2036(a) was intended for".

The *Kimbell* case, obviously, takes a more objective approach than the subjective approach of the Third Circuit. The Third Circuit's subjective approach can be satisfied if adequate non-tax business reasons for the partnership are demonstrated.

e. Tax Court and First Circuit analysis in *Abraham*.

In *Estate of Ida Abraham*, 87 TCM 975 (2004), the Tax Court held that family limited partnership property was included in the decedent's estate under I.R.C. Sec. 2036(a)(1) because she retained rights in the income from such property. Unlike some of the prior cases dismissed above, the documented evidence, including the stipulated decree of the probate court and the understanding of the decedent's children and legal representatives the Tax Court found there was an *actual* agreement (as opposed to an implied agreement) for the decedent to have all partnership funds for her support first. The Tax Court also found the transfer of the decedent's assets into the partnership was for less than full and adequate consideration. The decedent's daughters had purchased partnership interests for $160,000. The IRS offset this amount against the value of the family limited partnership property included in the gross estate.

The estate appealed the Tax Court determination to the First Circuit. The appeals court affirmed the lower court decision (408 F.3d 26 (2005)). The First Circuit noted the following:

> The Estate next argues that the Tax Court erred in holding that Mrs. Abraham "retained the right to the income that the FLPs generated to the extent necessary to meet her needs." Estate of Abraham, 87 TCM (CCH) at 981. The Estate makes two intertwined arguments: (1) Mrs. Abraham did not retain a legally enforceable "right" within the meaning of §2036, and (2) there was no agreement that Mrs. Abraham would retain a first-access interest in all the income from the FLPs to the extent necessary for her support.
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> In order for §2036 to apply, it is not necessary that the decedent-transferor retain a *legally enforceable interest* in the property. See Estate of Maxwell v. Comm'r, 3 F.3d 591, 593-94 (2d Cir. 1993); Guynn v. United States, 437 F.2d 1148, 1150 (4^{th} Cir. 1971). "An interest retained pursuant to an understanding or arrangement comes within §2036." Guynn, 437 F.2d at 1150. "The existence or nonexistence of such an understanding is determined from all of the facts and circumstances surrounding both the transfer itself and the subsequent use of the property." Estate of Harper v. Comm'r, 83 TCM (CCH) 1641, 1648 (2002). The finding by the Tax Court that such an understanding existed is reviewed for clear error. See Estate of Maxwell, 3 F.3d at 594. As with other issues, the Estate "bears the burden (which is especially onerous for transactions involving family member) of proving that an implied agreement or understanding between [Mrs. Abraham] and [her] children did not exist." Estate of Reichardt v. Comm'r, 114 T.C. 144, 151-52 (2000).
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> We may dispose of the first part of the Estate's argument quickly. The Tax Court did not find that Mrs. Abraham retained a legally enforceable "right" to all

the income from the FLPs. Therefore the arguments that the Tax Court decision is in conflict with vested property interests of the children is irrelevant.

What the Tax Court did find was that "t[he] documentary evidence, including the stipulated decree of the probate court, and the understanding of decedent's children and legal representatives demonstrate that decedent was entitled to any and all funds generated from the partnership for her support *first*." Estate of Abraham, 87 TCM (CCH) at 981 (emphasis in original). This finding is not clearly erroneous.

f. Tax Court and Eighth Circuit analysis in *Korby*

In the *Estate of Korby v. Commissioner*, 471 F.3rd 848 (8th Cir. 2006), aff's 89 T.C.M. (CCH 11502005), the 8th Circuit affirmed the Tax Court and applied I.R.C. Section 2036(a)(1) to include the assets of a partnership in the *Korby's* gross estate. The Tax Court found that Mr. and Mrs. Korby had an implied agreement to retain the income of the assets of the partnership and that the creation of the partnership was not a bona fide sale for adequate and full consideration. The Tax Court found that Mr. and Mrs. Korby had an implied agreement because the partnership was formed while they were in poor health, they transferred almost all of their assets to the partnership and even though they gave away 98% of the limited partnership interest, all distributions made during the term of the partnership were made to Mr. and Mrs. Korby to provide for their nursing home care, medical expenses and other living expenses. The trust to which they made their gifts (even though it owned 98% of the interest) never received distributions from the partnership.

The Tax Court determined that the bona fide sale exception did not apply because the Korby's were financially dependent upon the distributions from the partnership and that Mr. and Mrs. Korby created the partnership with no input from the other partners.

The 8th Circuit found no clear error in the Tax Court's findings. The 8th Circuit rejected the arguments that the payments to Mr. and Mrs. Korby were fees for managing the partnership because the manner in which the payments were made and Mr. and Mrs. Korby's failure to report the payments as self-employment income.

The 8th Circuit also found that there was no clear error in the Tax Court's finding that the bona fide sale exception did not apply. The 8th Circuit sided with the approval of 3rd Circuit's decision in the *Estate of Thompson*. The Court noted that "the transaction must be made in good faith which requires an examination as to whether there was some potential for benefit other than the potential estate tax advantages that might result from holding assets in the partnership form."

D. The I.R.C. Section 2036(a)(1) Problem Does Not Exist if There is a Substantive Non-Tax Reason For the Creation of the Family Limited Partnership.

If substantial partnership interests are to be held by the taxpayer at death, it is important to document and demonstrate at least one substantial non-tax reason to establish a partnership and capital accounts should reflect interests proportionate to the contributed property.

In order to demonstrate that the original creation of the partnership is "bona fide" for estate tax purposes (and a transfer for estate tax purposes has not occurred) one substantive non-tax reason for its creation should be demonstrated. That demonstration should be documented in correspondence with the taxpayer and in the partnership agreement recitals. That non-tax reason should specifically relate to the taxpayers concerns and goals. There are many financial advantages of a partnership that are unrelated to potential transfer tax savings, among the financial advantages include the following:

1. A taxpayer, by using the partnership vehicle, has the ability to transfer capital without killing the transferee's productivity and initiative, because the taxpayer may have some indirect control on distributions, which may not be possible with the trust vehicle.

Many successful clients fear that substantial gifts to descendants may hinder their productivity and initiative. In particular, clients with a substantial portfolio of stocks and bonds believe that giving a child or grandchild a readily marketable asset would not be doing that child any developmental favors. Most clients believe that no one understands their children better than they do. By creating a family limited partnership and transferring only a limited partnership interest to a descendant, a donor controls the marketability of the wealth transferred because the interest effectively cannot be sold and because the donor can reinvest the partnership's cash flow rather than making distributions to the partners. This retained, indirect power to affect the marketability of the transferred partnership interests, if properly structured, does not subject the transferred interest to estate taxes on the donor's death.[101] By contrast, a retained power as trustee to determine the amount of distributions to trust beneficiaries may subject the trust assets to estate tax on the donor's death.

2. By using the partnership vehicle, the pooling of partnership assets will lower operating costs, increase diversity, and may solve the accredited investor rule problem for investors with limited assets (including smaller trusts).

[101] *See United States v. Byrum*, 408 U.S. 125 (1972). The Service held in Tech. Adv. Mem. 91-31-006 (Apr. 30, 1991), citing *Byrum*, that in a typical family limited partnership, the managing partner will not be considered as having retained an I.R.C. § 2036(a)(2) or I.R.C. § 2038 power over the transferred limited partnership interest. *See also* Rev. Rul. 81-15, 1981-1 C.B. 457; P.L.R. 94-15-007 (Jan. 12, 1994); P.L.R. 93-32-006 (Aug. 20, 1992); P.L.R. 93-10-039 (Dec. 16, 1992), and P.L.R. 90-26-021 (Mar. 26, 1990); G.C.M. 38,984 (May 6, 1983); G.C.M. 38,375 (May 12, 1980).

Families often have many members, and often several trusts have been created over time in conjunction with prior gifts. Keeping up with investments for multiple parties can be frustrating and expensive. By consolidating assets into one partnership, however, these problems over the long term are solved. It is easier and cheaper for a partnership to diversify investments because the size of the portfolio is larger. Likewise, it is easier and cheaper to diversify across several money managers because larger accounts generally are less expensive on a percentage basis and because minimum size requirements are more easily met. This is why unrelated individuals have used the partnership form of ownership for their investment clubs.[102] Related individuals also like forming "investment clubs." The partnership form of doing business is as attractive to families as it is to unrelated parties because of its potential lower "per-unit" administration expenses and its greater potential for diversification. Generally, under modern portfolio theory part of the assets should be allocated to private equity and uncorrelated asset classes such as "hedge funds". This is difficult to do for smaller trusts (absent investing in a partnership that qualifies as an accredited investor) because they are not considered, standing alone, as being an accredited investor.[103] Thus, over time, the pooling of assets will lead to greater value and wealth for all of the partners. Because of the asset diversity and cheaper per-unit operating costs, a significant comparative advantage could exist for each partner in comparison to their situation if they had not pooled their assets. For investors who are not concerned with short-term lack of control and marketability, and who wish to realize long-term growth of their assets for themselves and their family, the family partnership is an excellent institutional tool.

3. The partnership vehicle simplifies annual giving for private equity investments.

Many assets are extremely difficult to value and are not prone to gifts of undivided fractional interests. Good examples of such assets are private equity, hedge funds, rural land and closely held unincorporated businesses. Contributing those assets to a family limited partnership not only allows for proper asset allocation, but also allows a donor to assign partnership interests to a descendant with the use of a simple form. A fractional interest is given away, yet there is no immediate risk of partition, and management of the asset remains consolidated. If a client wishes to transfer part of his limited partnership to his issue, it generally will qualify for the annual exclusion.[104]

4. Partnership vehicle facilitates assets that are important to be kept in the family.

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[102] *See* Rev. Rul. 75-523, 1975-2 C.B. 257; Rev. Rul. 75-525, 1975-2 C.B. 350.

[103] *See* the discussion in Article II B of this paper.

[104]*See* Tech. Adv. Mem. 91-31-006 (Apr. 30, 1991). *But see* Tech. Adv. Mem. 97-51-003 (August 28, 1997) and the discussion below.

Family partnership agreements often are drafted with certain buy-sell provisions to ensure that the partnership's assets will stay in the family. Under such provisions, if any partner attempts to assign his or her interest in the partnership to a person outside of the family, the other partners or the partnership itself may acquire that interest on the same terms, or, in the case of a gratuitous transfer, at its fair market value. Secondly, even without buy-sell provisions, no outsider can have any rights as a partner unless all of the partners admit that outsider as a partner (and can only be an assignee with limited distribution rights).

5. Partnership vehicle provides some protection against a taxpayer's future unforeseeable creditors, which cannot be provided to that taxpayer under most states law by using trusts.

A family partnership can be a flexible vehicle to provide some protection of an individual's assets from future creditors. This is very important to wealthy clients since studies indicate one out of four Americans (which tend to be the wealthiest Americans) will be sued. Under the trust laws of most states, creditor protection cannot be achieved for the grantor of self-settled trusts. The principal remedy of a partner's "outside" creditors, as distinguished from the partnerships "inside" creditors, is to receive a "charging order" against the partner's interest in the partnership. Under many states' limited partnership laws, unless a partner has made a fraudulent conveyance to the partnership or a conveyance deemed to be fraudulent, his or her creditors cannot reach the partnership's assets. Instead, a creditor may obtain a charging order against the partner's interest in the partnership, which does not give the creditor any management rights but entitles the creditor only to the partner's share of partnership distributions (*i.e.*, an assignee's interest). In addition, the partnership agreement can be drafted so that an involuntary transfer of a partnership interest to a creditor or any other third party triggers buy-sell provisions that allow the other partners or the partnership itself to purchase that interest at its fair market value. Since the fair market value of a limited partnership interest is usually much less than the underlying asset value, the creditor effectively is paid with less money, and the family assets are more likely to survive the creditor's claims. Furthermore, partnership agreements can be drafted to prohibit the pledging of partnership interests for the debts of a partner.

6. The partnership vehicle provides greater protection of gifted assets against failed marriages.

The risk of a gift to a descendant being awarded to his or her spouse upon divorce can affect an estate plan, and prenuptial or postnuptial agreements may be distasteful or impractical in many situations. In particular, stocks and bonds are very prone to being commingled with assets of the marriage and in community property states effectively might become community property. Since some studies indicate that one out of two future marriages may end in failure, this consideration is very important to many wealthy clients. Limited partnership agreements, however, can be drafted so that gifts of limited partnership interests are protected from the risk of divorce. Many jurisdictions will not award separate property to a divorced spouse or will limit that award. A partnership provides a convenient means of segregating a descendant's separate property so that commingling is avoided. In addition, a partnership agreement can provide that an involuntary transfer of a partnership interest required by a divorce court will trigger buy-sell provisions under which the other partners or the divorced partner can buy that interest at its fair market value. Because the fair market value of the limited partnership interest is usually less than the underlying asset values, a divorced partner is protected even if a court awards his or her interest to a former spouse.

7. Unlike irrevocable, non-amendable trust agreements, partnership agreements are comparatively flexible.

In comparison to an irrevocable, unamendable trust, a limited partnership is a very flexible arrangement. If all of the partners agree, the partnership agreement may be amended or the partnership may be terminated. If all of the partners are family members, in some family situations, the change of the agreement is fairly straight forward to obtain. By contrast, an irrevocable trust generally may not be amended or terminated without court participation and participation by a guardian or an attorney ad litem for certain beneficiaries. As compared to corporations, a partnership requires fewer formalities and may be terminated without the potential adverse tax consequences associated with the termination of a corporation.

8. Business judgment rule of partnership law offers greater flexibility in investment management than trust law.

The “prudent man” or “prudent investor” rule applicable to trustees is a stricter standard than the business judgment rule applicable to the managing partners of a partnership. Many financial investments, such as options and commodities, and many business decisions, such as wildcat oil drilling, may be reasonable in terms of normal business judgment, but could be considered imprudent under trust law. Most families want to protect the family member who is charged with the responsibility of making investment decisions. In particular, families often want that family member who is managing the assets to be protected from the “20/20 hindsight” of a court or jury.

9. Partnership agreements could be drafted to mandate arbitration of family disputes and avoid court litigation, which is generally not possible under most state laws with respect to trusts.

Recent history is replete with examples of highly publicized intrafamily litigation involving the management of family assets. It is extremely difficult to replace a trust beneficiary’s right to sue his trustee with a commitment to binding arbitration. Stated differently, the state law right of a beneficiary to sue his or her trustee in many jurisdictions may not be removed by a trust agreement. Because a partnership agreement is a mere contract, however, it can be written so that all of the partners agree to settle disputes by arbitration. When compared to a jury trial, arbitration is usually preferable, especially in the family context. The publicity associated with family disputes can provide an unfair advantage to the person bringing a lawsuit against the family’s decision maker. With a well-drafted partnership agreement, such publicity can be avoided through the arbitration process and enforced by a confidentiality provision. In addition, an experienced business person or financial advisor may serve as arbitrator and fact finder. Thus, where the client determines there is an advantage to arbitration, the partnership vehicle is clearly superior to the use of a trust in many jurisdictions.

10. Partnership agreements could be drafted to mandate the "English" rule to disputes (loser pays); that is generally not possible under most state laws with respect to trusts.

Under trust law, frivolous actions can be difficult to prevent and may be brought by beneficiaries just to provoke a resignation or distribution by the trustee. It is difficult to charge a trust beneficiary with the costs associated with legal action. Furthermore, even though a trustee may be reimbursed for legal costs out of the trust's properties, the other beneficiaries of the trust suffer because of that reimbursement. By contrast, a partnership agreement can require a partner who brings an unsuccessful arbitration action against the management of the partnership to pay all of the costs associated with the arbitration. Thus, a family limited partnership more easily avoids frivolous claims and harassment actions.

11. Partnership arrangements facilitate and institutionalize family communication and education on financial matters.

One of the more enjoyable aspects of a family limited partnership is that it can serve to institutionalize the education of younger family members on the family's wealth management philosophies. Many people see nothing wrong with wealth *per se*, but fear that it can be abused and therefore want to oversee the financial experiences of younger family members. In addition, prudent investment can generate employment and serve other altruistic purposes. The collectivism provided by a partnership agreement institutionalizes this education process.

12. Partnerships eliminate or lower out-of-state probate costs for real estate investments.

Many people in our mobile society own passive real estate investments, including vacation property, outside of their home state. Contributing that property to a family limited partnership avoids the costs associated with out-of-state probate of those assets. Also, if the home state jurisdiction does not have a basic inheritance tax, the basic inheritance tax of the ancillary jurisdiction may be avoided in certain instances through the use of a family limited partnership.

13. The partnership vehicle indirectly facilitates trust partners that only pay income to current trust beneficiaries to follow modern portfolio theory.

A trustee may have difficulty following modern portfolio theory because there is a natural conflict between the investment philosophies of income beneficiaries, who prefer current income to growth, and remainder beneficiaries, who prefer growth to current income. In general, modern portfolio or asset allocation theory teaches that rational investors should seek to achieve the highest rate of return consistent with their tolerance for risk, *from whatever source*. For example, sometimes stocks may be preferred to bonds, and at other times the reverse is true. One type of trust, known as a "uni-trust," pays current beneficiaries a percentage of the value of the uni-trust's assets, thus allowing the trustee to follow modern portfolio theory; however, most trusts are not uni-trusts. A limited partnership, on the other hand, can serve as a "wrapper" around family assets and allow those assets to be managed like a uni-trust.[105] The managing partner can invest in a way that produces the highest rate of return consistent with his or her tolerance for risk, whether the source of that return is appreciation or current income. The managing partner then may distribute the percentage of the partnership's assets that he or she deems appropriate to the current "beneficiaries" (*i.e.*, partners) of the partnership. Those distributions, under the Uniform Principal and Income Act, are generally considered trust accounting income, even if they come from capital gain profits of the partnership.

14. A partnership is advantageous to a "C" corporation because it has one level of income tax and is advantageous to an "S" corporation because it allows a greater variety of ownership structures.

Partnerships are "pass through" entities that do not pay income tax. Since the repeal of the General Utilities Doctrine, "C" corporations and business trusts have become very inefficient tax entities because there will always be two levels of income tax, even on unrealized gains.

15. A partnership is advantageous to the corporate structure because in many jurisdictions there is no franchise tax or intangibles tax to pay with the use of partnerships.

In almost all jurisdictions, corporations and business trusts are subject to franchise taxes and/or intangible taxes. However, in many of those same jurisdictions, partnerships do not pay those taxes.

E. If a Sale of a Partnership Interest Occurs During a Client's Lifetime, the Gift Tax Equivalent of I.R.C. Section 2036 Does Not Exist (i.e., There Is No I.R.C. Section 2536 Under Chapter 12 of the Code).

There is not an equivalent gift tax statute equivalent to I.R.C. Section 2036(a)(1). For gift tax purposes, a substantive non-tax reason for the contribution to the partnership does not need to exist. As noted above, for gift tax purposes, the taxpayer needs to demonstrate that the partnership is a partnership for state law purposes and is a group that conducts financial

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[105] *See* the discussion in Article II B of this paper.

operations.[106] Stated differently "the bona fide" requirement for gift tax purposes appears to only require only that a sham transfer has not occurred and that it is a partnership for state law property purposes. Secondly, there needs to exist a proper crediting of capital accounts. Thus, if the donor transfers all of his interest in the partnership and lives three years (*see* I.R.C. Section 2035) I.R.C. Section 2036(a)(1) will not apply. See the example below.

Example 5: Lacy Lucky Sells Her
Partnership Interest During Her Lifetime

Lacy Lucky lives in the great state of Nirvana. In the state of Nirvana, plaintiff's lawyers have been banned. In this enlightened state, wealthier spouses always receive all of the marital assets, if there is a failed marriage. Because this state is so enlightened, the SEC is very impressed and has waived its qualified purchaser and accredited investor rules with respect to trusts created under this state's laws. Because of all of these reasons (and because all children in this state are born with above average intelligence), Lacy Lucky is worried that a substantive non-tax reason may not exist for the creation of her family limited partnership. After the creation of the partnership, Lacy will own a 1% general partnership interest and a 98% limited partnership interest. Lacy asks her attorney, Tom Taxadvisor, what she could do to avoid the application of I.R.C. Section 2036(a)(1) other than avoiding behavior that might constitute an implied agreement to use the partnership asset income?

Tom may advise Lacy to sell all of her limited partnership interest for adequate and full consideration. Even if the sale is not for adequate and full consideration (e.g. part sale, part gift or all a gift), if Lacy lives longer than three years after the transfer, then I.R.C. Section 2036(a)(1) should not apply to the resulting note (assuming the note is a note for state law property purposes) and/or cash she receives from that sale. (However, I.R.C. Section 2036(a)(2) may apply to the retained general partnership interest and the transferred limited partnership interest, if the sale is not for adequate and full consideration.)

F. There Are Many Other Reasons, Other Than Avoiding I.R.C. Section 2036(a)(1) Inclusion, for Transferring the Partnership Interest During the Taxpayer's Lifetime For a Note.

1. The valuation principles of Revenue Ruling 93-12 apply to lifetime transfers, but they do not apply to transfers at death.

Under Revenue Ruling 93-12, the Internal Revenue Service, after losing several court cases, including one court case where attorney's fees were ordered to be paid to the taxpayer, acquiesced to the view that family attribution does not exist for gift tax valuation purposes. For instance, if a taxpayer who owns 100% of a business transfers by gift a 20% interest in that business to each of his five children, the measure of the gift is what a hypothetical willing buyer would pay a hypothetical willing seller for 20% of the interest in the enterprise (times five). On the other hand, if that same taxpayer transferred 100% of his interest in the business enterprise to those same five children at the time of his death by a will, the valuation of the transfer for estate

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[106] *See* the discussion above in Article I B and C. *See Knight* 115 TC 506 (2000); *Estate of Strangi* 115 TC 478 (2000) aff'd on Chapter 14 issues 293 F.3d 279 (5th Cir. 2002).

tax purposes is what a hypothetical willing buyer would pay a hypothetical willing seller for 100% of the enterprise. The differences between those two valuation methodologies may be profound.

For instance, assume a taxpayer wishes to make a transfer to a charity, marital deduction trust and a trust for his family. There may be problems of achieving full deductibility for estate tax purposes for the charitable bequest at death and the martial deduction bequest at death, if the estate largely consists of an entity in which a valuation discount is not allowed for estate tax purposes. There may not be the same concerns for an inter vivos gift because for gift tax valuation purposes one focuses on what is transferred, not what is retained before the transfer.

2. Growth of the underlying assets of the partnership, if a transfer occurs during the lifetime of a taxpayer, will not be subject to estate tax.

If a taxpayer transfers his or her partnership interest either by gift or sale, assuming the underlying assets of the partnership grow in value (and in the case of a sale grow faster than the interest carry on the note) part of that growth (in the case of a sale) or all of that growth (in the case of a gift) will not be subject to estate taxes. If the taxpayer does not transfer the partnership interest during his or her lifetime, while the partnership discount may be available at death, the discount will only apply to then value of the assets of the partnership, which may have grown at a much greater rate than the said valuation discount.

3. There is a significant transfer tax advantage for the taxpayer who transfers his partnership interests during his lifetime to a grantor trust in exchange for a note.

The IRS ruled in Revenue Ruling 2004-64, that a taxpayer does not owe gift taxes with respect to a grantor trust in which the taxpayer is liable for the income taxes. Over time, this may be a significant transfer tax benefit for a donor. Assuming normalized growth on the part of the partnership assets coupled with the sale to a grantor trust, generates synergistic transfer tax benefits. These benefits may substantially, over time, exceed the benefits from any valuation discount associated with the partnership interest. Consider the following example:

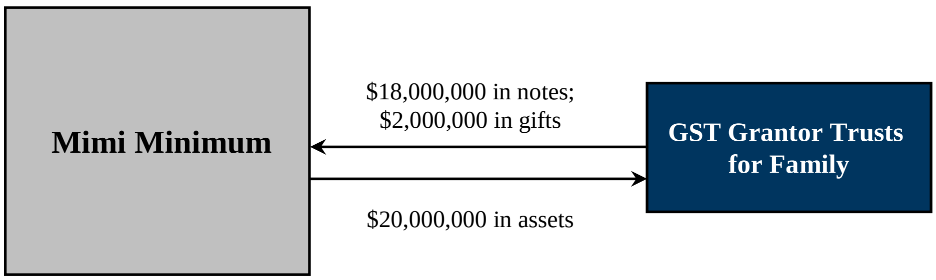
Example 6: Mimi Minimum Wonders What Additional Transfer Tax Benefit Accrues From a Partnership Valuation Discount Over Her Life Expectancy

Mimi Minimum is a very healthy 50 year old female. Both of her parents are still alive and she has only recently buried her grandparents. Her doctor assures her that she easily has a 30 year life expectancy. Mimi likes the relative simplicity of making a $2,000,000 gift of some of her highly appreciated stock to fund a grantor trust and then selling her highly appreciated stock worth $18,000,000 to that grantor trust for a low interest note after the sale for the note is completed, the grantor trust would then sell all $20,000,000 of its stock ("Alternative One" below). Mimi asks her estate planner, Les Rates what is gained by transferring a family limited partnership (which holds $18,000,000 of her stock) to a grantor trust from a transfer tax standpoint, assuming she does live a 30 year period ("Alternative Two" below). Mimi is concerned about the costs of creating a family limited partnership (legal costs, accounting costs, administrative costs and valuation expert costs). Mimi tells Les Rates to assume that she will earn 8% pretax return with respect to the proceeds of the sale of the appreciated stock (with 2%

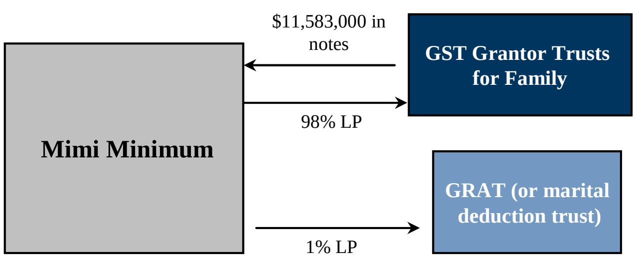
being taxed at ordinary income rates and 6% being taxed at capital gains rates with a 30% turnover) and that her consumption needs will be $350,000 a year before inflation. What does Les Rates' analysis demonstrate?

Please see the illustrations below:

Alternative One
Mimi Minimum Gifts and Sells Her Assets to GST Grantor Trusts



Alternative Two
Mimi Minimum Forms a Limited Partnership and Then Makes a Defined Value Formula Transfer of Her Limited Partnership Interests to GST Grantor Trusts and to a GRAT (or Marital Deduction Trust)



Owner	Ownership (%)
Mimi Minimum	1% GP; $11.6M note receivable
GST Grantor Trusts for Family	98% LP; $11.6M note payable
GRAT (or marital deduction trust)	1% LP

Please see Schedule 9 attached to this paper. A summary of the schedule is below:

Summary of Results For $20 Million of Assets Growing at <u>8%</u> Per Year (Pre-Tax) – No Further Planning vs. Two Hypothetical Integrated Income and Estate Tax Plans; 30 Year <u>Future Values</u>; Post-Death Scenarios (assuming Mimi Minimum dies in 30 years)

Technique	Minimum Family	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Total
No Further Planning; Bequeaths Estate To Family (Without Discount)	$38,798,412	$16,651,395	$36,796,365	$19,551,445	$57,711,366	$31,744,155	$201,253,138
No Further Planning; Bequeaths Estate To Family (With Discount)	$49,908,866	$16,651,395	$36,796,365	$19,551,445	$57,711,366	$20,633,701	$201,253,138
Technique #1: Hypothetical Integrated Income and Estate Tax Plan With a Gift/Sale to a GST; Bequeaths Estate To Family	$68,330,271	$16,651,395	$36,796,365	$21,277,059	$57,711,366	$486,681	$201,253,138
Technique #2: Hypothetical Integrated Income and Estate Tax Plan With a Partnership and With a Gift/Sale to a GST; Bequeaths Estate To Family	$68,598,127	$16,651,395	$36,796,365	$21,397,537	$57,711,366	$98,347	$201,253,138

As the above chart clearly demonstrates, over a 30 year period, given Mimi's consumption needs, there is not an inherent transfer tax advantage associated with coupling the sale to a defective grantor trust technique with a partnership vehicle. The advantage of using the partnership vehicle, from a transfer tax viewpoint, does occur if Mimi has a relatively early death. For instance, if Mimi's death should occur in year 10 as opposed to year 30, the results would be as follows, please see attached Schedule 10 to this paper:

Summary of Results For $20 Million of Assets Growing at <u>8%</u> Per Year (Pre-Tax) – No Further Planning vs. Two Hypothetical Integrated Income and Estate Tax Plans; 10 Year <u>Future Values</u>; Post-Death Scenarios (assuming Mimi Minimum dies in 10 years)

Technique	Minimum Family	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Total
No Further Planning; Bequeaths Estate To Family (Without Discount)	$14,857,342	$4,012,358	$1,692,703	$6,076,989	$4,383,101	$12,156,007	$43,178,500
No Further Planning; Bequeaths Estate To Family (With Discount)	$19,111,945	$4,012,358	$1,692,703	$6,076,989	$4,383,101	$7,901,405	$43,178,500
Technique #1: Hypothetical Integrated Income and Estate Tax Plan With a Gift/Sale to a GST; Bequeaths Estate To Family	$21,421,417	$4,012,358	$1,692,703	$6,781,228	$4,383,101	$4,887,694	$43,178,500
Technique #2: Hypothetical Integrated Income and Estate Tax Plan With a Partnership and With a Gift/Sale to a GST; Bequeaths Estate To Family	$23,986,573	$4,012,358	$1,692,703	$6,627,131	$4,383,101	$2,476,635	$43,178,500

In additional to hedging against an early death, Mimi should, of course, consider the non-tax benefits of using the partnership vehicle. Mimi, in evaluating whether or not to do the partnership vehicle should consider the costs of the partnership vehicle versus the transfer tax benefit of an early death with the other non-tax benefits noted in this paper.

What is clear, from a transfer tax benefit perspective, that over time the most important estate planning benefits accrue from freezing (e.g., a sale for a low interest note) and the value shifting that is associated with the grantor paying the income taxes of that trust. The least important benefit is the discount inherent in using family limited partnerships.

4. A future Congress could change the current law with respect to valuation discounts associated with family limited partnerships.

If a taxpayer currently sells a limited partnership interest it locks in the current law with respect to valuation discounts for transfers of limited partnership interest. Under the last three budgets under President Clinton's administration, it was proposed by President Clinton that valuation discounts associated with certain family limited partnerships be eliminated. Recently, one of the potential revenue raisers that have been discussed by the Joint Committee staff has been the elimination of discounts for family limited partnership agreements. The IRS has a regulation project under authorization of I.R.C. Section 2704(b)(4). Some commentators speculate that as a result of that regulation project family limited partnership discounts, at least for some family limited partnerships, may be eliminated. Although, it is fair to state that some believe that the Congressional authorization of I.R.C. Section 2704(b)(4) must be consistent with the companion legislative history, which may limit the IRS' ability to change current law with respect to valuation discounts for limited partnership interests.

It is not enough to "grandfather" current law, with respect to valuation discounts for family limited partnerships, to currently create the partnership and not make a transfer. The limited partnership interests that accrue from such planning, also need to be transferred before the law changes. Stated differently, it is hard to imagine that the law with respect to valuation discounts for family limited partnership interests will be better in the future. On the other hand, it is reasonable to believe that the law with respect to valuation discounts with respect to family limited partnership interests may be worse in the future.

As the charts above demonstrate, the difference between selling units before the valuation discount is legislated away could be profound if Congress changes the law.

5. The taxpayer may have the ability to indirectly access all of the partnership distributable cash flow for consumption needs.

One factor that may deter certain taxpayers from doing significant estate planning, other than the mere creation of a family limited partnership, is the fear that the taxpayer may need most of the distributable cash flow of the partnership. There is no question that any estate planning technique should only go forward after considering the consumption needs of the client. Many of the successful I.R.C. Section 2036 cases brought by the IRS have been facilitated by the taxpayer's disproportionately utilizing, for their own personal consumption needs, the cash that should have been distributed to other partners.

A possible attraction of selling a limited partnership interest to a grantor trust, in exchange for a note, is that a significant amount of the distributable cash flow to the trustee partner could be utilized to service interest and principal payments on the subject note. It has been this writer's experience (assuming there is a companion sale to a grantor trust associated with that technique) that when spreadsheets have been formulated demonstrating that the prospective capacity of the servicing of the note may more than satisfy the consumption needs of the taxpayer, that the taxpayer is much more enthusiastic about utilizing the partnership technique.

6. Generally, the sale of a family limited partnership interest to a trust, is a flexible arrangement that can be modified to changed circumstances.

Another factor that could deter a taxpayer from doing all of the estate planning that he or she should do, is the understandable desire to have exit strategies, if circumstances change with respect to the objects of their bounty or their own personal financial circumstances. A sale of a limited partnership interest (particularly to a grantor trust) is much more flexible and has many more exit strategies than an outright gift of a limited partnership interest.

For instance, if a beneficiary of a trust disappoints the seller of a limited partnership interest to that trust, perhaps a call feature could be triggered in the note which pays off the note "in kind" with partnership units. That mechanism could substantially limit the amount that child will have available in the trust in the future. The same mechanism could be utilized if the taxpayer, at a future time, becomes uncomfortable with his financial circumstances. That mechanism (i.e., calling the note and having it paid "in-kind") would obviously increase the net worth of that taxpayer under those circumstances. Another exit strategy that could limit the amount that a trust receives and/or increase the net worth of a grantor is to convert the trust from a grantor trust to a complex trust. Assuming there are separate trusts for each of the client's children, another point of flexibility is that each of the trusts could pay down the principal of the note that is owed on different time tables. In that manner, each child's different consumption needs could be met.

7. The sale of a limited partnership interest for a note facilitates testamentary charitable planning, because the note is a more attractive asset for a charity to receive than family limited partnerships interests.

Many taxpayers are interested in testamentary charitable planning, especially if in their lifetime transfer tax planning has been successful. Almost all charities would rather receive a note than a family limited partnership interest. In addition to avoiding unrelated taxable income problems, it may be a much more favorable asset for the liquidity investment purposes of the charity.

Additionally, if a note is left to a charitable lead annuity trust, it is possible under I.R.C. Section 4941, during probate administration, to refinance the note (assuming the requirements of the regulations under I.R.C. Section 4941 with respect to fair market value and liquidity constraints are met) whereby the note could be converted into a longer term note with a balloon payment at the end of the term. Alternatively, the note could be refinanced before the death of the taxpayer to be a long term note suitable for charitable lead trust purposes. One of the few exceptions to the self-dealing rules under I.R.C. Section 4941 are for court approved transactions that occur during estate administration. This may work very well for the testamentary charitable desires of the client and for the family.

V. BEST VALUATION IDEA FOR FAMILY LIMITED PARTNERSHIP INTERESTS – THE DEFINED VALUE FORMULA CLAUSE

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "the IRS will always contest the valuation of a family limited partnership interest because the IRS could increase the transfer taxes, if they can demonstrate that the valuation discount is too high;" or "all valuation clauses in an assignment document are against public policy." The above "conventional wisdom," under the circumstances discussed below, is incorrect.

The Internal Revenue Service will almost always scrutinize significant transfers of "hard-to-value" assets. Reasonable people (and, of course, unreasonable people) can differ on the value of certain assets (*e.g.*, a family limited partnership interest). From the Service's point of view, scrutiny of those assets may represent a significant revenue opportunity. One approach that may reduce the chance of an audit of a transfer of a hard-to-value asset, or a gift tax surprise, if an audit does occur, is to utilize a formula defined value transfer.[107] A formula defined value transfer may increase the retained interest of the donor (as in the case of a grantor retained annuity trust); may define the portion of the property interest that is transferred or may provide that a defined portion of the property transferred passes to a "tax sheltered recipient." For example, a transfer may provide that an undivided part of a "hard-to-value" asset, which exceeds a defined value of the transferred entity interest, will pass either to a grantor retained annuity trust,[108] the transferor's spouse,[109] charity[110] or a trust in which the grantor has retained an interest that makes the gift incomplete.[111]

"Formula defined value" clauses should be distinguished from "price reimbursement" clauses like the ones discussed in Revenue Ruling 86-41, 1986-1 C.B. 442 and in *Procter*.[112] In Rev. Rul. 86-41, the IRS said that a clause that increased the consideration to be paid for the transferred property, or that caused a portion of the transferred property to revert to the transferor, were conditions subsequent that are not effective to avoid a taxable gift from being made on the transfer of the property. By contrast, formula clauses defining the amount of the transfer or the identity of the transferee are ubiquitous in the transfer tax context. In fact, such arrangements are specifically permitted in the tax law. [113] If an adjustment occurs in a formula defined value clause,

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[107] *See* Tech. Adv. Mem. 86-11-004 (Nov. 15, 1985) discussed below. *See also* Hood, "Defined Value Gifts: Does IRS Have It All Wrong?" Estate Planning (Dec. 2001); Abbin, "Is Valuation the Best Planning Game Remaining?" ALI-ABA Course of Study Planning Techniques for Large Estates (Nov. 2001); McCaffrey, Carlyn "Tax Tuning the Estate Plan by Formula" 33rd Phillip E. Heckerling Institute on Estate Planning 4-1 (1999); Moore, "Attempting to Achieve Finality in Potentially 'Open' Transactions", 29th Phillip E. Heckerling Institute on Estate Planning 13 (1995); Cornfeld, "Formulas, Savings Clauses and Statements of Intent," 27 U. Miami Inst. on Est. Plan. 14 (1990); Peterson, "Savings Clauses in Wills and Trusts," 13 Est., Gifts & Tr. J. 83 (1988); Moore and Buchanan, "Valuation Readjustment Clauses: What's Possible?", 45th NYU Tax Inst. (1987); and C. S. McCaffrey and M. Kalik, Using Valuation Clauses to Avoid Gift Taxes, 125 TRUSTS AND ESTATES 47 (October 1986).

[108] *E.g.*, the excess could be transferred to a grantor retained annuity trust under I.R.C. § 2702 that is nearly "zeroed out" with respect to the grantor and uses the required revaluation clause in the trust agreement with respect to a retained annuity.

[109] *E.g.*, the excess could be transferred to a spouse or a marital deduction trust pursuant to a formula marital deduction clause.

[110] *Eg.*, the excess could be transferred to a charity (see Example 8 below).

[111] Handler, David, Dunn, Deborah, "The LPA Lid: A New Way to 'Contain' Gift Revaluations" 27 Estate Planning, 206 (June 2000).

[112] *See Commissioner v. Procter*, 142 F.2d 824 (4th Cir. 1944); see also *Charles W. Ward v. Comm.*, 87 TC 78 (1986).

[113] *See* Treas. Reg. 25.2518-3(c) (allowing defined value formula for disclaimer of pecuniary amount); Treas. Reg. 25.2702-3(b)(2) (allowing value of grantor retained annuity trust annuity to be stated in terms of a fraction or percentage of fair market value); Treas. Reg. § 25.2702-39(c)(2) (requiring the annuity of a grantor retained annuity trust to be increased if an incorrect determination of the fair market value of the trust assets is made); Rev. Proc. 64-19, 1964-1 C.B. 682 (relating to defined value formula for funding the marital deduction); Treas. Reg. § 1.664-2(a)(1)(iii) (allowing defined value dollar amount of charitable remainder annuity trust to be expressed as a fraction or percentage of the initial net fair market value of the property passing in trust as finally determined for Federal tax purposes); Rev. Rul. 72-395, 1972-2 C.B. 340, 344, modified by Rev. Rul. 80-123, 1980-1 C.B. 205 and Rev. Rul. 82-128, 1982-2 C.B. 71 (allowing value definition clauses in charitable remainder trusts); Treas. Reg.

a change in the identity of the transferee may occur (*e.g.*, the credit shelter trust owns less of the asset and the marital trust owns more of the asset). If an adjustment occurs in a price adjustment clause, the initial transfer is partially unwound and the identity of the transferee does not change (*e.g.*, the transferee pays an additional amount for the asset). Price reimbursement clauses were found to be against public policy in *Procter* because, if such clauses were effective, the result of an audit of the gift tax return could never result in a deficiency and there is no other penalty of assets passing to a different transferee. Although part of the same public policy argument applies to formula defined value clauses, they are so commonly used that an argument that they are void is not persuasive. Secondly, the public policy argument could be addressed by deliberately structuring the formula to produce a small deficiency on audit. Thirdly, formula clauses that are discussed below have a penalty in that the transferred assets could pass to an unintended transferee.

Any formula defined value clause needs a mechanism to bring finality to the question of who owns what. Where the transfer involves a gift, finality can be achieved by filing a gift tax return that adequately discloses the formula transfer. When the statute of limitations expires on assessing a gift tax deficiency and none has been asserted, the ownership fractions will have been determined. If there is no gift tax return, however, finality cannot be achieved unless there is another mechanism that does not involve any action by the transferor that can be viewed as donative.

B. Defined Value Clauses Involving a Charity.

Assume a client and/or her family has some charitable intent. That intent could be incorporated in a plan in order to help bring finality to an "open" valuation question. Additionally, that charitable intent could preclude the Service from unfairly contesting a good faith appraisal of the interest in the family entity as of that client's death.

Example 7: Disclaimer Formula Gift to a Charity

Sally Saint dies with most of her assets in a family limited partnership interest. The underlying asset value of Sally's interest in the partnership, if the partnership liquidated, would be worth $10,000,000. Audrey Appraiser, however, believes a willing buyer would only pay $6,500,000 for Sally's interest in the partnership. Sally's Will provides that the rest, residue of her estate passes to her daughter, Connie Clever. The Will also provides that if Connie disclaims, or partially disclaims, an interest in her estate that asset, or assets, will pass to her donor advised fund in the Greater Metro Community Foundation. Connie partially disclaims that part of Sally's estate that she would otherwise receive that has a "fair market value that exceeds $6,400,000." "Fair market value" is defined in the disclaimer document the same way it is defined in the Treasury regulations. The charity hires independent counsel and independent expert appraiser. After the charity consults with its advisors, it agrees with Audrey Appraiser's appraisal. The charity, approximately one year after Sally's death, sells its rights under the disclaimer document for $100,000 to Connie. The IRS audits the Saint Estate one year after the sale. The IRS believes

§ 1.664-3(a)(1)(iii) (requiring adjustments in annuity amounts if an incorrect determination of the fair market value of the charitable remainder trust has been made).

the discount is excessive and the charity should have sold its interest for $1,000,000. What happens now?

It would appear that no matter what the size of Sally Saint's estate, the Service should only collect revenues on the first $6,400,000 of her estate. The remainder of Sally Saint's estate (as a matter of state property law) goes to charity. Thus, assuming a good faith appraisal report is made and is persuasive to the independent charity, the Service may accept the estate tax return as filed with the discounts that are shown in that appraisal. The value of the gift to Connie Clever for state law property and estate tax purposes should be the same – $6,400,000.

Definition clauses with respect to transfers pursuant to a will are very common. Almost all modern wills of a married testator contain one, sometimes known as the formula marital deduction clause. It is submitted that it is unlikely that marital deduction and charitable deduction definition clauses would be invalidated for tax purposes by a court. First of all, in determining the value for gift and estate tax purposes of any asset that is transferred, the legal rights and interests inherent in that property must first be determined under state law (unless federal law supersedes state law).[114] After that determination is made, the federal tax law then takes over to determine how such rights and interests will be taxed.[115] In its legislative history to various revenue acts, Congress has endorsed these principles that had been developed under case law. For instance, the reports to the 1948 changes in the estate taxation of community property provide that those changes restore the rule by which estate and gift tax liabilities are to depend upon the ownership of property under state law.[116] The taxable value of Sally Saint's estate is defined under state property law to be worth only $6,400,000. The federal estate tax consequences should be consistent with that definition. Secondly, to invalidate definition clauses would be to invalidate almost all "formula" defined value marital deduction gifts and formula defined value disclaimers (which have always been acceptable by the Service in its regulations, the courts, and Congress).[117]

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[114] Occasionally, federal law does supersede state law in this context. For instance, federal law determines what is charity for purposes of I.R.C. § 2055, not state property law.

[115] *See United States v. Bess*, 357 U.S. 51 (1958); *Morgan v. Commissioner*, 309 U.S. 78 (1940).

[116] *See* H. REP. NO. 2543, 83rd Cong. 2nd Sess., 58-67 (1954); H.R. REP. NO. 1274, 80th Cong. 2nd Sess., 4 (1948-1 C.B. 241, 243); S. REP. NO. 1013, 80th Cong., 2nd Sess., 5 (1948-1 C.B. 285, 288) where the Committee Reports on the 1948 changes in the estate taxation of community property states: "Generally, this restores the rule by which estate and gift tax liabilities are dependent upon the ownership of property under state law." *See also* the reports of the Revenue Act of 1932 that define "property" to include "every species of right or interest protected by law and having an exchangeable value." H.R. REP. NO. 708, 72nd Cong., 1st Sess., 27-28 (1932); S. REP. NO. 665, 72nd Cong., 1st Sess., 39 (1932).

[117] *See* Treas. Reg. 25.2518-3(c) (allowing defined value formula for disclaimer of pecuniary amount); Treas. Reg. 25.2702-3(b)(2) (allowing value of grantor retained annuity trust annuity to be stated in terms of a fraction or percentage of fair market value); Treas. Reg. § 25.2702-3(c)(2) (requiring the annuity of a grantor retained annuity trust to be increased if an incorrect determination of the fair market value of the trust assets is made); Rev. Proc. 64-19, 1964-1 C.B. 682 (relating to defined value formula for funding the marital deduction); Treas. Reg. § 1.664-2(a)(1)(iii) (allowing defined value dollar amount of charitable remainder annuity trust to be expressed as a fraction or percentage of the initial net fair market value of the property passing in trust as finally determined for Federal tax purposes); Rev. Rul. 72-392, 1972-2 C.B. 340, 344, modified by Rev. Rul. 80-123, 1980-1 C.B. 205 and Rev. Rul. 82-128, 1982-2 C.B. 71 (allowing valuation definition clauses in charitable remainder trusts; Treas. Reg.

Thirdly, if such a definition clause were invalidated, it would be impossible to determine the amount of the gift since the clause defines the amount of the transfer.

Clearly a "downside" in the technique from Connie's point of view is that the charity has every incentive and a fiduciary duty to make sure it is allocated the correct property interest. Obviously, the charity may disagree with the estate's appraisal. Charities are not going to accept unreasonable appraisals (nor would any state attorney general allow them).

Assume, as in Example 7, the Service believes the discount should be 25%, but both the charity and the probate court believe it should be 35% (Audrey Appraiser is very convincing). Assume no collusion by the charity. Has the charity made a taxable gift of $900,000 to Connie by accepting Audrey's appraisal and selling all of its right to Connie for $100,000 in a subsequent sale? No gift tax should result if the charity did not enforce its "IRS right" to recover the excess partnership interest allocated to Connie, even if that failure to recover results in a deemed "bargain" transfer to Connie, because the gift tax is only imposed upon transfers by individuals.[118] Secondly, and perhaps more importantly, the charity did not make a transfer to Connie when it sold its rights, because the charity believed in good faith that it received adequate and full consideration.[119] The charity is not a "transferor" for purposes of I.R.C. § 2512. The "private inurement" and "excess benefit" rules under I.R.C. Sections 501(c)(3) and 4958 should also not be applicable, assuming the parties were not in collusion, Connie is not an insider of the charity, the charity had independent counsel, and the charity used independent appraisers.[120]

While it is not authority, the IRS in a recent FSA has indicated a willingness to test defined formulas involving charities. The IRS (according to FSA 200122011) is apparently attacking, through litigation, a defined value clause that it assumes was executed without "[any] evidence of arm's length negotiations" and which the IRS assumes "the transactional documents were accepted by charity as presented."[121] Thus, on that basis, the IRS concludes the possibility of "any additional transfer to charity under the formula clause was illusory." Of course, if those are the facts, the IRS is right.

Clearly, more problematic is the following IRS "alternative" analysis in FSA 200122011 (for which the IRS does not cite any authority, because there is not any, and it is respectfully submitted, may never exist), even if good faith arms length negotiations did take place:

> Though *Procter* involved a savings clause as opposed to a formula clause, the principles of *Procter* are applicable to this case. If formula clauses like the one

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§ 1.664-3(a)(1)(iii) (requiring adjustments in annuity amounts if an incorrect determination of the fair market value of the charitable remainder trust has been made.

[118] *See* I.R.C. § 2501(a)(1); Treas. Reg. § 25.2501-1(a).

[119] *See* Treas. Reg. § 25.2512-8.

[120] *See* Treas. Reg. § 53.4958.

[121] The Field Service Advice Memorandum was apparently written in connection with *McCord v. Commissioner* (T.C. No. 7048-00, 120 T.C. No. 13, 5/14/03) (see discussion below) a case in which this writer was a fact witness.

> at issue actually function to require payment of any increased value to the charitable donee, these clauses would be similar in effect to savings clauses in that they recharacterize the transaction in a manner that would render any adjustment nontaxable. A valuation increase resulting from an examination would serve only to increase the charitable deduction, but would not otherwise generate any gift tax deficiency. Moreover, the adjustment would substantiate a claim for an increase in the income tax charitable deduction claimed by the donor. The sole justification for the Commissioner's examination would be to insure that charity received all that it was entitled to under the transfer documents. This would place federal tax administrators in the position of policing charitable transactions, a role more appropriately performed by the states' attorneys general.

It is respectfully submitted that the IRS analysis misses several key points, including: (i) the IRS does have a "revenue incentive" to examine a charity's actions in agreeing to the amount of a formula gift, because the charity and the "offending" individual will be subject to IRS sanctions (which potentially increases Treasury revenue), if there is any excess benefit to that individual; (ii) state attorneys general *do* have a duty to enforce the formula; (iii) the charity has a fiduciary duty under state property law to enforce the formula (and, as noted above, it is clear law that federal gift tax consequences follow state property law); (iv) assuming the charity does engage in arms length negotiations, it is irrelevant whether the formula clause "works," because under gift tax valuation cases and the IRS's own regulations, it is clear arms length negotiations are the best evidence of value; [122] (v) as noted above, the IRS itself mandates formula clauses for charitable split interest trusts and grantor retained annuity trusts, both of which involve the same public policy considerations; (vi) as noted above, the IRS has long accepted formula marital deduction clauses and formula pecuniary disclaimers, which have no more (or less) public policy considerations than formula gifts to charity; and (vii) there is a key distinction between price adjustment clauses such as the one discussed in *Procter* and defined value formula clauses (*e.g.* marital deduction clauses). One distinction is that the price adjustment clause involves a condition subsequent. In addition, in some defined value formula clauses, the identity of the recipient could change (which is clearly not in the donor's best interest).

Moreover, the objection that no deficiency will result upon an audit can be easily defeated. Suppose that, instead of Connie’s disclaiming all interests having a value in excess of $6,400,000 (the defined amount), Connie disclaimed only 99 percent of such excess. In that case, 1 percent of any valuation adjustment would produce a deficiency. Thus, the audit would not be without any consequence, just without much consequence.

Many of these issues were addressed by the full Tax Court in the *Estate of Christiansen v. Commissioner*.[123] This case involves a testamentary bequest of the decedent’s estate to the decedent’s daughter. The primary asset was an interest in a family limited partnership. The decedent’s daughter disclaimed those limited partnership units to the extent the value exceeded a formula amount:

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[122] *See Morrissey v. Comm.*, 243 F3d 1145 (9th Circuit, 2001).

[123] *Estate of Christiansen v. Commissioner*, 130 T.C. No.1, Cause No. 15190-05 (January 24, 2008).

> determined by reference to a fraction, the numerator of which is the fair market value of the Gift (before payment of debts, expenses and taxes) on [the date of the decedent's death], less…$6,350,000 and the denominator of which is the fair market value of the Gift (before payment of debts, expenses and taxes) on [the date of the decedent's death]…[all] as such value is finally determined for federal estate tax purposes.

The portion that was disclaimed passed by the terms of the decedent's will, three-quarters to a CLAT and 25% to a private foundation. Since the daughter was a beneficiary of the CLAT, if she is living at the end of the lead term, this did not meet the technical requirements for a valid disclaimer as to that portion. However, the portion that passed to the private foundation was found by the full Tax Court to be a valid disclaimer. The unanimous court (there was a dissent, but not on this point):

> We do recognize that the incentive to the IRS to audit returns affected by such disclaimer language will marginally decrease if we allow the increased deduction for property passing to the foundation. Lurking behind the Commissioner's argument is the intimation that this will increase the probability that people . . . will lowball the value of an estate to cheat charities. There's no doubt that this is possible.
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> But . . . executors and administrators of estates are fiduciaries, and owe a duty to settle and distribute an estate according to the terms of the will . . . . Directors of foundations . . . are also fiduciaries . . . [and] . . . the state attorney general has authority to enforce these fiduciary duties. . . .
>
> We therefore hold that allowing an increase in the charitable deduction to reflect the increase in the value of the estate's property going to the Foundation violates no public policy and should be allowed.

Thus, court rejected the IRS' assertion that defined value formula provisions that discourage the government from litigating valuation questions are invalid and is against public policy. The full Tax Court refused to extend or apply the authority of *Proctor* in *Commissioner v. Proctor* for defined value clauses.

Consider the following defined value formula for a lifetime transfer to a public charity and a donor's family.

Example 8: Gift or Sale of Limited Partnership
Interest to a Grantor Trust and Gift to a Charity

Steve owns a 99% limited partnership interest in Supersavers LP. The interest is appraised for $3,000,000. Steve creates a grantor trust with an independent trustee and funds that trust with $400,000. Steve transfers his 99% interest in Supersavers as follows: (i) Steve assigns to the trust that fraction of his interest the numerator of which is $2,950,000 and the denominator of which is the fair market value of the interest and (ii) the excess to a public charity. Steve's instrument of assignment provides that the fraction to be allocated to each transferee is to be determined using the value of Steve's interest in Supersavers determined under the principles of Rev. Rul. 59-60. Subsequently, but prior to any audit of the transaction by the IRS, the trust and the charity negotiate an agreement determining what fraction each is entitled to own and the trust purchases the charity's interest for $50,000. Steve does not participate in the negotiations. Steve deducts the value of the interest given to charity. The IRS audits the transaction and decides that the value of Steve's transferred interest in Supersavers was $4,000,000 instead of $3,000,000, so that the fraction allocated to the trust by the agreement between the trustee and the public charity is too great (and the amount paid by the trust for its interest is too small) and asserts that Steve made a gift to the trust of the excess of the value of that fraction over the face amount of the promissory note.

Since Steve had no role in determining the arrangements between the trust and the charity, how can it be that Steve has made a gift? If the amount allocated to charity was too small, is Steve entitled to an additional income tax deduction? *See* the discussion of the *McCord* case below.

The full Tax Court and the Fifth Circuit recently dealt with many of the issues in Example 8. In *McCord v. Comm.*, 120 T.C. 358 (2003), the Tax Court interpreted the meaning of a defined value formula clause where a public charity received a residual gift under a pecuniary defined value formula clause. The Tax Court rejected the IRS argument that the charitable deduction should be limited by the amount that the public charity ultimately received because of either the substance over form doctrine, public policy considerations or the integrated transaction doctrine. However, a majority of the Tax Court found that despite the pecuniary language of the assignment document, under Texas property law, specific undivided interests was intended to be conveyed by the donors, because the assignment agreement contemplated that donee bargaining was to take place. Thus, the possibility existed that the children and grandchildren could "win" that later bargain and the donors should be liable for the gift taxes associated with that later bargaining process (even if the donors did not participate in that bargaining process).

Certain key facts and fact-findings of the *McCord* case include the following:

1. The IRS (not the donors) had the burden of proof.

2. On June 30, 1995, Mr. and Mrs. McCord received $20,000 of Class A preferred limited partnership interest (which was eventually given away to public charities), and a little over an 82% interest of Class B limited partnership interest. Mr. and Mrs. McCord's sons received general partnership interests and the remaining Class B limited partnership interests.

3. Certain key provisions of the partnership agreement provided that (i) regardless of the identity of the assignee, no assignee of the partnership interest could attain a legal status of a partner in the partnership without the unanimous consent of all the remaining partners under the partnership agreement, and (ii) the partnership could purchase the interest of any charity assignee at any time for fair market value as determined under the partnership agreement.

4. On January 12, 1996 (which the Tax Court refers to as the valuation date), the donors assigned all of their Class B limited partnership interest. Pursuant to a pecuniary defined value formula clause, the donors' children and grandchildren received the percentage interest of the assigned partnership interest that had a fair market value of $6,910,933 on that date. If the value of the gift exceeds $6,910,933 on the date of the gift (i) the Shreveport Symphony (the "Symphony") would receive a percentage interest having a fair market value equal to the excess up to $134,000 and (ii) the value over $7,044,933, if any, would pass to CFT, another public charity.

Fair market value was defined and any disputes regarding the same were to be determined as follows:

> For purposes of this paragraph, the fair market value of the Assigned Partnership Interest as of the date of this Assignment Agreement shall be the price at which the Assigned Partnership Interest would change hands as of the date of this Assignment Agreement between a hypothetical willing buyer and a hypothetical willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. Any dispute with respect to the allocation of the Assigned Partnership Interests among Assignees shall be resolved by arbitration as provided in the Partnership Agreement.

5. In March 1996, without any participation by the donors, the donees (including the charitable donees) agreed that as a result of the donors' formula assignment the two charities received undivided interests of 5.1208888% (equal to $458,345) and that the children and grandchildren and/or trusts for the children and grandchildren received the remaining undivided interests of the gifted partnership interests pursuant to the defined value formula under the assignment agreement.

6. On June 26, 1996, the family partnership exercised its above-described call right and purchased all of the rights and interests that the charities received under the original assignment document for $479,008. The donors did not participate in the negotiations with respect to the indirect purchase by the children and grandchildren using the family limited partnership call right.

7. The Tax Court found that there was no evidence of an implicit or explicit agreement between the donors and the subject charities that the charities would accept less than that which the donors transferred to each organization. In fact, the parties stipulated that "before the call right was exercised, there was no agreement among Mr. and Mrs. McCord, the McCord brothers, the Symphony or CFT as to when such a buyout would occur or to the price at which the buyout would occur."

8. The charities had experienced independent counsel for both key transactions (the agreement as to the percentage interests each donee received under the donor's original assignment document and the redemption by the partnership of those interests). The Tax Court found that the charities could have availed themselves of an independent appraisal and could have participated in an arbitration proceeding described in the partnership agreement. The Tax Court found that on advice of the charities independent counsel, both charities' chose not to hire an independent appraiser (because their internal review showed the appraisal to be reasonable) and also as a consequence chose not to avail themselves of the arbitration procedure described in the partnership agreement. Nonetheless, it felt the charities were not to be considered adverse parties during those negotiations, because "it is against the economic interests of a charitable organization to look a gift horse in the mouth."

It is respectfully submitted by this prejudiced writer (when practicing law, this writer was responsible for the planning of the McCord matter) that this last fact-finding (the charities were not adverse parties), which is crucial to the logic of the majority's opinion, is the most controversial fact finding. The charitable organizations had to look this "gift horse in the mouth" when they exercised their duties under the formula, and it was very much in their economic interest to make sure they received as large a horse as they were given by the donors (i.e., to acquire all of the transferred partnership interests above the pecuniary amount allocated to the children and grandchildren). Furthermore, the directors of the subject charities were subject to criminal and civil sanctions from both the Texas State Attorney General and the Internal Revenue Service, if they acted in a manner that directly or indirectly privately benefited an individual that was not a ward of the subject charities. In effect the majority concludes that the charities chose not to exercise their right to seek a larger gift in arbitration as a tacit *quid pro quo* for receiving any gift at all. The majority states this without specific findings of fact that would support its conclusion.

The IRS argued that the form of the assignment document (limiting what the children and grandchildren could receive) should be ignored and the charitable deduction should be limited by the amount that the charities ultimately received under the redemption agreement (i.e., $479,008). The IRS contended that the formula should be ignored because either the substance over form doctrine applied, the pecuniary defined value formula clause was against public policy or the integrated transaction doctrine applied. The donors argued that their gift taxes were limited to the amount of gift taxes appropriate for a $6,910,933 transfer (the formula amount for children and grandchildren) minus the value received back in consideration for that transfer. The donors argued that their gift taxes could not exceed that dollar amount because: (i) the percentage interests that were allocated were consistent with that dollar amount (that is, the valuation discounts assumed by the various parties were accurate); (ii) under settled tax law there is no better indication of value than bargaining between unrelated and legally adverse parties as to the value under that agreement; or (iii) as a matter of Texas state property law, assuming no collusion by the donors and the subject charities, the amount transferred to noncharitable beneficiaries was equal to $6,910,933 and any other amounts that were directly or indirectly transferred to the noncharitable donees was a result of bargaining by donees that had nothing to do with the donor's transfer under Texas property law. Stated differently, the donors should not owe gift taxes because of a bargain purchase their children made with the subject charities in a subsequent transaction.

A majority of the Court held that under Texas state property law, the donors did not transfer an interest in their partnership interest equal to a specific dollar amount to their children and grandchildren, but rather conveyed to their children and grandchildren an undivided percentage interest in their partnership interest that could only be determined by the Court under Texas state property law, because the term "fair market value" was used. The donees, according to the Court, were not in the position to make a good faith determination of what the term fair market value means under the assignment. The Court also held that the donees had underestimated the fair market value of the donor's interest in the partnership. As a consequence, the percentage interests to be received by each donee, pursuant to the donees' mutual agreement, were incorrect. Thus, even though the donors had nothing to do with those negotiations by the donees, the donors' intentions, conveyances, and promises under the assignment agreement were subject to the results of the later determination by the donees of what the term "fair market value" meant under the assignment document.

The Court spent several pages discussing what it thought was the proper allocation of the undivided interests that the donors transferred. The Court's analysis was fairly exhaustive, because as it noted "valuation necessarily involves an approximation." (It is respectfully submitted that the donees in determining their interests in the gift also probably felt that bargaining process "necessarily involves an approximation.") After that exhaustive analysis, the Court split the discount down the middle between the taxpayer's position and the IRS position. One interesting aspect of the Court's valuation analysis is that the Court found that the transferred interests in question were assignee interests. As a result, the Court found that the marketability discount was considerably greater than it would otherwise have approximated, because there were certain voting rights that did not accrue to an assignee interest in comparison to a Class B limited partnership interest. The Court concluded that under the facts of the donor's assignment, a discount approximating 32% would be appropriate (almost exactly halfway between the donor's experts and the IRS experts).

As noted above, the Court then analyzed the assignment document that the donors executed and determined that, under Texas state property law, the donors' intentions, conveyances, and promises should be interpreted as requiring a transfer of undivided interests to their children and grandchildren that had a fair market value of $9,269,089, instead of $6,910,933, at the date of the assignment.

A majority of the Tax Court concluded that the donors were entitled to a charitable deduction equal to $614,743. This amount was approximately 28% more than what the charities actually received ($479,008). The Court reasoned that even though the donors' family was assigned a specific dollar amount, the assignment document for Texas state property law purposes should be interpreted as requiring specific percentages to all of the donees (as determined in a later bargaining process) and, as a consequence, the donors are entitled to a charitable deduction for the fair market value (as determined by the court) of the specific percentage interest (as determined under that bargaining process).

Only two of the judges (Judge Laro and Judge Vasquez) would have followed as least some of the IRS tax common law arguments (i.e., *Proctor* public policy arguments) and would have allowed a deduction only for the amount actually passing to the charity. What is interesting is that those two judges also found that the majority's Texas state law property contractual argument did not have any merit.

Judges Chiechi and Foley also rejected the majority's interpretation of the assignment document under Texas state property law. Those two judges also disagreed with Judges Laro and Vasquez that the application of public policy doctrine, substance over form doctrine, or integration doctrine would apply under the facts of this case. Judges Chiechi and Foley found that the limit of the taxable gift under the donors' assignment agreement under Texas State property law must be limited to $6,910,933 and that a charitable deduction to the donor for Federal gift tax purposes, should be allowed for $2,972,899. Key portions of Judge Foley's analysis (Judge Foley was the trial judge for the McCord case) are reproduced below:

> Undaunted by the facts, well-established legal precedent, and respondent's failure to present sufficient evidence to establish his determinations, the majority allow their olfaction to displace sound legal reasoning and adherence to the rule of law. The gift closed on January 12, 1996, and on that date petitioners transferred to CFT all of petitioners' [donors'] assigned partnership interests exceeding $7,044,933 (i.e., the amount exceeding the $6,910,933 transferred to the sons and the trusts plus the $134,000 transferred to the Symphony).
>
> As the trial judge, I concluded that, on January 12, 1996, petitioners transferred $2,838,899 assignee interest to CFT. On that date, the interest was accepted and received by CFT, and not subject to a condition precedent or subsequent. . . Furthermore, I concluded that respondent fell woefully short of meeting his burden [footnote omitted] regarding the applicability of the substance over form, violation of public policy, and reasonable probability of receipt doctrines.[footnote omitted] Inexplicably, the majority ignore respondent's primary contentions (i.e., that the substance over form and violation of public policy doctrines are applicable) and base their holding on an interpretation of the assignment agreement that respondent [IRS] never raised. . .
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> . . . .
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> Contrary to the valuation clauses in Commissioner v. Procter, supra, and Ward v. Commissioner, supra, which adjusted the amount transferred based upon

a condition subsequent petitioners' valuation clause defined the amount of property transferred. Simply put, petitioners' gift does not fail upon a judicial redetermination of the transferred property's value. Petitioners made a legally enforceable transfer of assignee interests to CFT, with no provision for the gift to revert to petitioners or pass to any other party on the occurrence of adverse tax consequences. CFT merely failed to protect its interest adequately. Procter and Ward are distinguishable. Petitioners' formula clause was not against public policy.

Judge Wiener[124], on behalf of the unanimous Fifth Circuit panel, reversed and rendered against the IRS on appeal of the *McCord* tax court decision. Key parts of Judge Wiener's opinion are as follows:

> With the exception of the ultimate fact question of the taxable and deductible values of the limited partnership interests in MIL that comprise the completed, irrevocable inter vivos donations (the 'gifts') made by the Taxpayers to the exempt and non-exempt donees on January 12, 1996, the discrete facts framing this case are largely stipulated or otherwise undisputed. Having lived in Shreveport, Louisiana, for most of their adult lives, and having accumulated substantial and diversified assets, these octogenarian Taxpayers embarked on a course of comprehensive family wealth preservation and philanthropic support planning, including transfer tax aspects of implementing such a plan. This was done in consultation with Houston-based specialists in that field.
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> . . . .
>
> All gifts were complete on execution of the Assignment Agreement on January 12, 1996. No other agreements – written or oral, express or implied – were found to have existed between the Taxpayers and (1) the Sons, (2) the GST trusts, (3) the Symphony, or (4) CFT, as to what putative <u>percentage</u> interest in MIL belonged to, or might eventually be received by, any of the donees under the dollar-value formula clause. Rather, because the interests donated by the Taxpayers to the GST trusts, the Sons, the Symphony were expressed in <u>dollars</u>, 'fair market value' is defined in the Assignment Agreement in terms of the applicable 'willing-buyer/willing-seller' test specified in the applicable Treasury Regulation.
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> . . . .
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> Neither the Majority Opinion nor any of the four other opinions filed in the Tax Court found evidence of any agreement – not so much as an implicit, 'wink-wink' understanding – between the Taxpayers and any of the donees to the effect that any exempt donee was expected to, or in fact would, accept a percentage interest

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[124] *McCord v. Commissioner*, Fifth Circuit, 03-60700 (August 22, 2006).

in MIL with a value less than the full dollar amount that the Taxpayers had given to such a donee two months earlier.

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1. Commissioner's Theory on Appeal.

At the outset, we reiterate that, although the Commissioner relied on several theories before the Tax Court, including doctrines of form-over-substance, violation-of-public policy, and, possibly, reasonable-probability-of-receipt, he has not advanced any of those theories on appeal. Accordingly, Commissioner has waived them, and has instead – not surprisingly – devoted his efforts on appeal solely to supporting the methodology and holdings of the Majority. . . [Emphasis added.]

. . . .

. . . the Commissioner specifically opposed a discount grounded in Mr. Frazier's contention that the Taxpayers had transferred less than full limited partners interests. The Commissioner does not, however, advance such a contention on appeal; so it too is waived, and we do not address that issue. Our failure to address it should not, however, be viewed as either agreeing or disagreeing with the Majority's determination on this point. Rather, as shall be shown, we have no need to reach it. [Emphasis added.]

. . . .

Contributing to the framework of our review in this section is the sometimes overlooked fact that this family-partnership case is not an estate tax case, but a gift tax case. Thus, the aggressive and sophisticated estate planning embodied here is not typical of the estate plans that have produced the vast majority of post-mortem estate tax valuation cases. Also helping to frame our review is the fact that this is not a run-of-the-mill fair market value gift tax case. Rather, as recognized by the Majority and by Judges Chiechi and Foley in dissent, the feature that most fractionated the Tax Court here is the Taxpayers' use of the dollar-formula, or 'defined value,' clause specified in the Assignment Agreement (the gift instrument, not either the original or the amended partnership agreement nor the Confirmation Agreement) to quantify the gifts to the various donees in dollars rather than in percentages, the latter being more commonly encountered in gifts and bequests that parcel out interests in such assets as corporate stock, partnerships, large tracts of land, and the like.

. . . .

The Majority's key legal error was its confecting sua sponte its own methodology for determining the taxable or deductible values of each donee's gift valuing for tax purposes here. This core flaw in the Majority's inventive methodology was its violation of the long-prohibited practice of relying on post-gift events. Specifically, the Majority used the after-the-fact Confirmation Agreement to mutate the Assignment Agreement's dollar-value gifts into percentage interests in MIL. It is clear beyond cavil that the Majority should have stopped with the Assignment Agreement's plain wording. By not doing so, however, and instead continuing on to the post-gift Confirmation Agreement's intra-donee concurrence on the equivalency of dollars to percentage of interests in MIL, the Majority violated the firmly-established maxim that a gift is valued as of the date that it is complete; the flip side of that maxim is that subsequent occurrences are off limits. [Emphasis added.]

In this respect, we cannot improve on the opening sentence of Judge Foley's dissent:

> **Undaunted by the facts, well-established legal precedent, and respondent's failure to present sufficient evidence to establish his determinations, the majority allow their olfaction to displace sound legal reasoning and adherence to the rule of law.**[30]

Jude Foley's 'facts' are those stipulated and those adduced (especially the experts' testimony) before him as the lone trial judge, including the absence of any probative evidence of collusion, side deals, understandings, expectations, or anything other than arms-length, unconditional completed gifts by the Taxpayers on January 12, 1996, and arm's-length conversions of dollars into percentages by the donees alone in March. Judge Foley's 'well-established legal precedent' includes, without limitation, constant jurisprudence that has established the immutable rule that, for inter vivos gifts and post-mortem bequests or inheritances alike, fair market value is determined, snapshot-like, on the day that the donor completes that gift (or the date of death or alternative valuation date in the case of a testamentary or intestate transfer).

. . . .

We obviously agree with Judge Foley's unchallenged baselines that the gift was complete on January 12, 1996, and that the courts and the parties alike are governed by § 2512(a). We thus agree as well that the Majority reversibly erred when, 'in determining the charitable deduction, the majority rely on the [C]onfirmation [A]greement without regard to the fact that [the Taxpayers] were not parties to this agreement, and that this agreement was executed by the donees more than 2 months after the transfer.' In taking issue with the Majority on this point, Judge Foley cogently points out that '[t]he Majority appear to assert, without any authority, that [the Taxpayers'] charitable deduction cannot be determined unless the gifted interest is expressed in terms of a percentage or a fractional share.' As implied, the Majority created a valuation methodology out of the whole cloth. We too are convinced that '[r]egardless of how the transferred interest was described, it had an ascertainable value' on the date of the gift. That

> value cannot, of course, be varied by the subsequent acts of the donees in executing the Confirmation Agreement. Consequently, the values ascribed by the Majority, being derived from its use of its own imaginative but flawed methodology, may not be used in any way in the calculation of the Taxpayers' gift tax liability.
>
> . . . .
>
> In the end, whether the controlling values of the donated interests in MIL on the date of the gifts are those set forth in the Assignment Agreement based on Mr. Frazier's appraisal of $89,505 per one per cent or those reached by the Majority before it invoked the Confirmation Agreement (or even those reached by the Commissioner in the deficiency notices or those reached by the Commissioner's expert witness for that matter), <u>have no practical effect on the amount of gift taxes owed here</u>. . . In sum, we hold that the Majority erred as a matter of law. [Emphasis added.]
>
> Footnotes omitted.

* * *

What conclusions, at this time, can be drawn from the *Christiansen* case and the *McCord* case with respect to defined value formula clauses?

1. If the assignment document provides that the donee is an assignee, and other surrounding facts are consistent with the assignment document, the Tax Court will recognize that what a hypothetical willing buyer will pay for the transferred interest is only based on assignee rights. That recognition by the Court may have a profound effect on the amount of the marketability discount that is allowed.

2. It appears that the current Tax Court will find a defined value formula clause is not against public policy when it involves a charity and will even allow a charitable deduction that may be substantially above what the charity actually receives (if the charity later sells its interest). In *McCord*, a majority of the Tax Court allowed the donors a charitable deduction that was approximately 28% above what the charities ultimately received. In *McCord*, Judges Foley and Chiechi also allowed a charitable deduction that was much greater than what the majority would have allowed. Stated differently, in *McCord* the current Tax Court seemed reluctant to allow common law doctrines to negate the state law property result of a defined value formula clause. (There was, obviously, vigorous disagreement as to what the assignment document mandated under Texas state property law.) It would also appear that the Fifth Circuit would not be sympathetic to the "common law" doctrines being applied to deny the taxpayer the ability to use dollar denominated defined value clauses, as Judge Weiner found that it was not "surprising" that the IRS did not wish to appeal based on that argument. In *Christiansen*, the full Tax Court rejected the IRS's public policy arguments.

3. These cases strongly suggests that the Tax Court would be prepared to allow defined value formula clauses, with a gift over to entities or trusts other than charities, which incorporated the phrase “as finally determined for federal gift tax purposes.” This seems especially so where the value as finally determined will be divided among the donees and be retained by them in the proportions provided by the formula, with no “buyout” by one donee of another prior to final valuation. For instance, defined value formula clauses incorporating that phrase in which the excess value over a stated dollar amount goes to a grantor retained annuity trust, or to a marital deduction trust, appear likely to have the support of the Tax Court.

4. The addition of the phrase “as finally determined for federal gift tax purposes” was obviously found to be an unnecessary addition by the Fifth Circuit. There may be key reasons why a donor, in his assignment document, would not wish to add that phrase. One reason is a practical one: over ten years is too long to wait to find out the result of whom own what in assignment of a closely enterprise (the facts of *McCord*). Another reason may be a tactical one: an arms-length transaction is the best evidence of value. Thus, by the time the IRS audited the *McCord* matter, the taxpayers had three arguments: (i) the evidence supported the discounts; (ii) as a matter of state property law, which determines the nature of the property transferred for gift tax purposes, the taxable portion of the gift assignment was defined to be $6.9 million; and (iii) a subsequent arms-length transaction indicated that the taxable gift was $6.9 million. The donors (Mr. and Mrs. McCord) may have wanted the sons and the independent charity to bargain (in a binding fashion) as to what they received pursuant to the assignment document. The donors may have wanted them to engage in that bargaining and not to passively wait for a final determination by third parties as to what the assignment document meant. There may have been other reasons.

5. It should be noted that in *King v. United States*, 545 F.2d 700 (10th Cir. 1976), the Tenth Circuit also found that *Proctor* did not apply where the transaction did not contain “contingencies which, upon fruition, alter, change or destroy the nature of the transaction.” While the facts are different in *Christiansen* and *McCord*, the value of the transfer to the McCord family was unaffected by any determination by any court or by the IRS.

C. Defined Value Clauses Involving a Residual Gift to a Marital Deduction Trust.

Assume a client does not have charitable intent and wishes to transfer a “hard-to-value” asset. Consider the following example:

Example 9: Formula Marital Deduction Clause

Marvin and Mary Madeinheaven are very happily married. Marvin is considering making a significant transfer of his partnership units to trusts for the benefit of his children and grandchildren. Marvin is worried that reasonable people (and unreasonable people) could differ as to the value of the proposed transfer of partnership interests. Assume that Marvin owns a limited partnership interest that according to an independent appraisal has a fair market value of $5,000,000. The assignment document could provide the following formula: "that undivided part of my limited partnership interest, as finally determined for federal gift tax purposes, that is equal to $4.9 million passes to the ABC Trust for the benefit of my children with the remaining undivided part of my partnership interest passing to the Qualifying Marital Deduction Trust for the benefit of Mary." ABC Trust is adequately funded and issues a $4,900,000 note to Marvin. Will the IRS find the assignment clause is against public policy?

If upon examination, it is determined that the discount associated with the independent appraisal was excessive, that undivided interest that would otherwise have passed to the ABC Trust will instead pass to the marital deduction trust for the benefit of Mary. The IRS has approved the applicability of formula marital clauses since 1964.[125] Thus, the stated goal of Marvin avoiding a gift tax surprise should be achieved using a formula marital deduction clause.

D. Defined Value Clauses Involving Gifts to a Grantor Trust and a GRAT.

There has been a debate from time to time between academics and commentators as to which form of making transfers is superior, a transfer to a grantor retained annuity trust or a transfer to an intentionally defective grantor trust pursuant to an installment sale. While much of the debate sometimes sounds like a beer commercial as to whether the commentator's favorite method of transfer is less filling or tastes great, there are some advantages to each technique. Among the advantages of a GRAT is the built-in revaluation clause required by the Treasury Regulations under Section 2702 (see the discussion above). The disadvantage of the GRAT in comparison to a sale for a note to an intentionally defective grantor trust is that the GRAT will not work, if the client dies before the end of the term of the GRAT. If cascading GRATs are used to ameliorate against that surprise, interest rates may increase in the future which makes the return on future GRATs problematic. Is there a way to combine the best features of both the GRAT and the sale to the intentionally defective trust? Consider the following example:

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[125] Rev. Proc. 64-19, 1964-1CB 682.

Example 10: Formula Defined Value Gift to Trusts and a GRAT

Sam Single, who is the cousin of Marvin Madeinheaven, owns a limited partnership interest that according to an independent appraisal has a fair market value of $5,000,000. Sam transfers his partnership interest to a trust for the benefit of his children and a grantor retained annuity trust ("GRAT"), which is nearly "zeroed out," pursuant to a formula defined value assignment. The assignment document provides the following formula: "that undivided part of my limited partnership, as finally determined for federal gift tax purposes, that is equal to $4,900,000 passes to the ABC Trust for the benefit of my children with the remaining undivided part of my partnership interest passing to the XYZ GRAT." ABC Trust is adequately funded and issues a $4,900,000 note to Sam. Under the terms of the GRAT, Sam retains an annuity that is defined as a percentage of the initial value transferred to the GRAT and that annuity will be worth $99,000, if the IRS finally accepts Sam's expert valuation of the partnership interest. Assume the IRS contends that the partnership interest has a value of $7,000,000. If Sam agrees to accept the IRS valuation, what is the size of the additional gift that has Sam made?

According to the Regulations under Section 2702, the grantor's retained annuity rights may be defined in the trust instrument as a percentage "of the initial fair market value of the property contributed by the grantor to the trust, *as finally determined for federal tax purposes*." For example, the trust agreement might provide for annual payments of 55% per year for 2 years, where the 55% annual payment amount is derived from the initial value. This type of language operates as a built-in revaluation clause, mitigating the risk of a surprise gift on revaluation of the transferred property by the Service. This feature can be especially beneficial with hard-to-value assets such as Sam's partnership interest.

Under Example 10, on audit the Service claims the value of the limited partnership interest is $7,000,000. As a result, under the defined value formula, the value given to the GRAT becomes $2,100,000 instead of $100,000. If Sam accepts the results of the audit, the terms of the GRAT provide for an increase in the amount payable to Sam in the form of the annuity without much increase in taxable gift. The GRAT trustee simply pays the grantor an additional annuity amount (for a total of $2,079,000 in present value terms), and the taxable gift is increased by only $20,000. Therefore, by using GRATs in conjunction with defined value formula clauses, owners of hard-to-value assets may be able to make gifts with little risk of a gift tax surprise. Of course, an audit by the Service could result in a greater retained annuity (which would later be taxed in the grantor's estate). Because under the facts of Example 10, the GRAT will in fact receive the additional partnership interest comprising the $2,000,000 of additional value assessed by the Service, the facts are distinguishable from those of the *McCord* case.

Technical Advice Memorandum 86-11-004[126] illustrates the effect of a defined value clause when the excess value above the defined value accrues to the donor, instead of to a spouse or a charity. Under the facts in Technical Advice Memorandum 86-11-004, a man ("the donor") transferred a sole proprietorship to a partnership in exchange for a 99.9982% interest in the partnership. The other .0018% interest in the partnership was owned by trusts for the donor's

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[126] Tech. Adv. Mem. 86-11-004 (Nov. 15, 1985).

children. The donor transferred a portion of his partnership interest equal to a stated dollar amount to the trusts for his children each year from 1971 through 1982. The donor and trustees agreed on the capital ownership attributable to the gifts, and partnership income was allocated accordingly. The Service concluded that the interests transferred by the donor were those having a fractional equivalent to the stated fair market values of the gifts, based upon the fair market value of the partnership at the time of each gift determined according to recognized valuation principles. The donor's interest extended to the rest of the partnership because he could have asserted ownership to the extent that the gifted fractional interests reflected in the partnership agreement and income tax returns exceeded the fractional interests actually conveyed in the gift assignments. If, however, he were ever barred from enforcing his ownership right to the excess interest, he would be treated as having made an additional gift to the trusts. To the extent that income was allocated to the donees in an amount exceeding the partnership interest to which they were actually entitled, the donor made gift assignments of the income, with the implicit right to revoke the assignments by asserting his right to the excess partnership interest. Therefore, according to the Technical Advice Memorandum the gifts of income were to be regarded as complete when each distribution of excess income became irrevocable as a result of the lapse of the statute of limitations.

Consider another example of using both a GRAT and a sale to an intentionally defective grantor trust:

Example 11: Transfer to a GRAT Followed By a Formula Defined Value Transfer of the Retained Annuity in the GRAT to an Intentionally Defective Grantor Trust

Carl Careful owns a limited partnership interest that according to an independent appraisal has a fair market value of $5,000,000. Carl transfers his partnership interest to a grantor retained annuity trust (GRAT), which is nearly "zeroed out". Carl then transfers a substantial portion of his retained annuity amount from the GRAT to an intentionally defective grantor trust in exchange for a note that is equal to the value of that retained annuity amount under the following formula: "That undivided part of my retained annuity in the GRAT, as finally determined for federal gift tax purposes, that is equal to $4.9 million passes to the intentionally defective ABC Trust for the benefit of my children and grandchildren." If the IRS finds that the limited partnership interest discount assumed in the gift to the GRAT is excessive, is there a gift tax surprise?

Assume that the GRAT is a short-term GRAT (*e.g.*, two years). As in the prior Example 10, if the assumed discount by the independent appraisal is excessive, there will be additional gift tax owed, but the additional gift tax should be relatively small. The annuity amount could be satisfied in kind (*e.g.*, partnership units). Those partnership units used to "pay" the annuity receivable, after the above assignment, will be paid to the ABC Trust rather than to the grantor. If there is significant growth in the partnership assets during the term of the GRAT, that growth will largely accrue to the benefit of the remainder beneficiary of the GRAT (which would be a trust different than the ABC Trust) and will not accrue to the grantor or the grantor's assignee, the ABC Trust.

It should be emphasized that the GRAT will not be commuted. It will stay in existence. I.R.C. Section 2702 and the Regulations under that Section provide that a qualified interest is an interest that consists of the *right to receive a fixed amount* (*i.e.*, the statute and the regulations require only that a receivable exist, the terms of which the statute and regulations then define). It is clear under I.R.C. Section 2702 and the underlying Regulations that the grantor must have a receivable. At a later time, a grantor beneficiary of a GRAT could elect to transfer his or her receivable to another trust.

Assuming that both the GRAT and the ABC Trust are grantor trusts for income tax purposes, no income tax consequences should accrue pursuant to the transfer of the annuity receivable, nor with respect to the payment of the annuity receivable to the ABC Trust.

Assuming the grantor lives beyond the two-year term of the original GRAT, many of the disadvantages of using GRATs and cascading GRATs are avoided by this technique: (i) the relatively modest interest rates that exist today can be "locked in"; and (ii) if the grantor should die early (but beyond the initial GRAT period), there is no Section 2039 or Section 2036 inclusion that would occur under the cascading GRAT technique. Finally, the inherent advantage of the built-in revaluation clause with GRATs can be utilized with this technique, without any risk of the original assignment being categorized as against public policy.

E. Achieving Finality.

In Examples 7 and 8, the transferees must determine the fair market value of the subject property. Once the transferees agree to that value, then the percentage interest each transferee is to receive is only then finally determined. Assuming a good faith negotiation, final determination should determine the transfer tax result because, as discussed above, that is the best evidence of value and because of state property law considerations.

In Examples 9, 10 and 11, the final determination of ownership percentages is not completed until the IRS is bound by the determination. Thus, Examples 9, 10 and 11 are not effective unless a gift tax return is filed that satisfies the adequate disclosure standard. Unless the statute of limitations on asserting a gift tax deficiency expires before the expiration of the donor's right to recover an alleged excess portion of his or her gift, gift tax consequences are postponed and not avoided. On audit of the estate tax return, the IRS may assert that a gift was made when the donor's right to recover the excess gift expired. Alternatively, the IRS may argue that the estate still owns the excess amount.

Generally, Examples 9, 10 and 11 language should be used except where the parties are independent and can conduct an arms length negotiation and a faster final determination is desired (*e.g.*, when an independent charity is one of the transferees).

F. Administrative Issues.

Defined value clauses cause practical problems as to the administration of the transferred property before a final determination has been made as to the portion of the property that has actually been transferred. For instance, issues may arise as to the distribution of income earned on the transferred property, the exercise of ownership rights and the reporting of the income for income tax purposes.

Generally, these issues could be avoided by using a trustee as the transferee of the legal title to the property. The defined value clause could be a clause internal to the trust document creating the trust and could direct that the trustee is to allocate the interest in the hard to value asset between two trusts in which the trustee is the trustee. One trust could be held for the benefit of the client's family and the other trust is held in a manner that is not subject to gift tax. The trustee, pursuant to that internal defined value clause, would take a position with respect to the allocation. If the Service successfully completes a valuation challenge, the document would require the trustee to change its position to conform to the finally determined value.

In a similar fashion perhaps an escrow agent could also be utilized.

In order to avoid certain income tax reporting uncertainties it is recommended that all of the "transferee" trusts be considered potentially defective grantor trust.

VI. THE BEST GST PLANNING IDEA -- THE POSSIBLE USE OF A LEVERAGED GRAT

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "the remainderman of a GRAT cannot be a generation-skipping trust" or "you can use the leverage of a GRAT for gift tax purposes, but you cannot use that leverage for generation-skipping tax purposes." This "conventional wisdom," under the circumstances described below, may be incorrect.

As noted above,[127] a GRAT can be structured to have almost no value attributable to the remainderman, valued as of the creation of the trust. If the asset that has been contributed to GRAT outperforms the I.R.C. Section 7520 interest rate, that outperformance results in a gift tax free gift to the remainderman. Thus, the gift tax exemption can be substantially leveraged using the GRAT technique. It is generally thought that the generation-skipping tax exemption of the grantor may not be leveraged in a similar fashion. This is because of the estate tax inclusion period ("ETIP") rule found in I.R.C. Section 2642(f)(3), which provides as follows:

> Any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross

[127] *See* Article III B of this paper.

estate of the transferor under Chapter 11 if he died. The transferor's exemption for generation-skipping tax purposes cannot be allocated until after the ETIP period.

Stated differently whether a generation-skipping transfer has occurred cannot be determined until after it is determined whether the property will be included in the grantor's estate. If the period passes, and it is clear the property will not be included in the grantor's estate, then and only then, may the grantor's GST exemption be allocated.

B. Is There a 5% Exception?

Treas. Reg. Section 26.2632-1(c)(2) contains the regulatory definition of ETIP and then provides an exception, as follows:

> For purposes of paragraph (c)(2) of this section, the value of transferred property is not considered as being subject to inclusion in the gross estate of the transferor or the spouse of the transferor if the possibility that the property will be included is to remote as to be negligible. A possibility is so remote as to be negligible if it can be ascertained by actuarial standards that there is less than a 5 percent probability that the property will be included in the gross estate.

For a short term GRAT (e.g., two years), except for a grantor who is above 67 years of age, the 5% exception noted above would apply. At least one way of reading the exception for a short term GRAT is that the ETIP rules will not apply to an allocation of GST exemption, because there is less than a 5% chance that the grantor will die during the GRAT term. Thus, can a grantor age 67 or younger create a GRAT in which the remainderman is GST trust, if the exception applies, make an allocation of the GST exemption that is equal to the amount of the taxable gift of the GRAT remainder, and produce a zero inclusion ratio for generation-skipping tax purposes? There is not any definitive authority on this subject, but most commentators believe the IRS will resist this result.[128] Ed Manigault and Mil Hatcher discuss this possibility and note the following problem:[129]

> Although it appears that some GRATs should fall outside of the ETIP rule—depending on the age of the grantor and the term of the annuity period—it is not clear *how much* GST exemption would need to be allocated to the GRAT to provide for a zero inclusion ratio. If the allocable amount necessary to produce a zero inclusion ratio was tied to the taxable *gift* amount, then using a nearly zeroed-out GRAT would seem to permit the allocation of an amount only equal to the minimal taxable gift.

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[128] *See* Private Letter 200107015: Covey and Hastings, Recent Developments 2007, 42nd Annual Heckerling Institute of Estate Planning, University of Miami School of Law (page 295). *See* Manigault and Hatcher, GRATs and GST Planning – Potential Pitfalls and Possible Planning Opportunity, 20 Prob. & Prob. 28 (2006).

[129] *See* Manigault and Hatcher, GRATs and GST Planning – Potential Pitfalls and Possible Planning Opportunity, 20 Prob. & Prob. 28, 32 (2006).

> The provisions for allocation of GST exemption, however, do not clearly define the allocation amount based on the amount of the taxable gift. Instead, the regulations arguably point to the *amount of the property transferred*, not to the amount of the taxable gift. See Treas. Reg. § 26.2632-1(b)(1)(i), (2)(i) and (ii), and (4). This approach is consistent with the determination of the applicable fraction (for purposes of calculating the inclusion ratio), which has as its denominator the value of the property transferred to the trust. See Treas. Reg. § 26.2642-1(c)(1). It might then be the position of the IRS that, if the above interpretation of the ETIP exception is accurate, a grantor must allocate GST exemption equal to the amount transferred to the GRAT, not the minimal taxable gift created as a result of the funding of the GRAT.

The argument that the authors make is that the amount transferred for generation-skipping tax purposes should be offset by the consideration received by the grantor. In the case of the GRAT, the consideration received is the present value of the amount of the annuities that the grantor is to receive. In the case of a transfer to a generation-skipping transfer trust, pursuant to a bargain sale, it is commonly accepted that the amount of the GST exemption that needs to be allocated is the amount of the transfer after subtracting the value of the consideration received. The natural question is, why should the result be different if the consideration received is an annuity (from a GRAT) as opposed to a seller financed note from a non-GRAT trust? To take the analogy a little bit further, assume that a grandparent makes a bargain sale to an "old and cold" adequately funded trust (presumably a defective grantor trust) in which the consideration for the "sale" part of the bargain sale is not a seller financed note, but a private annuity. One would assume that the selling grandparent should be able to insulate the trust from GST taxes by allocating her GST exemption in an amount equal to the "bargain" gift component (this assumes the annuity will be recognized on its own terms and not as a disguised retained income interest that is subject to I.R.C. Section 2036). Thus, the question is why should a transaction involving a bargain sale private annuity be treated differently than a transaction involving an annuity from a GRAT, as far as determining the amount of the property transferred for GST tax exemption allocation purposes?

C. Is There a Technique That Uses the Leverage of the GRAT to Indirectly Profit a GST Trust in Which a Skip Person is Not the Remainderman of the GRAT at the Beginning or End of the ETIP (and Does the Technique Work)?

Another interesting inquiry is whether a grandparent who creates a GRAT be deemed to have made a transfer that is subject to generation-skipping taxes, if the remainderman at the beginning and at the end of the ETIP period of the GRAT is not a skip person? The answer would seem to be no.

However, does that answer change if the original remainderman, who is not a skip person, during the ETIP period transfers, for full and adequate consideration, her remainder interest to a generation-skipping trust that the remainderman has created and at a later time buys back that remainder interest (presumably before the ETIP period ends)? In other words, has the grandparent who created the GRAT naming a non-skip person as the remainderman beneficiary, and in fact, after the ETIP period ends, is the remainderman, made a generation-skipping transfer? If the original remainderman and the remainderman at the end of the ETIP period is a non-skip person, but during the ETIP period there is a non-taxable transfer by the remainderman to and from a generation-skipping trust, has a generation-skipping transfer been made? Consider the following example:

Example 12: Granny Selfmade Creates a GRAT
That, Because of the Non-Skip Remainderman's
Actions, Indirectly Benefits a Generation-Skipping Trust

Granny Selfmade creates a GRAT with a retained annuity amount that results in a very low gift for gift tax purposes to the remainderman, her daughter, Betsy Bossdaughter. The terms of the trust agreement creating the GRAT provide that if Granny survives the two year term of the GRAT, but Betsy does not survive the term of the GRAT, the remaining proceeds of the GRAT, if any, are to pass to Betsy's two children, Bob and Brenda Bossdaughter.

Betsy is grateful for the creation of the GRAT by her mother, but she feels that her mother has already done enough estate planning for her benefit. Betsy is interested in transferring wealth to her children. Thus, Betsy makes an independent gift to a generation-skipping trust in which the primary beneficiaries are her children, Bob and Brenda. The generation-skipping trust is an intentionally defective grantor trust with Betsy being the grantor. In the early days of the GRAT, while the actuarial value of the remainder interest is very low, Betsy, for full and adequate consideration, sells her remainder interest to the GST trust she created.

The GRAT is very successful. Before the end of the two year term (or ETIP period) Betsy decides to buy back the remainder interest for full and adequate consideration (perhaps with a seller financed note). Thus, on termination of the GRAT, Betsy is once again, the only remainderman beneficiary.

Granny asked her tax advisor, Pam Planner, whether she owes any generation-skipping transfer taxes on termination of the GRAT, because of Betsy's actions.

Before Pam, or anyone, can answer this question, certain key concepts must be understood in addition to the applicability of the ETIP rules. What is a "transfer" for purposes of Chapter 13? In certain contexts "transfer" is shorthand for "generation-skipping transfer", which is a defined term. The generation-skipping transfer is one of the three defined GST taxable events: taxable termination, taxable distribution, or direct skip. However, in certain other contexts of Chapter 13, "transfer" refers to the original transfer of property establishing a trust. The transferor, for generation-skipping tax purposes is "the individual with respect to whom property is recently subject to federal, estate or gift tax." See Treas. Reg. Section 26.2652-1(a)(2).

Another area where it is important, under Chapter 13, to determine whether a generation-skipping tax transfer has occurred is determining the inclusion ratio when additional transfers are made to a trust. Any addition required a recompilation of the trust's applicable fraction and, thus, its inclusion ratio and requires allocation of GST exemption to preserve a zero inclusion ratio. Treas. Reg. Section 26.2642-4(a)(1) seems to suggest that no addition to a trust can occur without a gift or an estate taxable transfer. A transfer for full and adequate consideration is not such a transfer and should not be an addition.

Under these definitions, Pam Planner advises Granny that there appears to be no transfer that would incur GST tax or require an allocation of GST exemption to avoid tax. However, consideration must be given to Private Letter Ruling 200107015. This ruling involved a zeroed-out charitable lead annuity trust ("CLAT") and a proposed gift assignment by a child who was a one-sixth vested remainderman. The gift would be to a trust, which is a generation-skipping trust with respect to the grantor of the CLAT. The purpose of the ruling was to determine whether the child would be treated as a transferor for GST purposes instead of as the grantor of the CLAT. The IRS refused to grant the request of a favorable ruling:

> Section 2642(e) provides a special ruling for determining the inclusion ratio for any 'charitable lead annuity trust.' Under §2642(e) and the applicable regulations, in the case of a charitable lead annuity trust the applicable fraction (1) the numerator of which is the adjusted generation-skipping transfer tax exemption ('adjusted GST exemption'), and (2) the denominator of which is the value of all property in the trust immediately after the termination of the charitable lead annuity. The adjusted GST exemption is the amount of GST exemption allocated to the trust increased by an amount equal to the interest that would accrue if an amount equal to the allocated GST exemption were invested at the rate used to determine the amount of the estate or gift tax charitable deduction, compounded annually, for the actual period of the charitable lead annuity. The amount of GST exemption allocated to a charitable lead annuity trust is not reduced even thought it is ultimately determined that the allocation of a lesser of GST exemption would have resulted in an inclusion ratio of zero. Under §2642(e)(3), a 'charitable lead annuity trust' is defined as any trust providing an interest in the form of a guaranteed annuity for which the transferor is allowed a charitable deduction for Federal estate or gift tax purposes under §§2055 and 2522.
>
> In the absence of §2642(e), little or no GST tax would ever be imposed with respect to certain charitable lead annuity trusts, even if no GST exemption is allocated to the trust. That is, if the value of the assets transferred to the trust was equal to the estate tax charitable deduction allowed with respect to the transfer, then under the general rules of §2642, the inclusion ratio with respect to the trust would be zero and the trust would be exempt from GST tax. Even if the charitable deduction did not equal the value of the transferred assets, an allocation of only a small amount of GST exemption would have resulted in no GST tax. Congress was concerned that allowing the present value of the charitable interest to reduce the denominator of the applicable fraction permitted the leveraging of the GST tax exemption. If the trust assets sufficiently outperform the rate of return assumed in computing the present value of the charitable interest, the amount passing to noncharitable persons can exceed the amount which would have passed to them had there been no charitable interest in the trust. S. Rep. No. 445, 100th Cong., 2d Sess. 368 (1988).
>
> . . .

> We also note that under the facts presented in the ruling request, the form of the transaction might be disregarded and the series of transactions viewed as the designation by the Trustee of Child A's children as remainder beneficiaries. Under this analysis, Decedent would be treated as the transferor of the entire Trust estate for GST tax purposes. See *Estate of Bies v. Commissioner*, T.C. Memo. 2000-338; *Estate of Cidulka v. Commissioner*, T.C. Memo. 1996-149; *Griffin v. United States*, 42 F. Supp. 2d 700 (W.D. Tex. 1998).

The ruling's basic holding can be viewed as uniquely applicable to the charitable lead annuity trust. However, it is clear that the IRS will look for other opportunities to apply equitable doctrines in similar contexts. Stated differently, the ruling's reasoning could apply just as easily to a GRAT, if the reader substituted the phrase "ETIP rules" for "I.R.C. Section 2642(e)." Using the same logic, the Service could find that a gift of a GRAT remainderman is avoidance of the Congressional intent in enacting the ETIP rules. However, would the equitable doctrines inherent in the ruling apply to a sale by Betsy in above Example 12? It would appear that the answer should be no.

In using a sale for full and adequate consideration, the issue is not whether Granny or Betsy is the transferor of the property that moves from the GRAT to the dynasty trust. The issue is whether there is an addition to the dynasty trust for GST purposes. There should not be an addition to the dynasty trust for GST purposes when Betsy transfers the remainder interest to the GST trust for full and adequate consideration and when Betsy buys the remainder interest back for full and adequate consideration.

If Granny is only 67 years of age or less, Granny might wish to allocate an amount of GST exemption to her transfer to the GRAT that is equal to the gift passing to the remaindermen (whoever they may be). This would provide a back-up defense against even a broad substance over form/step transaction equitable argument that the IRS could make with respect to this transaction. It will be a difficult hurdle for the IRS when, in addition to the above analysis, a GST exemption has been effectively allocated in a case where the ETIP rules may not apply because of the 5% exception that may apply at Granny's age (assuming Granny allocates an amount of GST exemption equal to the gift). Another hurdle for the IRS is that for property law purposes and gift tax purposes, Granny's only transferee is a non-skip person (Betsy Bossdaughter). It would seem that the IRS, in order to be successful, would have to argue that a generation-skipping tax transfer occurred by Granny when Betsy sold for full consideration the remainder interest to the generation-skipping trust she created, even though you could not determine whether a generation-skipping transfer has occurred until after it was determined if Granny Selfmade survived the annuity term (and at that point, the only beneficiary of the GRAT was a non-skip person). The cumulative hurdle of those positions may be very difficult for the IRS to surmount.

D. The Creation of a GRAT For Full and Adequate Consideration.

1. The technique.

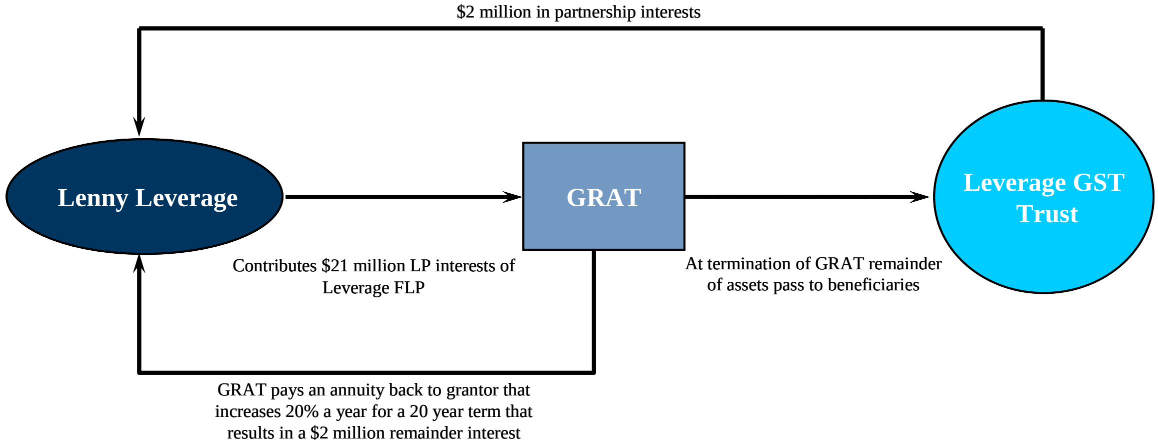
Consider a GRAT that is created with a substantial remainder interest, however, because of a purchase of a remainder interest of the GRAT, there is not a gift. That is, instead of making a gift of the remainder interest, what if the grantor of a GRAT sold it for full and adequate consideration to a pre-existing trust? IRC Section 2036 inclusion does not apply if the grantor dies before the GRAT term ends, and as a consequence, the ETIP limitation may also not apply and the creation of the GRAT may not constitute a transfer to the GST trust. Consider the following example:[130]

Example 13: Lenny Leverage Enters Into a GRAT
With the Remainderman Being a Generation-Skipping
Transfer Trust With the Generation-Skipping Transfer Trust
Purchasing the Remainder Interest For Full Consideration

Several years ago, Lenny Leverage created a generation-skipping transfer trust that is also a grantor trust. The GST trust and Lenny contributed certain assets to a family limited partnership. Lenny's interest in the partnership, after considering valuation discounts, is worth $21 million and the GST trust's interest in the partnership is worth $2,000,000. The GST trust transfers that $2,000,000 partnership interest to Lenny Leverage in full consideration for Lenny Leverage contributing his $21 million interest in a family limited partnership to a GRAT that is designed with a defined value formula annuity which increases 20% a year and under the formula produces a remainder value of $2 million. The liquidation value of the partnership interest that is transferred to the GRAT is $30 million and the appraised fair market value of the transferred partnership interest is $21 million (30% discount). The partnership, at that time, has 15 years to operate before it terminates. Lenny has $1,500,000 outside the partnership. Lenny is 50 years old.

[130] There are other alternative forms of designing a GRAT that is formed for adequate and full consideration. In order to avoid estate tax inclusion of the value of the remaining annuity payments and future estate income taxes, if the grantor does not live past the annuity term, the GRAT annuity payments (which will have to be higher to provide full consideration) could be designed to terminate at the shorter of the grantor's life or the stated term. The GRAT could be designed to be a joint contribution GRAT. In that circumstance, care should be taken to make sure the same assets (e.g., partnership units of the same partnership) are being contributed by the grantor and the GST trust to the GRAT.

The technique is illustrated below:



It is crucial to avoid valuation issues with this technique. The purchase price for the remainder interest must be consistent with the valuation assumptions of the GRAT. Thus, using "apples to apples", such as partnership units in the same partnership, will facilitate adequate and full consideration being paid for the remainder interest in the GRAT.

Please note the table below, which delineates the amount that is projected to be transferred to Lenny's children, grandchildren and great grandchildren pursuant to this technique in comparison to not doing any further planning with respect to the partnership. The table assumes Lenny's death at the end of year 20, Lenny consumes $100,000 a year with a 3% inflation rate, an 8% pre-tax rate of return with 2% being taxed at ordinary income rates (35%) and 6% at capital gains rates (15%, with a 30% turnover). Assume that the partnership, at the time of the creation of the purchase GRAT, has only 15 years remaining and that the valuation discount is 30%. *See* Schedule 11a attached to this paper.

Technique	Leverage Children	Leverage GST Trust	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Total
No Further Planning; Bequeaths Estate To Family	$55,282,583	$13,317,021	$2,687,037	$3,022,654	$20,916,430	$19,680,241	$45,231,204	$160,137,171
Hypothetical Integrated Income and Estate Tax Plan With a Partnership and GRAT; Bequeaths Estate To Family	$9,687,257	$98,772,116	$2,687,037	$3,022,654	$20,778,989	$17,263,179	$7,925,938	$160,137,171

The results are obviously very significant. Will this work? An argument can certainly be made that the creation of the purchase GRAT is not subject to the ETIP rules and the creation of the GRAT does not constitute a transfer to the GST trust. If Lenny died during the 20 year term of the GRAT, the GRAT property will not be includible in his gross estate.[131] Only the remaining actuarial value of the unpaid annuity amounts of the GRAT would be included under Section 2033.

What would be the results, if the GRAT was for the shorter of 20 years or Lenny's death? The annuity amounts would be higher. The technique would have income tax and estate tax advantages if Lenny died prior to his 20th birthday. See the results below:

Technique	Leverage Children	Leverage GST Trust	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Total
No Further Planning; Bequeaths Estate To Family	$55,282,583	$13,317,021	$2,687,037	$3,022,654	$20,916,430	$19,680,241	$45,231,204	$160,137,171
Hypothetical Integrated Income and Estate Tax Plan With a Partnership and GRAT; Bequeaths Estate To Family	$19,236,810	$81,703,110	$2,687,037	$3,022,654	$20,485,173	$17,263,179	$15,739,208	$160,137,171

There could be abusive situations where the remainder interest is very small and the logic of the *Wheeler, D'Ambrosio* and *Magnin* cases would not be applied. However, under the facts assumed under this case, the remainder interest is significant and would seem to be analogous to the remainderman values considered in the above Circuit Court cases.

2. Need for a transfer before GST tax can apply.

Possible further support of the argument that a GST tax under the facts of Example 12 or 13 cannot apply when there has not been a transfer for estate and gift tax purposes is the proposition that an imposition of a generation-skipping transfer tax under those circumstances would constitute a direct tax on the property contributed to the trust rather than an indirect (excise) tax on a transfer. Before an excise tax (known as the generation-skipping tax) on a transfer can occur, there must be a transfer. There does appear to be a transfer under the above assumed facts. See the discussion above under Examples 12 and 13.

The generation-skipping tax valuation must be based on the value of that interest when transferred from one person to another, not the value when held by the transferor, because of the limit in the Constitution on the federal government's ability to tax. The Constitution provides that "[n]o Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or

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[131] *See Wheeler v. United States*, 116 F.3d 749 (5th cir. 1997); *Estate of D'Ambrosio v. Comm'r*, 101 F.3d 309 (3d Cir. 1996); 184 F.3d 1074 (9th Cir. 1999); *Estate of Magnin v. Comm'r*, 183 F.3d 1074 (9th Cir. 1999); *contra, Gradow v. United States*, 11 Cl. Ct. 808 (1987), *aff'd*, 897 F.2d 516 (Fed. Cir. 1990).

Enumeration herein before directed to be taken."[132] In plain terms, therefore, all *direct* taxes are unconstitutional unless levied across the country in proportion to the states' populations. This clear constitutional prohibition against direct taxes raises two questions: (i) what is meant by a direct tax; and (ii) under what circumstances will a gift, estate, or generation-skipping tax not be considered a direct tax?

a. What constitutes a direct tax?

The definition of direct taxes is found in *Pollock v. Farmers' Loan & Trust Co.*[133] The issue before the Supreme Court in *Pollock* was the constitutionality of a federal income tax. The taxpayer argued that a tax on the income from property is the same thing as a direct tax on the property itself.[134] In agreement, the Supreme Court held clearly and conclusively as follows:

> *First.* We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes.
>
> *Second.* We are of opinion that taxes on personal property, or on the income of personal property, are likewise direct taxes.[135]

The Court's lengthy analysis rests heavily on the substance-over-form rationale advanced by the taxpayer that a tax on the income from property simply cannot be distinguished from a tax on the property itself.[136] After *Pollock*, therefore, there could be no federal income tax without an amendment to the Constitution, and the Supreme Court's decision in *Pollock* in fact led to the Sixteenth Amendment.

It is quite clear since Pollock that a tax on the value of either real or personal property is a direct tax. Further, a tax merely on the income from either type of property is a direct tax, but one that is permitted by the Sixteenth Amendment. *Therefore, the generation-skipping tax cannot be valid unless it is a tax on something other than the value of the transferor's property per se*.

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[132] U.S. CONST. art. I, § 9, cl. 4.

[133] 157 U.S. 429, *reh'g granted*, 158 U.S. 601 (1895).

[134] *Pollock*, 157 U.S. at 555.

[135] *Pollock*, 158 U.S. at 637.

[136] *Pollock*, 157 U.S. at 580-83.

b. The generation-skipping tax will avoid being considered a direct tax only to the extent it operates as an excise tax on the transfer of property.

The Supreme Court often has held or stated that succession taxes, inheritance taxes, estate taxes, and other death taxes will not be considered direct taxes on property if they are applied in a manner that is merely an excise tax on the transfer of property at death.[137]

The seminal case on the matter is *Knowlton v. Moore*,[138] in which the Court stated as follows:

Taxes of this general character are universally deemed to relate, not to property *eo nomine*, but to its passage by will or by descent in cases of intestacy, as distinguished from taxes imposed on property, real or personal, as such, because of its ownership and possession. In other words, the public contribution which death duties exact is predicated on the passage of property as a result of death, as distinct from a tax on property disassociated from its transmission or receipt by will, or as the result of intestacy.[139]

After considering the approach used in other nations and colonies, the Court in *Knowlton* concluded that the "tax laws of this nature in all countries rest in their essence upon the principle that death is the generating source from which the particular taxing power takes its being, and that it is the power to transmit, or the transmission from the dead to the living, on which such taxes are more immediately rested."[140]

In *United States v. Wells Fargo Bank*,[141] Justice Brennan's opinion recognizes that the estate tax, unlike the income tax, is not a direct tax but rather is an excise tax that may be levied only upon the use or transfer of property. That opinion states:

Of course, we begin our analysis of § 5(e) with the statutory language itself. This section states that "[Project Notes], including interest thereon, . . . shall be exempt from all taxation now or hereafter imposed by the United States." Well before the Housing Act was passed, an exemption of property from all taxation had an understood meaning: the property was exempt from *direct* taxation, but certain privileges of ownership, such as the right to transfer the property,

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[137] *See*, e.g., Scholey v. Rew, 90 U.S. (23 Wall.) 331 (1874); Knowlton v. Moore, 178 U.S. 41 (1900); Murdock v. Ward, 178 U.S. 139 (1900); New York Trust Co. v. Eisner, 256 U.S. 345 (1921); Greiner v. Lewellyn, 258 U.S. 384 (1922); Young Men's Christian Ass'n v. Davis, 264 U.S. 47 (1924); Chase Nat'l Bank v. United States, 278 U.S. 327 (1929); Reinecke v. Northern Trust Co., 278 U.S. 339 (1929); Tyler v. United States, 281 U.S. 497 (1930); United States v. Jacobs, 306 U.S. 363 (1939); United States Trust Co. v. Helvering, 307 U.S. 57 (1939); Fernandez v. Wiener, 326 U.S. 340 (1946); United States v. Manufacturers Nat'l Bank of Detroit, 363 U.S. 194 (1960); United States v. Wells Fargo Bank, 485 U.S. 351 (1988).

[138] *Knowlton v. Moore*, 178 U.S. 41 (1900).

[139] *Knowlton*, 178 U.S. at 47.

[140] *Id*. at 56.

[141] 485 U.S. 351 (1988).

could be taxed. Underlying this doctrine is the distinction between an excise tax, which is levied upon the use or transfer of property even though it might be measured by the property's value, and a tax levied upon the property itself. The former has historically been permitted even where the latter has been constitutionally or statutorily forbidden. The estate tax is a form of excise tax.[142]

In *United States v. Manufacturers Nat'l Bank*,[143] the Supreme Court observed that "[f]rom its inception, the estate tax has been a tax on a class of events which Congress has chosen to label, in the provision which actually imposes the tax, 'the *transfer* of the net estate of every decedent.'"[144] In that case, the Court sought to find a transfer, reflecting the critical threshold test of every case in which an estate tax is to be assessed: identify the transfer.

If Congress wanted to tax all property interests owned by a decedent, irrespective of the taxes associated with any transfer that may have occurred as a result of the decedent's death, it could do so simply by amending I.R.C. § 102 to make bequests, devises, and inheritances subject to the income tax. This is true because the federal income tax is a permissible direct tax on property under the Sixteenth Amendment to the Constitution. Because income is by definition taxed only when received, even the repeal of I.R.C. Section 102 would tax only the transfer-receipt of property. However, until a similar constitutional amendment is adopted with respect to generation-skipping, estate and gift taxes, it is unconstitutional to assess the generation-skipping transfer tax in a manner that constitutes an unapportioned direct tax.

Therefore, only that property which is *transferred* as a result of a taxpayer's death or by gift during the taxpayer's life can be subjected to taxation under the federal generation-skipping transfer tax system. The tax cannot be a "wealth tax" or "property tax" on the intrinsic value of an asset to the decedent or donor at the time the transfer occurs; rather, it must be a tax only on the value transferred.

I.R.C. § 2033 expansively defines a decedent's gross estate to include all assets owned by the decedent at the time of his death for purposes of calculating the decedent's estate tax, irrespective of whether all or part of those assets are to be transferred to the decedent's heirs. Specifically, I.R.C. § 2033 provides that "the value of the gross estate shall include the value of all property to the extent of the interest therein of the decedent at the time of his death."[145]

Although the I.R.C. expansively defines a decedent's gross estate to include all assets owned by the decedent at the moment of his death, the U.S. Treasury through its own regulations recognizes that in certain instances such inclusion would be unconstitutional. The decedent's property must not only be owned by the decedent at the moment of his death, but must also be transferable. The Treasury Regulations provide that "the estate tax . . . is an excise tax on the transfer of property at death and is not a tax on the property transferred."[146] The Regulations add

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[142] *Id*. at 355.

[143] 363 U.S. 194 (1960).

[144] *Id*. at 198.

[145] I.R.C. § 2033.

[146] Treas. Reg. § 20.2033-1(a).

the following helpful example of an asset of the decedent that in many cases has significant value at the moment of death, but very little transferable value (and, thus, very little value for estate tax purposes):

> [A] cemetery lot owned by the decedent is part of his gross estate, but its value is limited to the salable value of that part of the lot which is not designed for the interment of the decedent and the members of his family.[147]

A cemetery lot could be sold for considerable value at the moment of death. However, under the regulations that part of a cemetery lot in which the decedent is buried is not included in the gross estate and is not subject to tax because it is not transferred to the decedent's heirs at death; rather, it is taken or encumbered by the decedent's remains. The logic of the cemetery lot exception in the Treasury Regulations is a tangible example showing that the estate tax is an excise tax on the transfer of property at death and not a tax on the property transferred.

The following example may be even more indicative of the constitutional limitation on the estate tax than the Treasury's example of the cemetery lot: what would be the estate tax result if a decedent died owning the Coca-Cola formula and directed in her will that her executor was to retrieve the formula from her safe deposit box and burn it? What would be the value of that formula for estate tax purposes if the executor burned the formula six months after the decedent's death? Is the value of the transfer equal to what a hypothetical willing buyer would pay for the Coca-Cola formula at the moment of death or what a hypothetical willing buyer would pay for the ashes? The answer is well stated in the Court's opinion in *Ahmanson Found. v. United States*,[148] in which the Ninth Circuit opined:

> [T]he valuation of property in the gross estate must take into account any changes in value brought about by the fact of the distribution itself. *It is undisputed that the valuation must take into account changes brought about by the death of the testator.* Ordinarily death itself does not alter the value of property owned by the decedent. However, in a few instances such as when a small business loses the services of a valuable partner, death does change the value of property. *See United States v. Land, supra,* 303 F.2d at 172. *The valuation should also take into account transformations brought about by those aspects of the estate plan, which go into effect logically prior to the distribution of property in the gross estate to the beneficiaries*. Thus, for example, if a public figure ordered his executor to shred and burn his papers, and then to turn the ashes over to a newspaper, the value to be counted would be the value of the ashes, rather than the papers. Similarly, if a will provides that prior to the distribution of the estate a close corporation owned by the testator is to be recapitalized, with one class of stock in the gross estate exchanged for another, the value of the gross estate would be based on the shares resulting from the recapitalization. *Provident Nat'l Bank v. United States, supra,* 581 F.2d at 1086-87.

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[147] Treas. Reg. § 20.2033-1(b).

[148] 674 F.2d 761 (9th Cir. 1981) (emphasis added).

> . . . The estate tax is a tax upon a transfer. . . . [I]t is a tax on the privilege of passing on property not a tax on the privilege of receiving property.[149]

It is clear that the valuation of what is transferred and subject to estate tax, in the words of *Ahmanson*, takes "into account transformations. . . which go into effect logically prior to the distribution of property in the gross estate to the beneficiaries."[150]

In another Ninth Circuit case, *Estate of McClatchy v. Commissioner*, 147 F.3d 1089 (9th Cir. 1998) the court also analyzed the affect changing transfer restrictions had on valuation of stock. The decedent, prior to his death, owned two classes of common stock of a corporation, one class of which was subject to federal securities law transfer restrictions on sales as an affiliate of the corporation. Upon the decedent's death, the restricted stock passed to the executor of his estate. The executor, which was not an affiliate of the decedent, was not subject to the securities law restrictions applicable to the decedent.

The court held that the restricted stock should be valued in the hands of the decedent and should reflect the discount applicable to the restriction on transfer of the stock. The court ruled that death alone in this instance, did not *logically* alter the value of the stock. Instead, the change in value was occasioned by the identity of the transferee (i.e., the executor) and not by death. Thus, according to the court, the property was not transformed prior to the distribution to the heirs of the estate by the lapsing security law restrictions.

VII. THE BEST POST-MORTEM PLANNING IDEA (AND A GOOD INSURANCE PLANNING IDEA) – THE NOTE "FREEZE" PARTNERSHIP

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "using a family limited partnership always creates administrative problems, it does not solve them;" or "life insurance will be included in an insured's estate if the insurance is owned by a partnership in which he is a partner." This "conventional wisdom," under the circumstances discussed below, is incorrect.

The death of a spouse is usually a traumatic experience to the surviving spouse.[151] On top of that experience, the surviving spouse may suddenly be asked to assume new responsibilities because of a will that (from the spouse's perspective) is complicated.

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[149] *Id*. at 768.

[150] *Id*.

[151] Mrs. Eastland is not sure it would be.

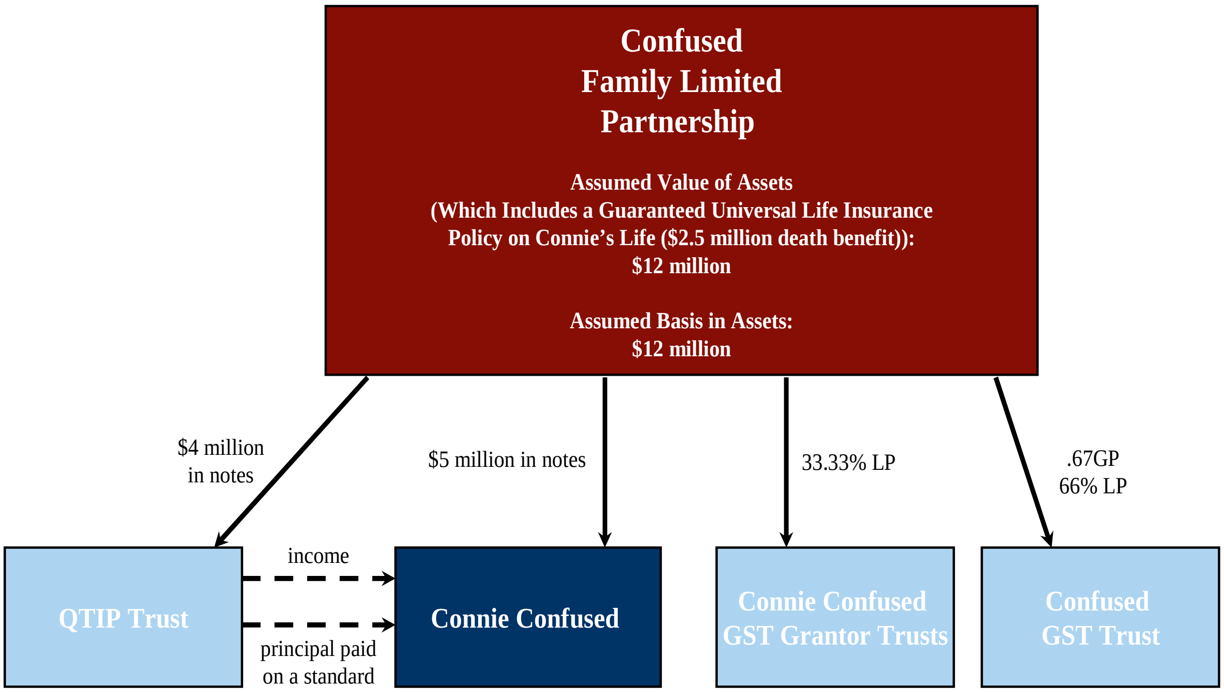
Please consider the following example.

Example 14: Connie Confused Wishes to Simplify Her Post-Mortem Administrative Life and Also Accomplish Some Estate Planning Goals

Carl Confused dies in a year in which the estate tax exemption and the GST exemption are $2,000,000. Carl and Connie live in a community property state. The financial assets of their community property estate equal $12,000,000. Carl and Connie, at Carl's death, have not created a family limited partnership. Connie is 70 years of age and is in very good health. Connie is the lifetime beneficiary of the by-pass trust, which is also a generation-skipping trust that Carl created under his will. Connie also wishes to create a generation-skipping trust using her $1,000,000 gift tax exemption. In order to help defray the cost of paying estate taxes, Connie is contemplating purchasing a $2,500,000 life insurance policy on her life that is a guaranteed universal life policy.

Connie asks her estate planner, Pam Planner, if there is any way to organize the multiple trusts and her financial assets where there is a simplified structure that consolidates the community estate assets and saves future estate taxes. She asks Pam to assume that she will spend $250,000 a year, after income taxes, with a 3% inflation adjustment.

Pam suggests that Connie and the various trusts form a partnership with the various parties either receiving a note for their contribution to the partnership or receiving partnership interests for their contribution to the partnership. The $2,000,000 GST trust, in which Connie is a lifetime beneficiary, receives a partnership interest for its $2,000,000 contribution. The $1,000,000 GST trust that Connie creates will receive a partnership interest for its $1,000,000 contribution. Connie receives a 1% partnership interest for her contribution of equity to the partnership on a proportionate basis. Connie receives a note for the remainder of her assets. The various QTIP trusts receive notes for their contribution to the partnership. The notes pay the AFR interest rate. The diagram below illustrates the concept:



B. Non-Tax Reasons For the Creation of a Note Freeze Partnership.

Under the unified transfer tax system, the first spouse to die typically creates at least one trust in order to take advantage of the exemption equivalent (the typical by-pass trust). In order to utilize the exemption from the generation-skipping transfer tax on large estates, it is not uncommon to create three trusts under the will of the first spouse to die: (i) a by-pass trust which is designated as an exempt trust for generation-skipping transfer tax purposes; (ii) a marital trust which is also exempt for generation-skipping transfer tax purposes; and (iii) a residual marital trust which is not exempt for generation-skipping transfer tax purposes (this third portion sometimes may be given outright to the surviving spouse instead of in trust).

The potential to have multiple trusts, especially when compared to a family's financial management situation immediately prior to the death of the first spouse, may cry out for the need to have the trusts function in a coordinated fashion. In many cases, perhaps most, there is not any trust at all prior to the first spouse's death. All of a sudden the family's assets are divided and may be subject to different financial management standards because the trusts have different distribution provisions and beneficiaries.

The complexities and expense associated with multiple trusts can be overwhelming for some clients, but can be alleviated with the use of family limited partnerships (or L.L.C.s) in combination with notes, as explained further below. The trustees of the various trusts (after the trusts are funded) could join with the surviving spouse to contribute assets to a family limited partnership (or L.L.C.) during estate administration and receive either partnership interests or notes in consideration for those contributions.

C. A Partnership That is Created After the Death of a Spouse May Take Advantage of the Estate Assets Receiving a New Basis At Death.

Under the general rule of I.R.C. § 1014(a), the basis of property in the hands of a person acquiring the property from a decedent equals the fair market value of the property at the date of the decedent's death.[152] Basis thus "steps up" or "steps down," depending on the value at the date of death as compared to the decedent's pre-death basis in the property. The new basis at death rule allows postmortem planning opportunities, which are not available immediately prior to a person's death because assets may be sold or exchanged without triggering any taxable gain or loss.

The new basis at death rule also impacts pre-death planning for families with highly appreciated assets who are considering a family limited partnership. In addition to considering whether the assets are of a type, which a family ever would sell, special attention must be given to the "754 election" and its impact on distributions of appreciated assets to partners and on sales or exchanges of partnership interests.

For example, assume no gain is recognized on a partner's contribution of appreciated assets to a partnership under I.R.C. § 721(b). The partner's "outside basis" in the partnership interest received equals the exchanged or substituted basis from the property contributed under I.R.C. § 722, and the partnership's "inside basis" in the property itself equals that same amount. Thus, gain is not recognized but is preserved.

Now assume a partner dies and transfers his or her partnership interest by will. The legatee's outside basis generally equals the date of death value under I.R.C. § 742, but the partnership's inside basis in its assets is not changed as a result of that transfer under the general rule of I.R.C. § 743. Thus, the partnership might sell an asset at a gain, and the legatee could owe a share of the gain even though he or she should have enough basis to avoid at least some of the gain because of the "step-up" under I.R.C. § 1014.

Because of marketability and minority interest discounts which are attributable to partnership interests, however, the value of a partnership interest passing at death is usually less than the proportionate share of the value of the underlying partnership assets. Consequently, depending on the discounted value of the partnership interest at the date of death, and further depending on the basis in the hands of the decedent when the partnership was created (the starting point), it is possible for there to be a "step-down" in basis.

Assuming that a basis "step-up" is warranted, in order to avoid taxing the legatee on the appreciation of his or her proportionate share of partnership assets prior to the date of the transferor's death, the partnership may elect under I.R.C. § 754 to adjust the basis of its assets under I.R.C. § 743(b), but for the legatee only. The mechanics of the election are quite complicated, in that it is not the same thing as changing the basis of all of the partnership's assets. Only the legatee has a special inside basis in his share of partnership assets, and capital accounts do not change.

[152] I.R.C. § 1014(a).

If the client is not engaged in partnership planning before his death there is, of course, no "step-down" in basis from partnership planning. The beneficiaries of the client's estate could contribute assets to a partnership in exchange for notes and there would be (in all likelihood) very little (if any) capital gain generated by that contribution.

D. I.R.C. § 2701 May Apply To Postmortem Partnership "Freeze" Transactions, But Should Not Apply to Note Freeze Partnerships.

The indirect ownership rules of I.R.C. § 2701(e)(3) and Treas. Reg. § 25.2701-6(a)(4) might treat a postmortem recapitalization partnership freeze or a new straight-up partnership freeze as if it were done by the beneficiaries of the estate. I.R.C. § 2701 applies to transfers of junior interests in entities to certain family members if the transferor or certain other family members hold or retain a senior interest in the entity and the family controls the entity. The deemed transfer rules of I.R.C. § 2701 apply to the creation of a new entity in addition to the recapitalization of an existing entity.[153]

In general, if an owner transfers a junior interest in the entity down the family tree, and the transferor or another family member higher up on the family tree holds or retains a preferred interest in the entity, then the subtraction method must be used to determine the value of the transfer for gift tax purposes. To determine the value of the deemed gift, the transferor generally must start with the total value of the enterprise and then subtract the value of the interests retained. However, akin to the approach taken by I.R.C. § 2702, only certain retained interests are given any value, limiting an estate planner's ability to achieve what had been viewed by the Service as abusive entity freezes. In general, zero value may be assigned to distribution, liquidation, put, call or conversion rights other than rights to receive cumulative preferred distributions payable on a periodic basis at a fixed rate. Thus, discretionary rights, which are not likely to be exercised in the family context, receive no value for purposes of lowering the amount of the gift.

Debt and certain guaranteed payment entity interests are not subject to the valuation rules under I.R.C. § 2701.[154] Thus, if a "note" freeze is effectuated with the creation of the partnership, the valuation rules of I.R.C. § 2701 may not apply.

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[153] I.R.C. § 2701(e)(5); Treas. Reg. § 25.2701-1(b)(2)(i)(A).

[154] *See* I.R.C. § 2701(c)(1)(B)(iii); Treas. Reg. §§ 25.2701-1(a)(1); 25.2701-2(b)(1) (providing that, for I.R.C. § 2701 to apply, applicable family members must hold an applicable retained interest; and an applicable retained interest is defined as an *equity* interest). *See also* Ronald D. Aucutt, *Section 2701 Estate Freezes*, ALI-ABA Course of Study--Planning for Large Estates (New York, April 1995).

E. The Advantage of Life Insurance Being Owned By a Note "Freeze" Partnership.

1. Introduction.

Assume that Connie, because of her age, is considering purchasing guaranteed universal life insurance on her life. Connie believes that, coupled with her other planning, a $2,500,000 life insurance policy would defray most, if not all, of her future estate taxes. The use of life insurance trusts for planning for clients' ownership of life insurance has certainly been a popular device for several years. The estate planner has always known that there were some inherent disadvantages of using an irrevocable trust arrangement in an effort to remove life insurance from estate taxation of the insured's estate: (i) the arrangement is irrevocable; (ii) the insured could not be the trustee of the trust; and (iii) most importantly, it involved the use of a trust.

A life insurance trust is, after all, a trust. The complexities and "restraints" of trust law, and the tax consequences associated with trust ownership, obviously follow from using a trust. However, the trust ownership form offers the planner the advantages that are inherent in trust law including protection of the corpus of the trust from a beneficiary's creditors, centralized control, and the possible "tying-up" of property for several generations.

The partnership form of owning an asset as opposed to the trust form of owning an asset is governed by significantly different legal principles that exist under trust law. A partnership is a form of doing business governed by certain state statutes and contract law principles. The owners of a partnership, the managers of a partnership, and dispositive pattern of distributions from a partnership, all may be changed without the necessity of court involvement. Tax law has an entirely different scheme for taxing partnerships, both for income tax purposes and estate tax purposes, than it does for trusts. Those flexibility and tax differences have led this writer to conclude that in many circumstances partnerships may have an advantage over trusts in the ownership of insurance.

2. Flexibility advantage of entities over trusts.

An irrevocable (nonamendable) insurance trust is inherently an inflexible document. A patriarch or matriarch who wishes to retain ownership strings over an insurance trust that allows a "change" in the instrument is asking for trouble. An agreement creating an entity can be a flexible arrangement. For instance, a partnership agreement is a contract. Like all contracts, if all parties to the contract wish to change it, a contract may be changed. A patriarch or matriarch, who is a small minority economic partner, may retain certain control aspects of the partnership without any additional adverse tax consequences that are not already inherent in that partner's economic interest. For instance, as noted in the discussion under 3 below, even if a partner has a 10% economic interest in a partnership (and has certain management controls), the fact that that partner has the power to terminate or force a liquidation of the partnership should not affect adversely his or her estate taxes beyond that 1% economic interest.

One of the more commonly mentioned drawbacks of the use of irrevocable insurance trusts is the possibility that the object of the insured's bounty may change at a time when the insured is no longer insurable. For instance, if one of a client's children becomes a "major disappointment," at a time when the client is no longer insurable, significant complications arise with respect to the client's insurance that is being held by the trustee of an insurance trust. An independent trustee may be reluctant to assign that policy from the insurance trust to the client even for full and adequate consideration. If a client is a managing partner of a partnership, that client may be willing to risk any fiduciary liability that may be inherent in assigning an asset of the partnership to the client for full and adequate consideration. Additionally, the family partners of a family partnership all may elect to terminate the partnership before the end of its designated term. Through the dissolution process, the managing partner may have the freedom to allocate to some partners cash and to other partners assets in kind (including insurance policies).

3. The control advantage of using entities.

One of the disadvantages of the insurance trust form of ownership is that generally the insured may not be the trustee of an insurance trust which owns insurance on the life of the insured. The Service had formerly maintained for many years that even if the decedent had no beneficial interest in the trust, a decedent's ability under the terms of the trust to control enjoyment of the insurance proceeds through his authority to obtain loans and to cancel or convert the policy was enough to constitute an incident of ownership.[155] The Service had mixed success on this position in the courts. The Service, in Rev. Rul. 84-179,[156] moderated its position. The proceeds of the policy are not included in the insured-trustee's estate if (i) the insured-trustee did not retain any powers as a settlor, but his discretionary powers were conferred on him by another person in an unrelated transaction; (ii) the insured-trustee did not transfer the policy or provide consideration for maintaining the policy; and (iii) the insured-trustee could not exercise the power to his own benefit.

Example 15: Does a Managing Partner Have Incidents of Ownership in a Life Insurance Policy Which Is Payable to a Partnership?

Connie Confused is the managing partner of a partnership ("the Partnership") that has many investments (including an investment in another family partnership). Among the investments of the Partnership is a life insurance policy on her life payable to the Partnership. Connie Confused is a 1% partner of the Partnership and is managing partner of the Partnership. Generation skipping trusts are the other partners of the Partnership. What are the income tax consequences and estate tax consequences of a payment of the insurance proceeds to the Partnership?

Please note that in this example, joint profit making activities were being carried on in addition to the partnership's investment in life insurance. It is important that those activities exist in order to ensure that the entity is considered a "partnership" under I.RC. § 7701(a)(2).

[155] *See* Rev. Rul. 76-261, 1976-2 C.B. 276.

[156] Rev. Rul. 84-179, 1984-2 C.B.

The following income tax and estate tax results should accrue:

(1) The basis of each partner's partnership interest in the Partnership will be increased as a result of the Partnership's receipt, as the designated beneficiary, of insurance proceeds payable under a policy covering Connie Confused's life.

(2) The insurance proceeds payable to the Partnership pursuant to an insurance policy owned by the Partnership covering Connie Confused's life will not be included in the Taxpayer's estate for federal estate tax purposes under I.R.C. § 2042. Only Connie's 1% interest in the Partnership will be taxable in her estate under I.R.C. § 2033 (and, thus, indirectly, 1% of the proceeds will be taxable in her estate, perhaps on a discounted basis).

a. Law and authorities supporting the proposition that the partners' bases in partnership interest will be increased as a result of insurance proceeds paid directly to the partnership.

Any insurance proceeds paid to the Partnership as a result of Connie Confused's death, pursuant to a Partnership-owned policy on Connie Confused's life, is excluded from the Partnership's income and accordingly should result in an increase in the basis of each partner's partnership interest, according to his or her distributive share thereof.

I.R.C. § 705(a) sets forth the general rule for determining a partner's basis in his partnership interest:

> The adjusted basis of a partner's interest in a partnership shall, except as provided in subsection (b), be the basis of such interest determined under section 722 (relating to contributions to a partnership) or section 742 (relating to transfers of partnership interests) –
>
> (1) increased by the sum of his distributive share for the taxable year and prior taxable years of –
>
> (A) taxable income of the partnership as determined under section 703(a),
>
> (B) income of the partnership exempt from tax under this title, and
>
> (C) the excess of the deductions for depletion over the basis of the property subject to depletion;
>
> (2) decreased (but not below zero) by distributions by the partnership as provided in section 733 and by the sum of his distributive share for the taxable year and prior taxable years of –
>
> (A) losses of the partnership; and

(B) expenditures of the partnership not deductible in computing its taxable income and not properly chargeable to capital account; and

(3) decreased (but not below zero) by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under section 613A(c)(7)(D).[157]

The purpose of the I.R.C. § 705(a) adjustments is to keep track of a partner's "tax investment" in the Partnership, with a view toward preventing double taxation or exclusion from taxation of income items upon ultimate disposition of the partnership interest. If a partner's basis is not increased by his share of the partnership's income, he would be taxed on such income a second time upon the sale of his interest. While double taxation of this nature is characteristic of corporate taxation, it is not intended to be characteristic of partnership taxation.

Under I.R.C. § 705(a)(1)(B), as reflected above, a partner's basis is to be increased by his distributive share of partnership tax-exempt income.[158] Treas. Reg. § 1.705-1(a)(2)(ii) refers to this as "tax-exempt receipts of the partnership."[159] This increase in basis is necessary to prevent taxation of such income upon sale of the partner's interest, and has the effect of making permanent the tax-exempt character of the income.

I.R.C. § 101(a) provides generally that gross income does not include amounts received under a life insurance contract, if such amounts are paid by reason of the death of the insured.[160] As a result of this statutory exemption, the Partnership will not recognize income upon its receipt of insurance proceeds payable under an insurance policy on Connie Confused's life. Accordingly, the basis of each partner in the Partnership should be increased by his distributive share of such insurance proceeds, so that such proceeds are not indirectly taxed thereafter.

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[157] I.R.C. § 705(a).

[158] *Id.*

[159] Treas. Reg. § 1.705-1(a)(2)(ii).

[160] I.R.C. § 101(a).

b. Law and authorities supporting the proposition that insurance proceeds payable as a result of Connie Confused's death to the partnership (or other entity) will only be included under I.R.C. § 2033 and will not be included in Connie Confused's estate pursuant to I.R.C. § 2042.

It should be noted that the partnership in this Example 15 owned many assets, including an insurance policy. If a partnership only owns an insurance policy, it may not be considered a partnership for state law purposes because it only owns a "personal use" asset--the insurance. It is recommended that the partnership own assets which will qualify the partnership as a partnership under state law and I.R.C. § 7701(a)(2). For instance, the partnership could own an interest in another partnership (which could be used to service the insurance contract) and the insurance contract.

Any proceeds payable upon Connie Confused's death to the Partnership pursuant to an insurance policy on the life of Connie Confused which is owned and paid for by the Partnership should not be includible in Connie Confused's gross estate pursuant to I.R.C. § 2042 because (i) no amount of the insurance proceeds would be receivable by the executor of Connie Confused's estate; and (ii) Connie Confused does not possess, nor could she exercise, either alone or in conjunction with any other person, any of the incidents of ownership of any such policy; instead, the value of Connie Confused's ownership percentage interest in the Partnership will be increased by a corresponding percentage interest of the value of the proceeds payable to the Partnership, pursuant to I.R.C. § 2033.

I.R.C. § 2033 provides that the value of a decedent's gross estate shall include the value of all property to the extent of the decedent's interest therein at the time of his death.[161] Treas. Reg. § 20.2031-3 provides in part that the fair market value of any interest of a decedent in a business, whether a partnership or a proprietorship, is the net amount which a willing purchaser would pay for the interest to a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts; the net value is to be determined on the basis of all relevant factors, which include factors set forth in paragraph (f) of Treas. Reg. § 20.2031-2 relating to the valuation of corporate stock.[162]

Treas. Reg. § 20.2031-2(f) provides in part that, in valuing a corporate interest, consideration must be given to non-operating assets, including proceeds of life insurance policies payable to or for the benefit of the company, but only to the extent such non-operating assets have not already been taken into account in the determination of net worth, prospective earning power, and dividend-earning capacity.[163] The Treasury Regulation does not intend that the business-owned non-operating assets are to be included more than once in determining value.

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[161] I.R.C. § 2033.

[162] Treas. Reg. § 20.2031-3.

[163] Treas. Reg. § 20.2031-2(f).

Therefore, I.R.C. § 2033, when applied to the valuation considerations set forth in Treas. Regs. §§ 20.2031-2 and 20.2031-3, would include, within the value of Connie Confused's interest in the Partnership, a percentage share of the insurance proceeds payable to the Partnership at the time of her death for federal estate purposes.[164]

I.R.C. § 2042(1) requires the proceeds of life insurance on a decedent's life to be included in the decedent's gross estate if such proceeds are receivable by the decedent's executor.[165] Treas. Reg. § 20.2042-1(b)(1) explains that:

> Section 2042 requires the inclusion in the gross estate of the proceeds of insurance on the decedent's life receivable by the executor or administrator, or payable to the decedent's estate. It makes no difference whether or not the estate is specifically named as the beneficiary under the terms of the policy. Thus, if under the terms of an insurance policy the proceeds are receivable by another beneficiary but are subject to an obligation, legally binding upon the other beneficiary, to pay taxes, debts, or other charges enforceable against the estate, then the amount of such proceeds required for the payment in full (to the extent of the beneficiary's obligation) of such taxes, debts, or other charges is includible in the gross estate. Similarly, if the decedent purchased an insurance policy in favor of another person or a corporation as collateral security for a loan or other accommodation, its proceeds are considered to be receivable for the benefit of the estate.[166]

The proceeds of the proposed insurance policy will be payable directly to the Partnership. The Partnership will not be subject to any obligation to pay any taxes, debts, or other charges that may be enforceable against Connie Confused's estate, nor will the Partnership allow the proceeds of the proposed insurance policy to be used as collateral security for a loan or other accommodation of Connie Confused. Therefore, inasmuch as the proposed insurance proceeds shall be payable to the Partnership and in no way to or for the benefit of Connie Confused's estate, I.R.C. § 2042(1) should not be applicable to cause inclusion of the insurance proceeds in Connie Confused's gross estate.

I.R.C. § 2042(2) requires the proceeds of life insurance on a decedent's life to be included in the decedent's gross estate if the decedent possessed at his death any incidents of ownership, exercisable either alone or in conjunction with any other person.[167] Treas. Reg. § 20.2042-1(c)(2) elaborates on the meaning of the term "incidents of ownership":

> For purposes of this paragraph, the term "incidents of ownership" is not limited in its meaning to ownership of the policy in the technical legal sense. Generally speaking, the term has reference to the right of the insured or his estate

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[164] I.R.C. § 2033.

[165] I.R.C. § 2042(1).

[166] Treas. Reg. § 20.2042-1(b)(1).

[167] I.R.C. § 2042(2).

> to the economic benefits of the policy. Thus, it includes the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke an assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy, etc. See subparagraph (6) of this paragraph for rules relating to the circumstances under which the incidents of ownership held by a corporation are attributable to a decedent through his stock ownership.[168]

Treas. Reg. § 20.2042-1(c)(6) clarifies that a corporation's ownership of a policy on a controlling shareholder's life will not be attributed to such shareholder merely because of his stock ownership:

> In the case of economic benefits of a life insurance policy on the decedent's life that are reserved to a corporation of which the decedent is the sole or controlling stockholder, the corporation's incidents of ownership will not be attributed to the decedent through his stock ownership to the extent the proceeds of the policy are payable to the corporation. Any proceeds payable to a third party for a valid business purpose, such as in satisfaction of a business debt of the corporation, so that the net worth of the corporation is increased by the amount of such proceeds, shall be deemed to be payable to the corporation for purposes of the preceding sentence. . . . Except as hereinafter provided with respect to a group-term life insurance policy, if any part of the proceeds of the policy are not payable to or for the benefit of the corporation, and thus are not taken into account in valuing the decedent's stock holdings in the corporation for purposes of I.R.C. § 2031, any incidents of ownership held by the corporation as to that part of the proceeds will be attributed to the decedent through his stock ownership where the decedent is the sole or controlling stockholder. . .[169]

As indicated by Treasury Reg. § 20.2042-1(c)(6), in the corporate context, control of a corporation will not cause the proceeds of a corporate-owned insurance policy on the life of the controlling shareholder to be included in the shareholder's gross estate, to the extent the insurance proceeds are payable to the corporation. This same position, while not specifically addressed in the Treasury Regulations, should be applicable to the proceeds of an insurance policy owned by a partnership on the life of the controlling partner, to the extent the insurance proceeds are payable to the partnership.[170]

Where the beneficiary of an insurance policy on the life of a partner owned by a partnership is the *partnership*, both the Tax Court and the Service have previously held that I.R.C. § 2042 does not apply to such insurance proceeds, even if the insured is a *managing* or

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[168] Treas. Reg. § 20.2042-1(c)(2).

[169] Treas. Reg. § 20.2042-1(c)(6).

[170] See P.L.R. 96-23-024 (Mar. 6, 1996).

controlling partner.[171] The *Estate of Knipp* decision concerns a decedent who at the time of his death was a 50% partner in a partnership, which held ten insurance policies on his life. The partnership paid the premiums on all of the policies, and the insurance proceeds were payable to the partnership. The Tax Court examined whether at the time of his death the decedent possessed incidents of ownership over such policies exercisable either alone or in conjunction with another person. The Tax Court notes that the insurance policies were assets of the partnership, and that the partnership had complete control over them, holding all of the incidents of ownership: "Decedent, as an individual, had no power to exercise rights of ownership over the assets and sale of his partnership interest would not have transferred any rights in specific assets of the firm."[172] The Tax Court applied the "entity" theory (as opposed to the "aggregate" theory) in analyzing a partner's rights to partnership assets. Under the Uniform Partnership Act (and the Revised Uniform Partnership Act), a partner has no rights with respect to partnership assets. Accordingly, the Tax Court held that the proceeds of the ten policies were not includible in the gross estate under the predecessor to I.R.C. § 2042(2).[173]

In Rev. Rul. 83-147, the Service indicates that it agrees with the result in *Estate of Knipp*.[174] This Revenue Ruling examines the issue of whether an insured partner is deemed to possess the requisite incidents of ownership under I.R.C. § 2042(2) by virtue of his position as a partner in a partnership that owns an insurance policy on his life, the proceeds of which are payable other than to or for the benefit of the partnership. The Service reviews *Estate of Knipp* and states that it continues to acquiesce in the result therein on the basis that "in that case the insurance proceeds were paid to the partnership and inclusion of the proceeds under the predecessor of I.R.C. § 2042 would have resulted in the unwarranted double taxation of a substantial portion of the proceeds, because the decedent's proportionate share of the proceeds of the policy were included in the value of the decedent's partnership interest."[175] The Service then refers to Treas. Reg. § 20.2042-1(c)(6), "which adopts a similar rule with regard to life insurance proceeds paid to or for the benefit of a corporation."[176] The Service will not include the life insurance under I.R.C. § 2042, because it is already partially included under I.R.C. § 2033. The Service concluded that although it continues to agree with the result in *Estate of Knipp*, "it does not agree with any implication therein that incidents of ownership possessed by a partnership should not be attributed to an insured partner *when the policy proceeds are paid other than to or for the benefit of the partnership*."[177] Despite state statutory law, which rejects the aggregate theory of partnerships, the Service believes the aggregate theory is the correct theory.[178]

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[171] *Estate of Knipp v. Commissioner*, 25 T.C. 153 (1955), *aff'd, on another issue*, 244 F.2d 436 (4th Cir. 1957), *cert. denied*, 355 U.S. 827 (1957), *acq. in result*, 1959-1 C.B. 4.

[172] *Id.* at 169.

[173] *Id.*

[174] Rev. Rul. 83-147, 1983-2 C.B. 158.

[175] Id.

[176] Id.

[177] *Id.* (emphasis added).

[178] *See* G.C.M. 39,034 (Sept. 21, 1983), which reviewed Rev. Rul. 83-147.

Estate of Knipp is not the only case in which the Tax Court applies the "entity" theory in determining whether I.R.C. § 2042(2) is applied. In *Watson v. Commissioner*,[179] the insured was associated with an individual ("Sellers") in a variety of business ventures under an oral partnership agreement. Each of the insured and Sellers purchased insurance on the other's life, the proceeds of which were to be used for partnership purposes. Although each person paid for the first year's premium for the policy he purchased out of his individual funds, the premiums for renewal were paid out of a partnership bank account and were charged on the partnership books as a partnership expense. The record was not clear as to whether Sellers were the actual owner of the policy on the insured's life after the first year or whether the partnership became the owner at the end of that year and remained such owner at the time of the insured's death; however, the Court held that, "if the latter is the case, the [insured] would still not be considered as possessing the requisite incidents of ownership merely by virtue of his control as a 50% partner."[180]

The Tax Court extends its position that I.R.C. § 2042(2) does not cause inclusion of insurance proceeds in an insured's estate merely because of the insured's status as a partner, where the proceeds of the policy are payable to the partnership pursuant to the terms of an agreement irrevocably committing them to the purchase of the insured's partnership interest. In the *Estate of Fuchs v. Commissioner*,[181] insurance was taken out on each partner's life, with the agent being instructed to make each designated beneficiary the owner of the policy. The insurance was acquired pursuant to the terms of an oral buy-sell agreement. The agent failed to carry out their instructions; the policies were issued with the insured as the owner. The Court concludes that the insured's authority over the policy is so circumscribed as the result of the oral buy-sell agreement as to preclude the finding that such authority constituted an incident of ownership.[182] Further examples of the Tax Court's position on this issue are found in *Estate of Infante v. Commissioner*,[183] and *Estate of Tompkins v. Commissioner.*[184]

The Tax Court is reluctant to ascribe incidents of ownership to a partner-insured of an insurance policy owned by a partnership. As noted above, the Service agrees with that position where the partnership is the sole beneficiary. Underlying the Service's reasoning seems to be the analogy to the treatment of insurance held by a corporation controlled by the insured-majority shareholder, as addressed in Treas. Reg. § 20.2042-1(c)(6). If the partnership is *not* the sole beneficiary of such an insurance policy, then the implications of I.R.C. § 2042(2) could be serious with respect to each general partner who may be a "control person" with respect to such partnership-owned insurance.

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[179] *36* T.C.M. (CCH) 1084 (1977).

[180] *Id.* at 1088.

[181] 47 T.C. 199 (1966).

[182] 47 T.C. at 203-04.

[183] 29 T.C.M. (CCH) 903 (1970).

[184] 13 T.C. 1054 (1949).

It is advisable for the partnership agreement to negate the implication of any power of a partner to exercise any incident of ownership with respect to partnership-owned policies on such partner's life. Consider the following provision for this purpose:

> If the partnership shall own any life insurance policy insuring the life of any partner or possess any incident of ownership with respect to any such policy, the insured partner shall have no right or power to exercise or to participate in the exercise of any of the incidents of ownership with respect to such policy, including, but not limited to, the right to borrow from the insurance company or any other person using such policy as collateral, to change or to prevent any change in the beneficiary designation under such policy, and to surrender the policy or any portion thereof for its cash surrender value or to cancel or terminate any such policy. Any exercise of any incident of ownership in any such policy shall be exercised only by a majority of the partners other than the insured partner. Any decision of the partnership to acquire or dispose of a life insurance policy insuring the life of any partner shall be made by a majority in interest of the partners other than the insured partner and without any participation by the insured partner.[185]

F. Other Advantages of the Technique.

One of the significant advantages of this plan is that future changes in the law with respect to the ability to take valuation discounts with respect to partnerships should not be a concern for Connie. First of all, what is taxable in her estate will be notes. She will not be the owner of any of the partnership interests, except perhaps a very small amount, which may only give her the power to control the investments of the partnership.

IRC Section 2036 should also not be a concern. Connie is not the grantor of the GST trust that is created for her benefit. While Connie is the grantor of the GST trust created for the benefit of her family, she will not be the trustee or beneficiary of that trust. Thus, the applicability of I.R.C. Section 2036 may not be a concern.

This arrangement may ensure that Connie has plenty cash flow for her consumption needs during her lifetime. She is entitled to interest and principal of the notes that are made by the partnership, either because those notes are paid to her individually or because she is a beneficiary of the QTIP trusts that are drafted to maintain her standard of living. If at a later time the notes are totally consumed in payment of her needs, she will still be the beneficiary of the trust, which is entitled to two-thirds of the then cash flow of the partnership (i.e., she is a beneficiary of the GST trust).

Another advantage is that the arrangement is relatively simple to administer. The first cash flow (except for what is necessary to pay income taxes at the trust level) can be utilized by the partnership to retire the notes that are either owned by Connie or the marital deduction trust.

[185] David L. Cornfeld, *Partnerships as a Panacea for Life Insurance Problems (Penicillin or Placebo)*, The Twenty-Ninth Annual Philip E. Heckerling Institute on Estate Planning (1995).

G. The Comparative Results of the Proposed Post-Mortem Plan.

Please note the following table, which compares the result that would have accrued had Connie not done any further planning with the hypothetical plan (assuming she lives 20 years, consumes $250,000 a year, after inflation) the family assets earn 8% before taxes, with 2% being taxed as ordinary income and 6% being taxed as capital gains rates with an assumed 30% turnover. *See* Schedule 12 attached to this paper.

Technique	Confused Children	Confused GST Trust	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Total
No Further Planning; Bequeaths Estate To Family	$14,538,178	$7,041,630	$6,717,594	$7,556,636	$0	$5,569,070	$5,477,142	$9,031,236	$55,931,486
Hypothetical Integrated Income and Estate Tax Plan With a Partnership; Bequeaths Estate To Family	$3,701,671	$25,629,169	$6,717,594	$7,556,636	$377,325	$5,777,962	$5,187,944	$983,185	$55,931,486

H. Conclusions.

Not only does the proposed structure greatly simplify the administration problems for Connie, but it also has the potential of saving considerable transfer taxes. If Connie should die early (e.g., in 5 years) the life insurance policy forms a substantial "hedge" against an early death.

VIII. BEST LIFE-TIME CHARITABLE PLANNING IDEA – PARTNERSHIP, OR A LIMITED LIABILITY COMPANY, CREATES A CHARITABLE REMAINDER TRUST WITH THE PARTNERSHIP UNITS EVENTUALLY BEING SOLD TO A GRANTOR TRUST

A. Introduction and Case Study Example.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "you can no longer use the CRUT technique and benefit your family;" or "the problem with charitable planning is that it will greatly decrease what a client's family will receive." This "conventional wisdom," under the circumstances discussed below, is incorrect.

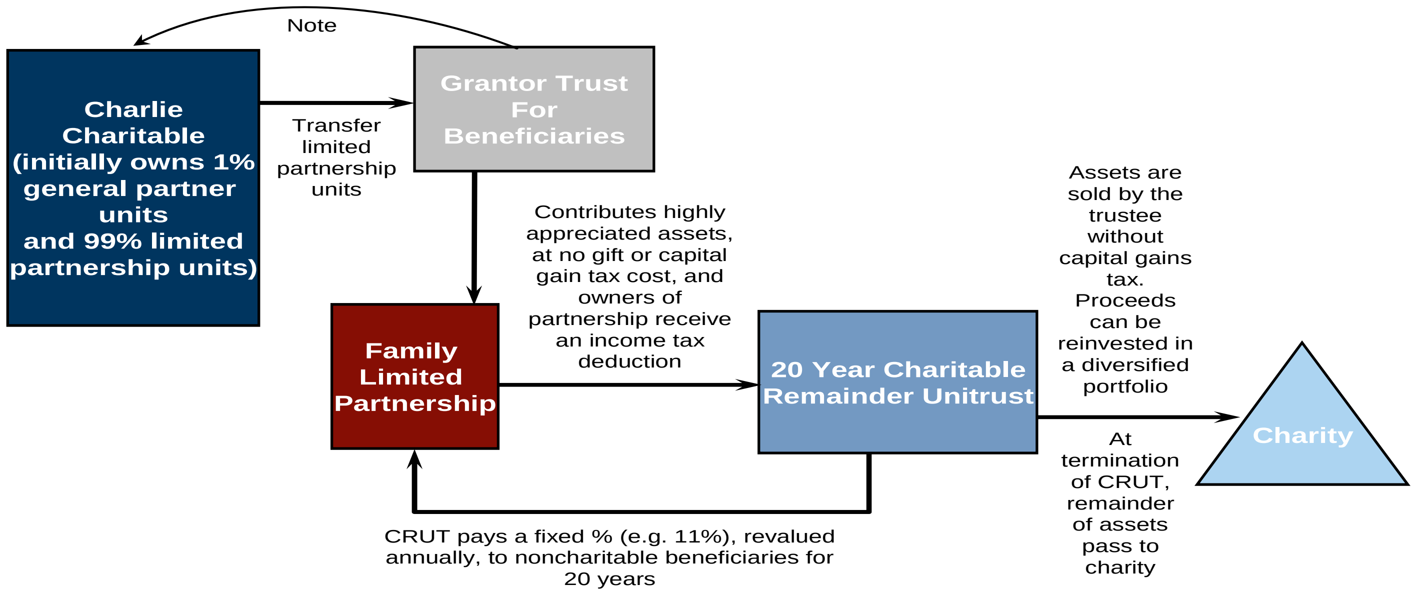
Charitable remainder trusts, particularly charitable remainder uni-trusts ("CRUTs") are a very popular planning technique for the charitably inclined client. While the technique has significant benefits to the client and his favorite charitable causes, one downside is the perception that it is difficult to benefit a client's family with the technique. Perhaps that is not true, if the technique is used synergistically with certain other estate planning techniques, that is, sale of limited liability company or limited partnership units to a grantor trust. What if that synergistic planning simulated a capital gains tax and estate tax holiday for the client and his family with the client's family charity receiving 23% of his death on his death? Consider the following example:

Example 16: 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. 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 one-quarter and one-third 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.

B. A General Review of the Solution.

Charlie's lawyer, Pam Planner, has a plan to help Charlie achieve his objectives which significantly reduces the capital gains tax on the sale of his appreciated stock and minimizes the estate tax cost of transferring the stock proceeds to his family. Pam suggests that Charlie fund a family limited partnership with his stock, and that the partnership create a twenty year term charitable remainder uni-trust ("CRUT"). The partnership will keep an up front stream of payments for twenty years that represents a 90% actuarial interest in the CRUT. Charlie's favorite charity will receive the remaining CRUT assets at the end of the twenty year term. The trustee of the CRUT could sell the stock and construct a diversified investment portfolio without triggering immediate capital gains tax consequences. If Charlie owns most of the partnership when the CRUT is created, most of the income tax charitable deduction for charity's 10% actuarial interest will flow through to him. Charlie could then sell his limited partnership interests to an intentionally defective grantor trust in exchange for a note. Charlie can allocate GST exemption to the grantor trust so his family's wealth is potentially protected from gift, estate and GST taxes forever. *See* the Illustration below:



Charlie is interested in Pam's idea but it seems complicated, so he wonders if the plan is really that much better than just selling his stock. He also wonders how much taxation truly affects the real wealth he can transfer to his family over time. Charlie has already created a successful intentionally defective GST exempt trust so he has been through the planning process before. Still, he is eager to get a lucid explanation of some planning techniques to start educating his children and he wants to understand how the techniques can be combined to achieve his objectives. To address these questions, Pam reviews the basic concepts underlying the strategy, the rules that apply to each component and the projected outcome.

C. The Concepts.

Clients and their advisors often focus on an asset's return without adjusting for the timing and cost of taxes. Surprisingly, real wealth over time depends less upon the return clients earn and more about the return clients keep. Although understanding the details of certain estate planning techniques requires mastery of an arcane language, the basic engineering relies on a few key concepts.

1. Leverage.

Simply stated, leverage occurs when a relatively small tool produces disproportionately large results. When Charlie transfers assets which are entitled to legitimate gift tax discounts to his descendants, such as limited partner interests in a properly formed and managed partnership, the underlying asset value in the partnership starts generating returns immediately for his descendants even though Charlie reports the discounted value of the interests for gift tax purposes. When Charlie sells an asset to a trust for his descendants at a modest interest rate, the trust keeps the returns above the amount needed to pay the interest. That means the rest of Charlie's asset is working for his descendants, not for Charlie. Selling discounted partnership interests to a grantor trust combines both examples of leverage.

2. Opportunity costs.

If tax rates stay the same, it is better for Charlie to defer paying taxes so he can use those tax dollars to generate investment returns. Paying taxes earlier than necessary is an opportunity cost. Spending money on consumption also generates its own set of opportunity costs, because Charlie cannot invest the dollars he spends on consumption costs either. Some clients benefit from controlling both kinds of opportunity costs. Charlie thinks his standard of living is reasonable, so he will concentrate on tax deferral.

3. Allocating tax liabilities and layering tax effects.

Deferring taxes is only a partial solution, because some day the inevitable tax bill will be due. But planning opportunities do not end with deferral. If Charlie is legally liable for the tax burden that falls on assets destined to benefit his family, the tax liability will reduce Charlie's own estate and, in effect, enhance the return that accrues to the family as a whole. In addition, income and transfer taxes have different effects and these effects need to be layered. Sometimes the cost of paying one tax mitigates the cost of paying another. For example, Charlie might want to avoid the capital gains tax, but the capital gains tax may be only half as costly as Charlie assumes if his estate has to pay estate taxes too, because Charlie's estate will not pay estate tax on the money Charlie spent to pay capital gains tax.

4. Integration.

Charlie can use a combination of gift and estate planning techniques to achieve his objectives. But the plan also requires investment strategies that support the income tax, cash flow and appreciation targets necessary to promote its success. In addition, Charlie must involve the other general partners of the proposed partnership, the trustees of the grantor trust and the CRUT, and one or more investment advisors, to properly implement the plan.

D. The Rules.

Pam next reviews the rules that govern the CRUT, the partnership and the sale to the intentionally defective grantor trust for Charlie and his children.

1. What is a charitable remainder uni-trust ("CRUT")?

A CRUT is an irrevocable trust, often called a "split interest" trust. When a donor creates a CRUT, he can keep or give away a continuing payment stream from the CRUT for a period of time. This payment stream is made to the "noncharitable" beneficiaries.[186] The time period can last for up to twenty years or for the lifetimes of one or more currently living noncharitable beneficiaries.[187] In private letter rulings, the IRS has permitted partnerships and corporations to create CRUTs where the uni-trust term is measured in years instead of the lives of individuals.[188] In Charlie's case, the partnership will be both the donor and the noncharitable beneficiary. The CRUT must pay a fixed percentage of the annual value of its assets to the partnership each year, so the uni-trust payments will fluctuate along with the value of the CRUT's investments.

At the end of the uni-trust period, the trustees of the CRUT will distribute the remaining assets to one or more qualified charitable beneficiaries or will hold the assets solely for charitable purposes.[189] These charitable beneficiaries can include private foundations and donor advised funds.[190]

The partnership, as the donor, will pass through a current income tax deduction for the value of charity's interest to the partners in the year it funds the CRUT. The value of the deduction depends on the value of the assets contributed to the CRUT, how long charity must wait to receive its interest, the size and timing of the partnership's reserved uni-trust payment, and an assumed investment rate of return (called the Section 7520 rate) that the IRS publishes monthly.[191] Because Charlie will own almost all of the partnership when the CRUT is created, he will receive most of the deduction. Generally, Charlie can deduct up to 30% of his adjusted gross income for the transfer of appreciated marketable securities to the CRUT (20% if the

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[186] I.R.C. §644(d)(2)(A); Treas. Reg. § 1.664-3(a)(1).

[187] Treas. Reg. §1.664-2(a)(1).

[188] *See* Letter Rulings 9340043 (C corporation), 9400043 (S corporation) and 9419021 (partnership). Under Treas. Reg. § 1.671-2(e)(4), if a partnership or corporation (an "entity") makes a gratuitous transfer to a trust for a business purpose, the entity is generally treated as the grantor of the trust. However, if an entity makes a gratuitous transfer to a trust for the personal purposes of one or more partners or shareholders, the gratuitous transfer is treated as a constructive distribution to the partners or shareholders and they in turn are treated as the grantors of the trust. The IRS has taken the position that a CRT with multiple grantors is an association taxable as a corporation; Letter Rulings 9547004 and 200203034. If the IRS takes the position that Charlie's partnership created the CRUT all or in part for the personal purposes of its partners, then the CRUT may not be valid. If a practitioner is concerned about this result, Charlie could accomplish the transaction by funding a single member LLC, having the LLC create the CRUT, and then selling a portion of the LLC to a grantor trust so that there is only one grantor and income tax owner for the entire series of transaction.

[189] I.R.C. §664(d)(2)(C).

[190] Qualified organizations are described in I.R.C. §§170(c), 2055(a) and 2522(a).

[191] The Section 7520 and is 120% of the federal midterm rate. The partnership can choose the rate in effect for the month of the gift or for either of the two immediately preceding months.

remainderman is a private foundation), and he can carry forward any excess deduction for five years.[192]

Pam lists some of the key CRUT rules for Charlie:

a. The partnership, as the noncharitable beneficiary, must receive an annual uni-trust payment.[193] This uni-trust payment is a fixed percentage of the fair market value of the trust's assets, revalued annually. There are exceptions to this rule that allow some CRUTs to distribute net income instead, but these extra rules are not relevant for Charlie.

b. The uni-trust payment must be at least 5%,[194] but not more than 50%,[195] of the fair market value of the trust's assets, determined annually.

c. At the CRUT's inception, the actuarial value of charity's interest in the CRUT must be worth at least 10%.[196] The CRUT can receive additional contributions as long as each additional contribution satisfies the 10% rule.[197]

d. The CRUT does not pay income taxes.[198] The CRUT distributions carry out income tax consequences to the noncharitable beneficiary in a specific order: First, as ordinary income to the extent of the trust's current and past undistributed ordinary income (dividends that are taxed at 15% are included in this tier); second, as capital gains to the extent of the trust's current and past capital gains; third, as tax-exempt income to the extent of the trust's current and past tax exempt income; and finally, as a nontaxable return of capital.[199]

e. Charlie must factor in additional legal, accounting and administrative costs. Since every uni-trust payment depends on an annual valuation of the CRUT's assets, hard to value assets might generate appraisal costs, too.[200]

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[192] I.R.C. §170(b)(1)(B), (b)(1)(D). If a private foundation were the named remainderman and the stock of XYZ Company were not publicly traded, the deduction would be limited to basis (here, zero), and could not exceed 10% of XYZ Company's stock. I.R.C. §170(e)(1)(b)(ii); I.R.C. §170(e)(5)(C).

[193] I.R.C. §§664(d)(1)(B), (2)(B); Treas. Reg. Sec 1.664-3(a)(1)(i).

[194] Treas. Reg. §1.644-2(a).

[195] I.R.C. §664(d)(1)(A), as amended by The Taxpayer Relief Act of 1997, H.R. 2014, August 5, 1997.

[196] I.R.C. §664(d)(1)(D).

[197] Treas. Reg. §1.664-3(b).

[198] I.R.C. §664(c)(1). Charlie's advisors will also want to ascertain the tax treatment of the CRUT under applicable state law. Most states recognize CRUTs as tax exempt, but some, *e.g.* New Jersey, do not. It will usually be possible to establish the partnership and CRUT in a state recognizing the exemption regardless of where Charlie lives.

[199] I.R.C. §664(b); Treas. Reg. §1.664-1(d)(1).

[200] Treas. Reg. §1.664-1(a)(7).

f. The trustees of the CRUT do not have unlimited investment flexibility. There is a 100% excise tax on unrelated business taxable income (UBTI) generated in a CRUT. Broadly defined, UBTI is income derived from any trade or business. UBTI includes debt financed income, so certain investment strategies that use borrowing might be off limits. Also, the self-dealing rules that apply to charitable trusts prohibit Charlie from transacting with the CRUT, even if the transaction is completely fair.[201]

2. Why use a term of years CRUT?

Charlie could use a term of years CRUT as long as it does exceed 20 years. For instance, Charlie could stagger gifts to his foundation by using five, ten, fifteen and twenty year CRUTs. Pam explains why she thinks Charlie could use a CRUT measured by a term of years in his plan:

a. Charlie wants to diversify a low basis single stock concentration without taking an immediate tax hit. The noncharitable beneficiary pays income taxes as the CRUT makes distributions. Although the partnership is the noncharitable beneficiary, most of its income tax liability will flow through to Charlie, and this will remain true when Charlie sells most of the partnership to a grantor trust.

b. Charlie has a legitimate desire to benefit charity as well as his family.

c. Charlie needs a continuing payment stream for a period of time. The CRUT distributions will enable the grantor trust to pay down the debt it owes to Charlie for buying his limited partnership interest.

d. Charlie does not want to buy life insurance to replace the wealth his family would lose if Charlie kept a lifetime interest in a CRUT and died prematurely.

3. Advantages of a family limited partnership in this context.

Family limited partnerships offer many non-tax advantages.[202] Among them, partnerships:

a. Allow a family to consolidate its assets for investment efficiency, investment diversity and economies of scale.

b. Protect limited partners from creditors, divorcing spouses and financial inexperience.

c. Give Charlie the opportunity to exercise some continuing investment control over the partnership's assets.

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[201] I.R.C. §4941.

[202] *See* Article I and Article IV C of this paper.

d. Create a forum for younger family members to participate in investment and other business decisions.

e. Protect management by use of the business judgment rule and provide non-litigation mechanisms like arbitration to resolve disputes.

4. Consideration of a family limited partnership in this context.

Charlie and his partners must observe certain partnership considerations or he could lose some of the benefits described above. Pam and Charlie review the following:

a. For gift tax purposes, to demonstrate the legitimacy of the partnership, it may be enough that Charlie and his partners are engaged in a permissible partnership activity organized for profit.[203]

b. Charlie and his other general partners should be prepared to hold regular partnership meetings and to share relevant partnership information.

c. Charlie cannot completely control the partnership, although he can control the partnership investments if he chooses. If Charlie keeps too much control over distributions, or if he does not honor the partnership agreement, or if he makes disproportionate distributions, the IRS may attempt to tax the partnership interests or the underlying partnership property in Charlie's estate.[204] Charlie wants to use discounting to help move appreciation from his estate now, so these adverse estate tax consequences (although unlikely, because Charlie is giving away or selling all of his limited partner interests now) would defeat his current gift strategy.

d. Like the CRUT, the partnership will have its own legal, accounting and administrative costs, and Charlie must engage a professional appraiser to set the value of the limited partner interests.

e. It is difficult, and sometimes impossible, to use partnership interests as collateral for a loan.

f. Partnership 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 partnership.

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[203] *See Knight v. Commissioner*, 115 T.C. No. 36, (2000); *Estate of Strangi v. Commissioner*, 417 F.3d., 468 (5th Cir. 2005); *Winkler*, 73 T.C.M. (CCH) 1657; and I.R.C. §7701(a)(2). However, care should be taken to make sure the creation of the partnership and the transfer of the partnership interests are sequential, independent acts; otherwise partnership discounts may not be recognized for gift tax purposes. *See Shepherd v. Commissioner*, 283 F.3d., 1258 (11th Cir. 2002) and *Mark W. Senda and Michele Senda v. Commissioner*, 433 F.3d., 1044 (8th Cir. 2006).

[204] *But see* the discussion in Article IV and XI of this paper.

g. The IRS may closely scrutinize a partnership's operating history and valuation discounts.

5. What are the considerations of an installment sale to an IDGT in this context?

Pam lists a number of other considerations:

a. Since Charlie is selling limited partner 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 limited partner interests. Charlie might try to use a formula to define the value of the limited partner interests he wishes to give.[205]

b. Pam reviews a few of the common techniques for creating grantor trust status.[206] Charlie can have the power, in a non-fiduciary capacity, to reacquire trust property by substituting property of equivalent value.[207] If Charlie was married, he could name his wife as a trust beneficiary.[208] Charlie can give a trusted friend the power to add trust beneficiaries.[209] Charlie likes the idea that someone could add the spouses of his descendants as beneficiaries, especially a parent of Charlie's grandchildren. If Charlie approves, it may be desirable to include more than one of these techniques in the trust.

c. Like the CRUT and the partnership, the sale to the trust will generate its own set of legal and administrative costs.

d. The trust will issue an installment note for the value of Charlie's limited partner interests. To avoid gift tax consequences, the trust must pay Charlie a minimum interest rate. The IRS publishes these rates monthly; the short-term rate applies to notes that are three years or less, the midterm rate applies to notes of between three and nine years; and the long-term rate applies to notes of over nine years.[210]

e. Charlie can require the trust to amortize his note – that is, to pay it down over a certain schedule. Alternatively, he can agree to a balloon note, which means the trust will repay the principal to Charlie in a lump sum at the end of the term.

f. If the limited partner interests Charlie sells to the trust appreciate more than the amount needed to repay the interest on the note, the additional appreciation passes

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[205] *See McCord v. Commissioner*, 461 F.3rd 614 (5th Cir. 2006).

[206] I.R.C. §§671 through 677 contain rules under which a grantor will be treated as the income tax owner of a portion or all of a trust.

[207] I.R.C. §675(4)(c); Treas. Reg. § 1.675-1(b)(4).

[208] I.R.C. §67(a).

[209] I.R.C. §§674(b), (c) and (d).

[210] I.R.C. §§7872(f), 1274(d).

tax free to Charlie's beneficiaries. However, the limited partner interests could decline in value. Not only would Charlie's beneficiaries receive no appreciation, but they might lose the other trust assets Charlie gave to the trust previously. The discount on the limited partner interests buffers the loss, but that is still no guarantee of success.

g. If Charlie dies before the trust repays his note, his estate will pay estate taxes on the note's outstanding balance, but any appreciation Charlie has managed to transfer is out of his estate. There is no settled authority on how much income tax gain, if any, Charlie must recognize when the trust loses grantor status upon his death.[211]

6. What are the risks of the combined techniques?

Pam also reviews some of the risks of the combined techniques. No one can guarantee Charlie the right partnership discount. The trustees of the grantor trust must repay Charlie's note, but the source of repayment cannot be limited to trust income. If the value of the CRUT assets drops unexpectedly, the plan will not work as projected and Charlie's previous gift to his GST exempt trust might be wasted. Charlie must relinquish some control to his fellow general partners and the trustees. The law changes frequently and new legislation could affect the outcome too. There is no definitive answer to what happens for tax purposes if Charlie dies before the grantor trust repays his note.

Charlie recognizes these concerns and is glad that his children are hearing them too so the family can cooperate to support the plan.

E. What is the Outcome?

Charlie wants to go forward with Pam's plan. His children agree to be co-general partners in the new partnership. Charlie will be in charge of partnership investments, but his children will handle other partnership decisions. A corporate trust company and one of Charlie's trusted friends are the co-trustees of Charlie's GST exempt grantor trust. Charlie and the children, as general partners, select Charlie's sister and a corporate trust company as the trustees of the new CRUT. Charlie could also be a trustee (for investment purposes only) of the CRUT and/or the grantor trust, but chooses not to do so.

Charlie, his children and the trustees then show the plan to their investment advisor. The advisor constructs a sample diversified portfolio inside the CRUT that targets an annual 8% pre-tax return, with 25% of the return (or 2%) coming from ordinary income and the balance (or 6%) coming from capital appreciation. Generally, the advisor projects an annual 30% turnover – that is, on average she will need to sell and reinvest 30% of the portfolio every year.

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[211] Some commentators suggest electing out of installment treatment. Theoretically, all gain should be "recognized" in the first year of the sale, although not reported under Rev. Rul. 85-13.

Charlie, the children, the trustees and their investment advisor consider how to produce the annual CRUT payments; how much could be in cash and in kind; what happens when the CRUT distributes its uni-trust payments to the partnership and the partnership distributes some or all of the uni-trust payments to the grantor trust; the grantor trust's repayments of Charlie's note; and how to reinvest those distributions to meet the differing objectives for Charlie, charity, the partnership and the grantor trust. They think through contingency plans to cope with inevitable investment volatility, or the ups and downs that happen in every diversified investment plan. They analyze the different types of note: a "slow" note that preserves leverage for a longer time, and a "fast" note that eliminates the uncertain tax issues at Charlie's death. Charlie decides he would like the trust to repay his note as soon as possible, so the repayment is built into the plan.

To show Charlie the difference that taxes play in accumulating family wealth over time, Pam projects what would happen if there were no initial capital gains taxes when Charlie sells his stock and no estate taxes She also projects what would happen if Charlie sold partnership interests to a grantor trust without including the CRUT component. 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 (see Schedule 13):

Scenario	Charlie's Children	Charlie's Descendants (GST Exempt)	Charity	Charlie's Consumption Direct Costs	Consumption Investment Opportunity Costs	IRS – Income Taxes	IRS – Investment Opportunity Costs	IRS – Estate Taxes	Total
Stock Sale, No Planning	14,795,841	2,000,000	-	5,468,890	8,795,202	7,413,154	16,269,613	13,742,052	68,484,752
Simulated Tax Holiday (No Initial Capital Gains Tax and No Estate Tax) 77% - 23% Split Between Family and Charity	-	28,084,515	8,479,812	5,468,890	8,795,202	8,008,304	9,648,029	-	68,484,752
FLP/CRUT/ Grantor Trust Sale, Charlie gives remaining estate to charity	-	27,867,024	8,479,812	5,468,890	8,795,202	7,655,137	10,218,688	-	68,484,752
FLP/ Grantor Trust Sale, Charlie gives remaining estate to family	-	29,679,447	-	5,468,890	8,795,202	8,113,649	16,269,613	157,954	68,484,752

Using the above assumptions, Charlie will not pay tax on approximately half of the capital gains generated when the CRUT sells the stock. Under the CRUT tiered income distribution rules, approximately half the gain will still be inside the CRUT at the end of twenty years when charity receives the remainder. Although Charlie does pay some capital gains tax on the other half of the gain, he still takes advantage of two of Pam's key concepts: He defers the capital gains tax payment until the CRUT makes distributions, and his estate does not pay estate tax on those capital gains tax payments. In effect, the grantor trust repays Charlie's installment note using pre-tax dollars.

Charlie is currently subject to a combined federal and state transfer tax rate of 45%. On the one-half of the capital gains taxed to Charlie (because the rest of the capital gain is still embedded in the CRUT when it passes to charity), Charlie avoids transfer tax on the dollars he spends to pay capital gains tax. Charlie has already paid those dollars to the IRS and so they have been eliminated from his transfer tax base. That means Charlie's total effective capital gains rate on his $10 million stock sale turns out to be less than 4% (prior to considering the charitable income tax subsidy described below).

Although the simple stock sale generates the lowest amount of income tax -- $7.4 million – the combined total income tax cost of nearly $24 million is dramatically more than in the next two set of projections (the simulated tax holiday and Pam's CRUT plan) because the early stock sale tax payment contributes to $16.3 million in opportunity costs. Since Charlie pays capital gains tax immediately on the stock sale, his family loses the benefit of reinvesting those tax dollars. On top of that, the simple stock sale piles on another $13.7 million of estate tax. Together, those taxes consume almost 55% of the $68.5 million of total assets projected at the end of twenty-five years. In contrast, there is no estate tax liability at all in the next two projections.

Because Charlie will own more than 99% of the partnership when the partnership funds the CRUT, the partnership will pass through more than 99% of the charitable income tax deduction to Charlie. The deduction equals 10% of the fair market value of the assets contributed to the CRUT, or $1,000,000. In Charlie's case, the deduction offsets $1,000,000 of his ordinary income, so it yields a $350,000 income tax benefit. In effect, the income tax deduction pays Charlie a 3.5% subsidy for his $10,000,000 transaction.

The two middle rows of numbers compare Pam's plan to a simulated tax holiday. Both sets of projections shows a total tax burden that is less than one-half of the aggregate $37.4 million tax bill generated by the simple stock sale. Charlie detects only one difference between Pam's plan and the simulated tax holiday. In Pam's plan, the total projected tax cost is an additional $322,000 (or less than 2% of the roughly $18 million tax burden in both Pam's plan and the simulated tax holiday). That $322,000 reduces what Charlie's family would keep in a world with no initial capital gains tax on big stock sales and no estate taxes.

Pam asks Charlie to consider the projected outcome if he sells partnership interests to a grantor trust, but the partnership does not transfer its appreciated securities to a CRUT first. Those projections are in the final row. Charlie sees that his descendants would end up with $29.7 million if the partnership did not create the CRUT, or nearly $2 million more than they would have received if the partnership did create the CRUT. However, Charlie notes that the column showing what charity would receive is blank. Pam explains that when the partnership creates the

CRUT, the trustees do not pay immediate capital gains tax when they sell the stock, and Charlie receives a charitable income tax deduction up front. Without the CRUT, the early payment of taxes and lack of income tax subsidy compounds over time, so that at the end of the day, Charlie's family pays an additional $6.5 million in taxes and opportunity costs. If Charlie adds the $2 million his descendants receive to that increased tax bill, the result equals the $8.5 million that would have gone to charity with the CRUT technique. In other words, it costs Charlie $6.5 million to transfer $2 million to his descendants, and charity does not benefit at all.

Although Charlie clearly sees that the two middle rows of numbers – Pam's plan against a simulated tax holiday – produce a nearly identical result, Pam presses the benefits of understanding leverage and opportunity costs even further. Without additional planning, Charlie can only protect $2,000,000 from future gift, estate and GST tax. If Charlie allocates GST exemption to a 10% seed gift to the grantor trust, or if he sells partnership interests to an existing GST exempt grantor trust, he will protect almost fourteen times that from further transfer taxes by the time of his death. This benefit compounds as the property moves down the generations. By using his GST exemption wisely, Charlie not only solves some of his tax problems, but he also solves some of his descendants' tax problems as well.

Without mastering technical details, Charlie and his children have a good understanding of the plan by appreciating leverage, opportunity costs, layering tax effects and integration, and, by engaging professional investment advisors and trustees, they have some of the key resources they need to work toward the projected results.

IX. BEST TESTAMENTARY CHARITABLE PLANNING IDEA FOR THE FAMILY LIMITED PARTNERSIP – THE LEVERAGED BUY-OUT CHARITABLE LEAD ANNUITY TRUST

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "one can never self-deal, even on a fair basis, with a foundation or a CLAT;" "the problem with testamentary gifts to charity is that the decedent's family always ends up with substantially less;" or "the problem with testamentary CLATs is that the decedent's family has to wait a long time to have access to the decedent's assets." This "conventional wisdom," under the circumstances discussed below, is incorrect.

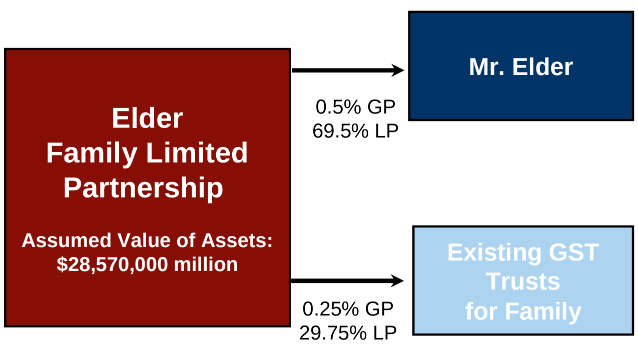
Assume a client, at his death, wishes for part of his estate to go to his family and the rest to his favorite charitable causes. One technique that is generally considered under those circumstances is the testamentary charitable lead annuity trust ("CLAT").

Example 17: Use of a Testamentary CLAT in Conjunction With a Leveraged Redemption of a Partnership Interest Held by a Decedent

Ed Elder and his family create a partnership. Ed Elder owns 70% of the partnership units after contributing $20 million in assets to the partnership. However, Ed dies unexpectedly a few months after the creation of the partnership before he has had a chance to make transfers of limited partnership units to trusts for the benefit of his family. What would be the effect on Ed's estate plan, under those circumstances, if his will bequeaths an upfront dollar gift to trusts for the benefit of his family and the rest to a "zeroed out" testamentary charitable lead annuity trust (CLAT)?

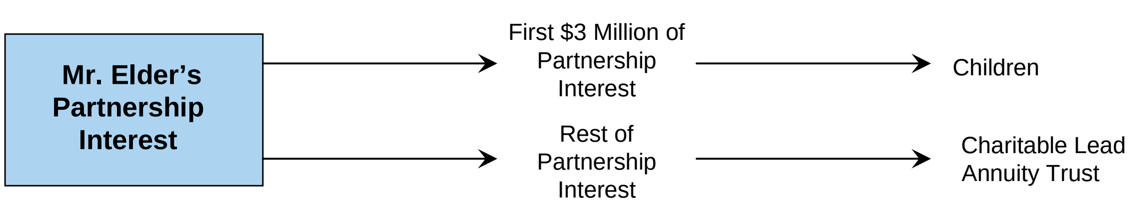
Assume Ed's will provided that the first $3 million of his estate goes to trusts for the benefit of his family and the rest to a 100% "zeroed out" CLAT that is to last for 20 years. Assume that the partnership buys out the charitable lead annuity trust interest in a probate trust preceding that fits the requirements of the regulations of I.R.C. Section 4941.[212] Assume the partnership interest is redeemed with an interest only note (which pays interest equal to the dollar amount that is owed for the annuity payments to the charitable beneficiaries of the CLAT) with the principal of the note being paid in the 20th year. Finally, it is assumed that the I.R.C. Section 7520 rate is 5%. Please see the illustrations below:

During Ed's lifetime he creates a partnership with his family.



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

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



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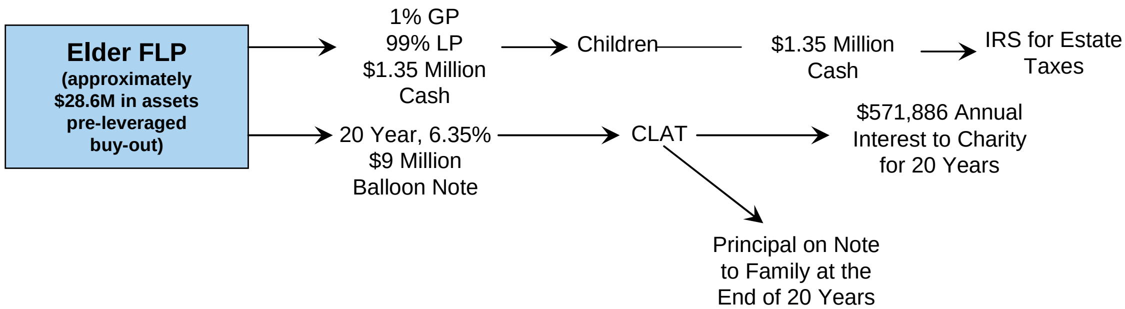
[212] *See* PLR's 200207029, 200124029 and 20024052. See also Daniels, Leibell, "Planning for the Closely Held Business Owner: The Charitable Options," 40th Annual Heckerling Institute, Chapter 12 (2006).

After a probate hearing Ed's testamentary CLAT is redeemed as follows:



B. What is a CLAT?

1. A charitable lead annuity trust is a trust in which the lead interest is payable to a charity and is in the form of an annuity amount for the term of the lead interest.

2. In the charitable lead annuity trust, the annual payment is not based on the income of the trust. Since the annuity amount is not based on the income of the trust, that amount must be paid to the charity even if the trust has no income. If the trust's current income is insufficient to make the required annual payment, the short-fall must be made up out of the invasion of the trust principle. If the current income exceeds the required annual payment, it does not have to be paid over to the charity; however, the excess income would then be accumulated and added to the trust corpus.

3. The lead interest in a charitable lead annuity trust can be for a fixed term of years. Unlike a charitable remainder trust, the fixed term can be indefinite.[213] The lead interest can also be measured by the life of an existing individual or the joint lives of existing individuals.

4. Charitable lead annuity trusts are not subject to the minimum payout requirements associated with charitable remainder trusts. Thus, there is no 5% minimum payout for charitable lead annuity trusts.

5. The charitable lead annuity trust is not a tax exempt entity. Thus, if taxable income is accumulated in the trust it will be subject to income taxes. The CLAT will receive a charitable income tax deduction when it makes the distribution to the charity.

6. Charitable lead trusts are characterized as private foundations for purposes of certain restrictions placed on such organizations. Accordingly, CLATs

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[213] I.R.C. Section 170(f)(2)(B).

are subject to private foundation excise tax provisions.[214] The governing trust instrument must contain specific prohibitions against (i) self dealing; (ii) excess business holdings; (iii) jeopardy investments; and (iv) taxable expenditures.[215] If the specified prohibited transactions occur onerous significant excess taxes could accrue.

C. What is a Leveraged Buyout Testamentary CLAT?

During probate administration, one of the exceptions to the self dealing rules, with respect to foundations and CLATs, is a self dealing transaction may occur if certain restrictions are met. For instance, if a partnership interest which is to pass to a CLAT is redeemed for a note that may be a permissible transaction.[216] One requirement is that the note has a fair market value that is at least equal to or greater than the fair market value of the existing redeemed partnership interest. Another requirement is that the note must be just as liquid, if not more liquid, than the existing partnership interest. Assuming the appropriate probate court approves the leverage buyout, the note could be restructured to be an interest only negotiable note, with the interest rate being higher than the existing AFR rate (e.g. 8% in comparison to an AFR of 5%), with a balloon payment at the end of 20 years (assuming a 20 year testamentary CLAT).

D. What is the Outcome?

What would the results be for Ed's family and his charitable beneficiaries under those circumstances in comparison to a gift only to his family (with the IRS allowing a full discount for the partnership units)? What would be the comparison if the IRS did not allow any discount for the gift to the family? What difference would it make in comparison of the various alternatives if the family earned 3% before taxes, 8% before taxes and 10% before taxes during the 20 year period after Ed's death? What difference would it make instead of bequeathing $3 million to Ed's family, Ed had bequeathed $10 million to his family with the rest to the zeroed out CLAT? The results of those comparisons are summarized below (please see attached Schedules 14 to 16).

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[214] I.R.C. Section 4947(a)(2).

[215] *See* I.R.C. Sections 4941(a), 4941(b), 4943(a) and 4943(b).

[216] *See* Treas. Reg. Section 53.4941(d)-2; see also Madson, "Funding a CLAT with a Note," 30 Est. Plan 495, 2003 WL 22213736 (2005).

Chart IX A

Summary of Results For $28.57 Million of Assets Growing at 3% Per Year (Pre Tax) – No Further Planning vs. 20 Year Testamentary CLAT Technique; 30 Year Future Values; Post-Death Scenarios (assuming Mr. Elder dies in year 1)

Technique	Elder Children	Elder GST Trust	Charity	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Taxes	Total
No Further Planning Without a Discount 3%, 30 Years	22,381,854	17,120,821	-	5,858,591	14,989,091	9,000,000	69,350,357
No Further Planning With a Discount 3%, 30 Years	25,649,265	17,120,821	-	8,252,959	12,927,313	5,400,000	69,350,357
CLAT Redemption With a Discount and $3 Million to Family 3%, 30 Years	17,607,370	19,563,744	20,651,682	5,013,781	5,163,780	1,350,000	69,350,357
CLAT Redemption With a Discount and $10 Million to Family 3%, 30 Years	22,899,604	19,056,537	4,589,271	7,310,651	10,994,295	4,500,000	69,350,357

Chart IX B

Summary of Results For $28.57 Million of Assets Growing at 8% Per Year (Pre Tax) – No Further Planning vs. 20 Year Testamentary CLAT Technique; 30 Year Future Values; Post-Death Scenarios (assuming Mr. Elder dies in year 1)

Technique	Elder Children	Elder GST Trust	Charity	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Taxes	Total
No Further Planning Without a Discount 8%, 30 Years	74,723,823	55,481,827	-	29,497,788	118,801,049	9,000,000	287,504,487
No Further Planning With a Discount 8%, 30 Years	84,904,303	55,481,827	-	33,691,823	108,026,533	5,400,000	287,504,487
CLAT Redemption With a Discount and $3 Million to Family 8%, 30 Years	46,374,710	92,379,335	56,500,420	30,013,402	60,886,619	1,350,000	287,504,487
CLAT Redemption With a Discount and $10 Million to Family 8%, 30 Years	74,166,232	65,866,823	12,555,671	32,874,812	97,540,948	4,500,000	287,504,487

Chart IX C
Summary of Results For $28.57 Million of Assets Growing at 10% Per Year (Pre Tax) – No Further Planning vs. 20 Year Testamentary CLAT Technique; 30 Year Future Values; Post-Death Scenarios (assuming Mr. Elder dies in year 1)

Technique	Elder Children	Elder GST Trust	Charity	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Taxes	Total
No Further Planning Without a Discount 10%, 30 Years	123,192,353	90,396,643	-	48,656,063	227,309,299	9,000,000	498,554,358
No Further Planning With a Discount 10%, 30 Years	139,510,717	90,396,643	-	54,254,602	208,992,396	5,400,000	498,554,358
CLAT Redemption With a Discount and $3 Million to Family 10%, 30 Years	71,245,398	160,754,913	84,957,439	51,480,571	128,766,037	1,350,000	498,554,358
CLAT Redemption With a Discount and $10 Million to Family 10%, 30 Years	121,173,406	109,208,237	18,879,464	53,639,178	191,154,073	4,500,000	498,554,358

The primary reason the leveraged buy out CLAT technique has a good result for both the client's family and the client's favorite charities, is that, in effect, the client's family is getting two tax deductions for the interest payments that they are making on the note. There is an estate tax deduction (i.e., the zeroed out CLAT annuity payments) and the family owners of the partnership are also receiving an income tax deduction on the interest payments. The secondary reason the technique has a good result for the family is that they are not out-of-pocket cash to pay the principal of the note to a third party. From the family's perspective, the principal of the note is, in effect, paid to themselves. Also, from the family's perspective, they have the assets now subject to the interest obligations of the note held by the CLAT (which could be satisfied with a sinking fund of laddered bonds).

As noted, above the appropriate probate court will need to find that the note has a fair market value equal to or greater than the partnership interest that is being redeemed and the note needs to be more liquid than the redeemed limited partnership interest. The second requirement should be relatively easy to satisfy and the first requirement should also be easy to satisfy because subject interest rate should be equal to or greater than the true "fair market value" interest rate.

X. BEST INSURANCE PLANNING IDEA (AND A VERY GOOD PARTNERSHIP PLANNING IDEA) – THE LEVERAGED REVERSE FREEZE WITH A CASCADING SALE OF GROWTH PARTNERSHIP INTERESTS

A. Introduction.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "using a preferred partnership interest is dead after the passage of I.R.C. Section 2701;" or "it is impossible, after the split dollar reform, for a trust to pay for premiums on a significant life insurance policy without paying significant gift taxes." This "conventional wisdom," under the circumstances discussed below, is incorrect.

One of the somewhat unexplored areas of estate planning is the utilization of what some practitioners call "reverse freeze" planning. This planning takes advantage of the truism that investors have the potential of making a successful investment, if they engage in a leveraged purchase of a high yield preferred interest. The following idea exploits the current differentiation in yields between high yield fixed income and treasuries.

B. Example.

Consider the following example, which illustrates the potential of combining a leveraged sale of a high yielding preferred to a grantor trust with the trust using its excess cash flow to purchase life insurance and make cascading purchases of the growth partnership interests:

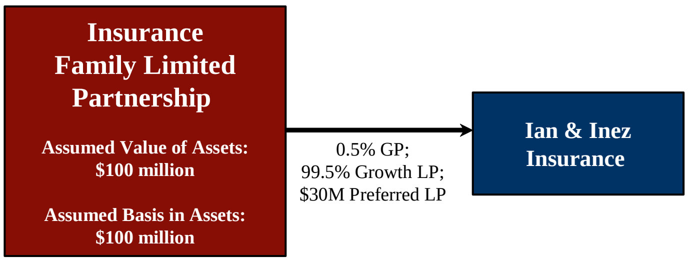
Example 18: Ian and Inez Insurance Wish to Transfer $103,000,000 of Their Financial Assets to Their Children in the Most Efficient Transfer Tax Manner Possible

Ian and Inez Insurance own significant financial assets, $103,000,000. They are not fond of paying substantial gift taxes. Ian and Inez want their tax planner, Pam Planner, to devise a plan in which their consumption needs are addressed and in which their stewardship goals are met.

Ian and Inez tell Pam that they are both 60 years of age and are in excellent health. Ian and Inez would like Pam to assume that they will consume $2,000,000 a year with a 3% inflation adjustment for the next 30 years above whatever is necessary to pay their income tax bill. Ian and Inez ask Pam to assume that the assets will earn 9% pre-tax, with 2% of the 9% being taxed at ordinary income rates and 7% being taxed at capital gains rates, with a 30% turnover in capital gains investments.

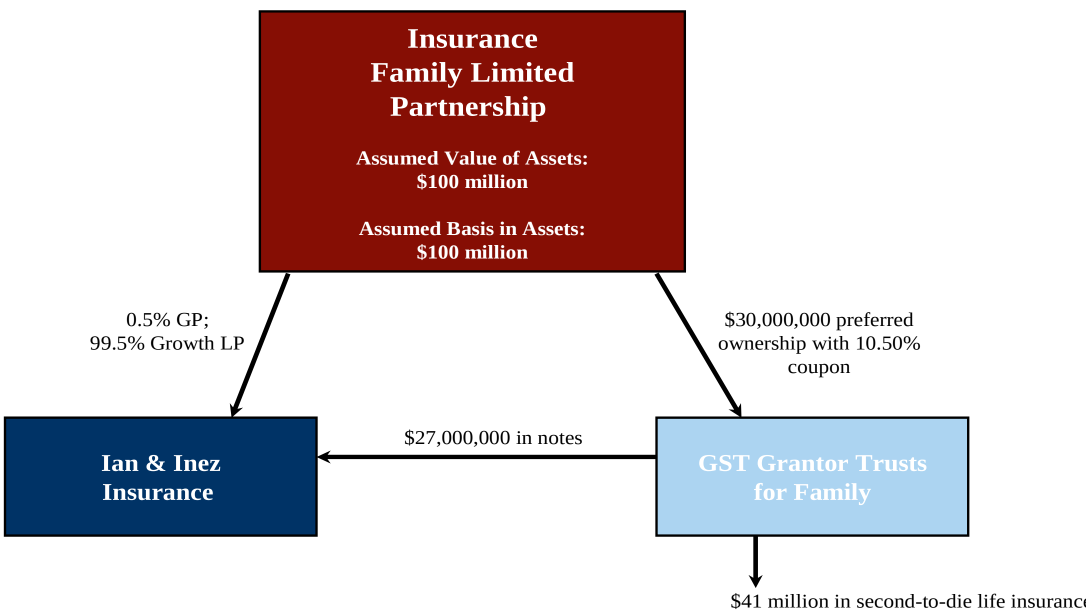
Ian and Inez desire for Pam to develop a plan in which there are minimum gift tax consequences and, which eliminates, as much as possible, their estate taxes, even if they both die in 10 years. Ian and Inez tell Pam to also assume the survivor will live 30 years.

Pam tells Ian and Inez that she believes that a plan exists, under the assumptions that they have asked her to incorporate, which could accomplish their goals. The first step of the plan is to create a partnership or a limited liability company between Ian and Inez that has growth and preferred partnership interests. Pam engages a valuation expert and asks her to apply the Service's valuation parameters inherent in Revenue Ruling 83-120. Assume, for purposes of the analysis below, the expert appraiser tells Pam that a non-cumulative preferred partnership interest, under those parameters and under the facts of the proposed family limited partnership interest, should have a coupon equal to 10.5% in order to support par value for the preferred. Ian and Inez Insurance will initially own a $30,000,000 preferred partnership interest with the rest of the $100,000,000 they have contributed to the partnership being represented by a general partnership interest or a growth limited partnership interest. See the chart below:



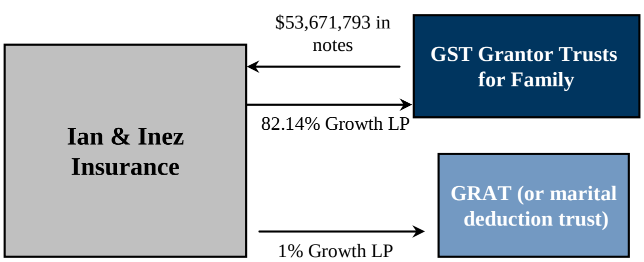
Partner	Ownership (%)
Ian & Inez Insurance	0.5% GP; 99.5% Growth LP; $30M Preferred LP

After the partnership has been created Ian and Inez Insurance transfers, by gift, a $3,000,000 preferred partnership interest to some generation-skipping transfer trusts for the benefit of their children, grandchildren and future descendants. In January of 2009 Ian and Inez also sell the remaining $27,000,000 preferred interests to those trusts in exchange for notes that will pay a blended AFR rate of 2.06%. (For purposes of the calculations and the chart below, it is assumed that the coupon of the preferred partnership interest will be 10.5%) See the illustration below:



The grantor trusts, after that sale, will purchase $41,000,000 in second-to-die life insurance. Ian and Inez will be the insureds. It is assumed that the GST will use its net cash flow to pay the $400,000 annual insurance premium. The remaining cash flow inherent in the trust (the difference between the yield on the 10.5% preferred interest owned by the trust and the interest on the $27,000,000 note) will be utilized to pay either interest and principal on the notes or to purchase additional growth limited partnership interests from Ian and Inez.

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 (on which, it is again assumed there will be a blended 2.06% interest rate). During the interim three year period, it is assumed that around 9% of the growth limited partnership units will have been purchased. The purchase of the remaining growth interests could occur in a manner in which there is a defined value sale and in which a stated dollar amount (around $61,000,000) in value of the transferred growth limited partnership interest, as finally determined for federal gift tax purposes, passes to the generation-skipping trusts and any excess in value passes to a near zero GRAT or a marital deduction trust. Please see the illustration below:



Owner	Ownership (%)
Ian & Inez Insurance	0.5% GP; $80.67M note receivable
GST Grantor Trusts for Family	98.5% Growth LP; $80.67M note payable; $30M Preferred LP
GRAT (or marital deduction trust)	1% Growth LP

C. Valuation Advantage: IRS Concedes Preferred Partnership Interests Should Have a High Coupon.

Prior to passage of I.R.C. Section 2036(c) in 1987 (which was repealed in 1990) and prior to the passage of I.R.C. Section 2701 as part of Chapter 14 in 1990, the Internal Revenue Service did not have many tools with which to fight, from their perspective, abusive estate freezes, except valuation principles. In 1983, the Service issued a Revenue Ruling,[217] which promulgated the factors for determining what an appropriate coupon should be on preferred stock of a closely held corporation or what an appropriate coupon should be on a preferred partnership interest in a closely held family limited partnership. Generally, the IRS took the view that a secondary market does not exist for interests in family limited partnerships. Accordingly, with respect to a preferred partnership interest in a family limited partnership, the coupon should be very high in order to reflect the embedded marketability discount of the preferred partnership interest. In other words, according to the IRS, to have a preferred partnership interest valued at "par", a hypothetical willing buyer would demand a significant return on that preferred partnership interest, in comparison to other comparable fixed income instruments, in order to compensate that

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[217] Rev. Rul. 83-120, 1983-2 (C.B. 170).

hypothetical willing buyer for the lack of marketability that would be inherent in that family limited preferred partnership interest.

D. IRC Section 2036 Advantage: Strong Legislative History Suggests IRC Section 2036 Should Not Apply to Partnerships With Significant Preferred Interests.

Another advantage of a family limited partnership that has a significant preferred interest is that the legislative history associated with the repeal of I.R.C. Section 2036(c) makes clear the strong desire of Congress that I.R.C. Section 2036 should not apply to partnerships that have a significant preferred partnership interest component. For a very brief period, 1987 to 1990, I.R.C. Section 2036(a), upon application of I.R.C. Section 2036(c) did operate to include the partnership assets of a partnership in which a preferred partnership interest was created to the exclusion of I.R.C. Section 2033. (While I.R.C. Section 2033 also could have applied in 1987 to include the same partnership interests, Congress was very careful to reverse the traditional priority of I.R.C. Section 2033 inclusion over I.R.C. Section 2036 inclusion with the passage of I.R.C. Section 2036(c)(5)). In 1987, Congress explored whether or not to do away with minority and marketability discounts with respect to family partnership and family corporations and whether to attack so-called estate freezes. At that time, Congress decided not to attack family limited partnership discounts or discounts associated with family corporations. However, Congress decided to attack so-called estate freezes by making estate freezes that met six defined tests (described in I.R.C. Section 2036(c)) subject to the I.R.C. Section 2036(a) inclusion.

This writer's paper on this subject in 1989 stated that the reasons for the application of I.R.C. Section 2036(a) instead of I.R.C. Section 2033 were as follows:[218]

> The House of Representative Ways and Means Committee Conference Report accompanying TAMRA[219] stated that there were two reasons why Congress decided to punitively tax estate freezes. The first stated reason was inherent difficulties exist in valuing common stock that is sold or given away by a transferor in conjunction with an estate freeze transaction. According to the 1988

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[218] "The Legacy of I.R.C. Section 2036(c): Saving The Closely Held Business After Congress Made 'Enterprise' A Dirty Word." S. Stacy Eastland, Real Property Probate and Trust Journal, Volume 24, Number 3, Fall 1989.

[219] *See* H.R. Rep. No. 100-795, 100th Cong., 2nd Sess. 418-419 (1988) (hereinafter cited as 1988 House Report). The six primary sources establishing and explaining the new section 2036(c) transaction tax are the statute itself, the 1987 joint Committee of Taxation Conference Report on the Omnibus Budget Reconciliation Act, H.R. Rep. No. 100-495, 100th Cong., 1st Sess. 995 (1987) (hereafter cited as 1987 Conference Committee Report), the 1988 House Report, the Senate Report issued in conjunction with RAMRA, S. Rep. No. 100-445, 100th Cong., 2nd Sess. 522 (1988) (hereafter cited as 1988 Senate Report), the Statement of Managers, issued by the Joint Committee on Taxation in conjunction with TAMRA, TAMRA 1988 Stand. Fed. Tax Rep. (CCH No. 53, 92 (Oct. 24, 1988) (hereafter cited as 1988 Managers' Report), and Notice 89-99, 1989-39 I.R.B. 4 (hereafter cited as Notice). The key source at this time is the Notice, however, because of the tremendous power that has been delegated by Congress to the Treasury Department under Section 2036(c)(8):

The secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of this subsection, including such regulations as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through distributions or otherwise.

House Report, the Internal Revenue Service did not have the resources to either adequately value the common stock or, in some cases, even to detect that a gift had been made.[220] The second stated reason for penalizing estate freeze transactions was that essentially these transactions are testamentary in nature, because the transferor retains income in the enterprise and, thus, retains enjoyment of the whole enterprise until the moment of death. If a transferor creates a trust and retains the right to receive income from the trust for life, the trust corpus will be includible in the transferor's gross estate for federal estate tax purposes under Section 2036(a)(1). Courts have refused, however, to treat preferred stock in an enterprise as if it were a retained life estate for purposes of including the value of the enterprise in the decedent's estate under Section 2036(a)(1) [and have applied Section 2033 to the exclusion of Section 2036].[221] According to the 1988 House Report, it was necessary for Congress to remedy that refusal by adopting Section 2036(c).

By 1990, it became apparent to many commentators[222], including this one, I.R.C. Section 2036(a) inclusion, in lieu of I.R.C. Section 2033 inclusion with respect to ownership in partnerships and other "enterprises" should be repealed because of numerous problems. Those problems included the following:

> Sometimes the transfer tax system is abused by estate freeze planning but the abuse does not lie in the retention of preferred stock or a preferred partnership interest by the transferor. There is nothing sinister or improper about owning preferred stock or a preferred partnership interest. The economic rights associated with preferred ownership interests serve an extremely useful purpose in the capital market. Many capital investors find an equity interest that bestows a preferred income stream, preferred voting rights, and preferred liquidation preferences suitable for their investment goals. In the closely held family business context, preferred interests are an extremely useful capital concept because it is extremely rare to find a family whose members have equal abilities to run the business, or who all have a desire to participate as employees in the family business. Preferred ownership interests fairly compensate those family members who are not receiving compensation as employees of the business. Occasionally, family owners reach retirement and no longer are employed by the family business. In those circumstances, preferred ownership interests are extremely useful capital structures that allow a portion of the income stream of the business to be directed to that family owner.

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[220] 1988 House Report at 418-419 (cited in note 3).

[221] Courts have reasoned that the receipt of income from the retained preferred stock is only a retention of income from the preferred stock, not from the assets of the entire enterprise and accordingly should be included under Section 2033, not Section 2036(a). See Estate of Boykin v. Commissioner, 53 T.C.M. (CCH) 345 (1987).

[222] *See* Dees, Section 2036(c): The Monster That Ate Estate Planning And Installment Sales, Buy-Sells, Options Employment Contacts and Leases, 66 Taxes 876 1988).

Congress implicitly recognized that there is nothing inherently evil in the ownership of preferred interests for enterprises that are not closely held. For example, an individual of significant wealth may convert that wealth into ownership of preferred stock and common stock of General Motors. That individual could convey the common stock to a child without Section 2036(c) applying to bring the future value of that common stock into the individual's gross estate.

The clear discrimination against closely held businesses under Section 2036(c) is justified, according to the legislative history, because the common stock or growth partnership interest of a closely held enterprise is more difficult to value than the common stock of General Motors. Because Section 2036(c) did not eliminate the need to value the transferred common stock or growth partnership interest, the way to attack the valuation problem would be to aid the Internal Revenue Service in valuing transferred common stock or growth partnership interests.

* * *

A second criticism of Section 2036(a) inclusion is that it is based on a flawed analogy and concept. Besides the valuation problems noted by Congress, the other reason given for adoption of Section 2036(c) was that a transferor's retention of preferred stock after a conveyance of common stock is analogous to creation of a trust in which the settler retains only an income interest, in which case Section 2036(a)(1) would include the entire value of the trust in the transferor's gross estate. Transferred common stock is not includible in a deceased transferor's estate by operation of Section 2036(a)(1), operating without Section 2036(c), because the transferor has not retained rights in the transferred common stock. Thus, the asserted analogy is not appropriate.

To illustrate this, assume a transferor (T) creates two trusts. One trust will be includible in T's estate under Section 2036(a)(1) because T retains an income interest, but the other trust will not be includible in T's estate because T is not a beneficiary of the trust (assume T's children are the sole beneficiaries of the trust.) Finally, assume that T transfer General Motors preferred stock into the retained income trust and transfers General Motors common stock into the trust created for the children. General Motors will allocate a disproportionate amount of the income generated by its assets to the retained income trust and a disproportionate amount of the appreciation of its assets to the trust created for T's children. Under Section 2036(a)(1) the only trust that will be included in T's estate is the retained income trust because T retained no interest in the General Motors common stock that was transferred to the children's trust. T did not retain the right to income, either directly or indirectly, of that common stock. If the facts were changed to assume stock in Family Co. Ranching Operations, the common stock would be includible in T's estate, not under Section 2036(a)(1) but, instead, under Section

2036(c), which ignores the fact that T has not retained an income interest in the common stock.

Even if the analogy to Section 2036(a) were appropriate, and if Congress wished to reform the transfer tax system to make the treatment of trusts consistent with the treatment of family enterprises, the solution would not be to create Section 2036(c) to bring enterprises within the fold of Section 2036(a). Instead, the solution would be to eliminate Section 2036(a) in its present form. The estate taxation of trusts because of retained income interests, particularly in light of the unified transfer tax system that has existed since 1976, is unfair and unnecessary. [See Treasury I]

* * *

The third principal flaw [in application of I.R.C. Section 2036(c) for Section 2036(a) inclusion] is that, while it discourages the utilization of preferred ownership interests, it does not eliminate "freezes" or solve valuation problems. Taxpayers may pay a heavy tax cost under Section 2036(c) if they convert a growth interest in a family business to a preferred ownership interest, which discourages taxpayers from using an equity tool that can solve many family business ownership problems. Meanwhile, Section 2036(c) has compounded the valuation problems inherent in determining the value of transferred growth interests and has not eliminated numerous freezes in family businesses, some of which have been endorsed specifically by Congress. Having failed in its two objectives, Section 2036(c) should not be left also to dissuade legitimate nontax planning in family businesses.

Because the language of Section 2036(c) abandons traditional property law concepts, and applies to transfers that have no inherent gift element, a fourth criticism of it is that application of the tax cannot be predicted with certainty, which is always bad in a voluntary compliance system. Moreover, Section 2036(c) encourages investment in self-gratification assets instead of job-producing enterprises, which also is a poor policy result. Indeed, because of the Service's interpretation that personal use assets are not subject to Section 2036(c), Congress appears to have passed an estate tax statute that opposes the Section 162 and 212 income tax policy of encouraging investment in enterprises.

* * *

. . . with respect to transactions that are pure economic bargains, Section 2036(c) has a doubtful constitutional basis. This section converts the estate tax from a transfer tax to a transaction tax. As is obvious from the literal wording of Section 2036(c)(2), a transfer with a gift element is not required. All Section 2036(c) requires is that a transaction described in Section 2036(c)(1) has occurred. If no donative transfer has occurred, application of Section 2036(c) to a pure economic bargain may be an unconstitutional direct tax on property. Under Article I, Section 9, of the United States Constitution, "[n]o capitation, or other direct, Tax shall be laid unless in Proportion to the Census or Enumeration hereinbefore directed to be taken." An estate tax directly levied on property is an unapportioned direct tax. To be constitutional, the estate tax must be an indirect levy against *transfer*. [Application of Section 2036(c) for Section 2036(a) inclusion] is not an indirect levy on the privilege of transferring property if it applies to a transaction in which the growth of an enterprise accrues to a transferee *only* because of the economic bargain made by the transferee and not because of any gift made by the transferor.

* * *

Finally, the [application of Section 2036(c) for Section 2036(a) inclusion] also may be unconstitutional because it is either a discriminatory denial of due process (the tax ignores the contractual rights of a party who purchases growth interests, if the contract with the transferor requires the transferor to pay all taxes attributable to the sale), a discriminatory denial of equal protection (no rational basis exists to penalize employment of a family member as opposed to a non-family member), or too vague to fairly enforce (no one can calculate the tax at this time). This constitutionally suspect tax out to be repealed and, before it is replaced, Congress should schedule meaningful hearings for debate about the property solution to the valuation problems that justify action in this arena.

Commentators were not the only persons by 1990 who concluded that I.R.C. Section 2036 (a) inclusion in lieu of I.R.C. Section 2033 inclusion for preferred interest partnerships was poor policy. Several prominent Republican Senators also did. What is perhaps noteworthy is that several powerful Democrat Senators felt the same way. Thus, the removal of I.R.C. Section 2036(a) priority over I.R.C. Section 2033 in determining inclusion enjoyed rare bi-partisan consensus. Consider the following statements before the Senate on October 17, 1990:[223]

MR. BENTSEN. Mr. President, I am introducing legislation today that will repeal section 2036(c) of the Internal Revenue Code and provide new rules to limit evasion of Federal estate and gift taxes by means of estate freezes.

The Omnibus Reconciliation Act of 1987 contained section 2036(c). . . . Unfortunately, the cure 3 years ago turned out to be worse than the disease. The complexity, breadth and vagueness of the new rules have posed an unreasonable impediment to the transfer of family businesses.

. . .

Senators Boren and Daschle, in particular, have labored long and hard on this issue. I commend them on their efforts, as this bill would not have been possible without their assistance. Earlier this year, they chaired a joint hearing of the Subcommittee on Taxation and Debt Management and the Subcommittee on

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[223] Congressional Record, 101st Congress S. 3113: pg 1-4 (October 17, 1990).

Energy and Agricultural Taxation. At that hearing the subcommittee members reviewed proposals from the American Bar Association and American College of Probate, the Tax Section of the D.C. Bar, the U.S. Chamber of Commerce, and the American Institute of Certified Public Accountants. In addition, they heard from a wide range of estate planners, small business representatives and the Treasury Department. All witnesses agreed that the current rules should be repealed. Most witnesses testified that these rules should be replaced with a rule that is targeted to valuation abuses. That is exactly what this bill does.

We have worked hard to balance taxpayers concerns with our concerns about transfer tax abuses. I'm convinced that this proposal is a reasonable approach to the problem.

* * *

MR. BOREN. Mr. President, I am pleased today to join with my colleagues Senator Bentsen and Senator Daschle in introducing this legislation that will repeal section 2036(c) of the Internal Revenue Code. At a time when we should be doing all that we can to help keep small family owned businesses afloat section 2036(c), known as the estate freeze provision, poses a real treat to their survival.

. . .

The legislation we are introducing today repeals section 2036(c) and instead provides for special valuation rules for estate freezes. The current law is overly broad and unintelligible to even the most sophisticated counsel, let alone counsel representing many small family owned business or farms throughout the United States. It is worth nothing that even supporters of 2036(c), few though they may be, concede that the 1987 law was clumsily fashioned. What they really mean is that virtually every knowledgeable observer has concluded that the new rules are simply unadministrable and not at all subject to a patch-up job of revision. While Treasury and other academics have suggested modifications, very few have come forward with hard and fast revisions. Given the tremendous burdens this rule places upon family owned small business the only fair and meaningful course is to cleanly and clearly start over with repeal.

. . .

I believe the most efficient way to solve this problem is to repeal section 2036(c) and start over. We should begin with a clean slate, only then can we begin to consider a much more narrow, focused and equitable alternative to the current section 2036(c). I believe the legislation we are introducing today is such an alternative. I urge my colleagues to join us in supporting this legislation.

* * *

> MR. DASCHLE. Mr. President, I am pleased to join my distinguished colleagues, Senator Lloyd Bentsen, chairman of the Finance Committee, and Senator David Boren, in introducing legislation to repeal section 2036(c) of the Internal Revenue Code and replace it with a significantly more limited measure that is fairer to family businesses.
>
> Last year, I introduced a bill, S. 349, that would repeal section 2036(c). At that time, I indicated that I would be open to consideration of a more limited substitute – one that was targeted strictly at the estate tax abuses that allegedly were occurring prior to the enactment of section 2036(c). I also expressed an interest in working with Senator Bentsen in this endeavor.
>
> After extensive review of alternative options, including meetings with small business groups and hearings on this issue in the Finance Committee, Senator Bentsen and I have what we believe is a reasonable alternative to current law section 2036(c).
>
> Our bill addresses three major concerns I have about current law. First, current law takes an approach that throws the baby out with the bathwater. Consequently, a wide rage of otherwise legitimate transactions are suspect under its provisions. The bill we are introducing today takes the opposite approach. It says, 'These specifically identified abuses are impermissible.' Period. In this way, family business owners who wish to pas the business on to their children gradually during their lifetimes can do so with a clear understanding of those means which are permissible.
>
> Second, under [application of Section 2036(a) in lieu of Section 2033], *the IRS can find a transaction unenforceable for estate tax purposes years, perhaps decades, after the transaction occurs. Like a number of other substitute proposals that have been advanced, our bill addresses potential abuses at the time the transaction occurs. This ensures that the appropriate amount of gift tax is paid at that time, leaving owners of businesses with confidence that the transaction will not be found invalid years later when they die and it is too late to do anything about it*.
>
> Finally, section 2036(c) is simply too ambiguous and confusing. Senator Bentsen and I have sought to make our bill much simpler and straightforward. This should make the IRS pursuant to the measure much easier and faster to draft. [Emphasis added.]

* * *

Congress did retroactively repeal the application of I.R.C. Section 2036 inclusion to business and other financial enterprises in lieu of I.R.C. Section 2033 inclusion. Among the reasons cited by the Senate in their legislative history were the following:

> The [Senate Finance] committee believes that an across-the-board inclusion rule [application of Section 2036(a)] is an inappropriate and unnecessary approach to the valuation problems associated with estate freezes. The committee believes that the amount of any tax on a gift should be determined at the time of the transfer and not upon the death of the transferor . . . . In developing a replacement for current section 2036(c) the committee sought to accomplish several goals: (1) to provide a well defined and administrable set of rules; (2) to allow business owners who are not abusing the transfer tax system to freely engage in standard intra-family transactions without being subject to severe transfer tax consequences; and (3) to deter abuse by making unfavorable assumptions regarding certain retained rights.[224]

Congress adopted the suggestion of numerous commentators and approached the reform with respect to inclusion of partnership interest and corporate interest as a valuation problem. It reaffirmed the traditional inclusion and taxation of partnership interests, in which part of the partnership is held in preferred form, under I.R.C. Section 2511 and I.R.C. Section 2033. Those sections were modified, however, through the passage of new valuation rules under Chapter 14.

Furthermore, due to the bifurcated economic interest of preferred and growth interests an inherent substantial investment reason, or stated differently, a substantial non-tax reason, exists for the creation of a family limited partnership interest with those bifurcated asset classes. Generally, the tax court and the circuit courts have indicated a willingness to not apply I.R.C. Section 2036 if a non-tax reason, preferably an investment non-tax reason, exists for the creation of the partnership.

E. The Valuation Rules of IRC Section 2701 Should Not Apply, if One Generation Transfers the Preferred Partnership Interests to the Second Generation.

As noted above, there are now new valuation rules under I.R.C. Section 2701 with respect to partnerships that have both preferred interests and growth interests. Would those new valuation rules apply to a transfer of a preferred interest from the older generation to a younger generation, as opposed to the older generation retaining the preferred interest and giving away the growth interest? Stated differently, if a patriarch or matriarch reorganized his or her business and transferred a high-yielding preferred equity interest to his or her issue (or to a partnership in which his or her issue were the major owners), would this transfer and reorganization be a transaction that is subject to the valuation rules under I.R.C. § 2701, which was passed as part of Chapter 14? The answer is no.[225]

If a retained distribution right exists, there must exist a senior equity interest (*i.e.*, the transferor must have retained preferred stock or, in the case of a partnership, a partnership interest under which the rights as to income and capital are senior to the rights of all other classes of

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[224] Informal Senate report accompanying the Revenue Reconciliation Bill of 1990 (S. 3209) as printed in the Oct. 18, 1990, Congressional Record, vol. 136, s. 15679 (Daily Edition) (emphasis added).

[225] *See* I.R.C. § 2701(c)(1)(B)(i).

equity interest).[226] The Senate legislative history of Chapter 14 indicates that retention of common stock, after the gift of preferred stock, is not a transaction which is subject to the valuation rules under I.R.C. § 2701 because retained ownership of the common stock generally does not give the transferor the right to manipulate the value of the transferred interest. (This reasoning also supports exclusion of an option arrangement from I.R.C. § 2701.) Any transferred preferred stock that has a cumulative right to a dividend, or any transferred note in a corporation which has a cumulative right to interest, is not subject to value manipulation by the common stock owner. For instance, if a dividend or an interest payment is missed, the preferred stock owner or bondholder, as the case may be, continues to have the right to that dividend payment or interest payment. It is true that in certain instruments the preferred stockholder would not enjoy the compounding effect of receiving a late dividend. However, the "lowering" of value to a transferee, by not paying the transferee's dividend, or delaying the payment of the dividend, does not hurt the fisc since that tends to help or increase the junior equity interest owner's net worth (*i.e.*, it increases the transferor's net worth). Thus, even though a transferee may receive a valuable asset in a junk bond or a junk preferred interest, it is a type of security in which the junior equity interest cannot manipulate value, except to *decrease* the value of the transferred interest at a later date.

F. The Effect of Cascading Sales to an Intentionally Defective Grantor Trust.

Another largely unexplored estate planning area is the effect of cascading sales to an intentionally defective grantor trust. Certain commentators believe that in order to have an effective sale to an intentionally defective grantor trust in consideration for a note and to have the note treated as a note for property law purposes and tax purposes instead of a retained interest in the trust, it is necessary to have around 10% equity in that intentionally defective grantor trust. However, certain clients are resistant, in significant situations, to making significant gifts to an intentionally defective trust to support the proposition that the trust has at least 10% equity at the time of the note sale. One way to ameliorate that concern is for the client, over time, to have cascading sales to that grantor trust. That is, sales could be made to that intentionally defective grantor trust over a period of time as that trust has sufficient equity to support the cascading sales to that trust. The increase in value of previously sold property would constitute equity for purposes of subsequent sales. Arguably, however, only the value of trust property in excess of currently outstanding notes should "count" as equity for this purpose.

G. What is the Comparative Outcome Under the Proposed Plan.

Please see attached Schedules 17 to 18. Over time, substantial wealth will be transferred from Ian and Inez Insurance to their children and future descendants because of the power of the estate freeze and the power of indirectly paying the income taxes for the benefit of their family using the intentionally defective grantor trust technique. However, both for the estate freeze and for the inherent power in paying future income taxes to work, a substantial period of time is required.

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[226] *See* I.R.C. §§ 2701(c)(1)(B)(i) and 2701(a)(4)(B); Treas. Reg. § 25.2701-2(b)(3)(i). *See also* P.L.R. 92-04-016 (Oct. 24, 1991).

Ian and Inez may not have that period of time, since they are mortals. The $41,000,000 second-to-die life insurance policy provides an interesting hedge to the strategy. Obviously, if Ian and Inez both die before their time (e.g., when they are 70) the second-to-die policy will be a spectacular investment that could put their descendants in almost the same position, as they would have been if Ian and Inez would have had the full benefit of the estate freeze and the full benefit of indirectly paying the income taxes for their family for 30 years.

The tables below indicate the results that could accrue under the assumptions given to Pam Planner by Ian and Inez and also assuming a $400,000 a year premium and a 40% discount on the growth partnership interests (because of the effect of the preferred partnership interests. The results are extremely powerful. Assuming that Ian and Inez die in 10 years, the 30 year future values and present values (assuming a 3% inflation present value discount) of the hypothetical integrated plan in comparison to not doing any further planning is as follows:

30 Year Future Values (Death in 10 Years)

Technique	Insurance Children	Insurance Children & Grandchildren	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
No Further Planning; Bequeaths Estate To Family	$417,679,967	$0	$22,927,759	$168,266,209	$94,874,217	$580,465,509	$82,357,221	$0	$1,366,570,882
Hypothetical Integrated Income and Estate Tax Plan With a Partnership; Bequeaths Estate To Family	$173,319,917	$572,273,337	$22,927,759	$168,266,209	$159,136,543	$432,194,150	$34,174,842	($195,721,874)	$1,366,570,882

Present Value of the 30 Year Future Values (Death in 10 Years)

Technique	Insurance Children	Insurance Children & Grandchildren	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
No Further Planning; Bequeaths Estate To Family	$172,078,616	$0	$9,445,933	$69,323,450	$39,086,921	$239,144,104	$33,930,085	$0	$563,009,109
Hypothetical Integrated Income and Estate Tax Plan With a Partnership; Bequeaths Estate To Family	$71,405,511	$235,769,038	$9,445,933	$69,323,450	$65,562,149	$178,058,267	$14,079,582	($80,634,821)	$563,009,109

If the survivor of Ian and Inez Insurance dies in 30 years, the future value in 30 years of what their descendants will receive under the hypothetical plan in comparison to no further planning and the present values of those future values (assuming a 3% present value discount) are as follows:

Future Value (Death in 30 Years)

Technique	Insurance Children	Insurance Children & Grandchildren	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
No Further Planning; Bequeaths Estate To Family	$337,941,016	$0	$95,150,831	$266,196,369	$124,662,541	$266,122,930	$276,497,195	$0	$1,366,570,882
Hypothetical Integrated Income and Estate Tax Plan With a Partnership; Bequeaths Estate To Family	$7,205,005	$586,008,373	$95,150,831	$266,196,369	$133,704,220	$258,888,064	$5,895,004	$13,523,015	$1,366,570,882

Present Value of the 30 Year Future Values (Death in 30 Years)

Technique	Insurance Children	Insurance Children & Grandchildren	Consumption – Direct Cost	Consumption – Investment Opportunity Cost	IRS – Income Tax	IRS – Investment Opportunity Cost	IRS – Estate Tax (at 45%)	Investment Opportunity Cost/(Benefit) of Buying Life Insurance	Total
No Further Planning; Bequeaths Estate To Family	$139,227,224	$0	$39,200,883	$109,669,379	$51,359,316	$109,639,123	$113,913,183	$0	$563,009,109
Hypothetical Integrated Income and Estate Tax Plan With a Partnership; Bequeaths Estate To Family	$2,968,367	$241,427,691	$39,200,883	$109,669,379	$55,084,368	$106,658,455	$2,428,664	$5,571,303	$563,009,109

H. Use of High Yield Preferred Partnership Interests in Conjunction With Long Term GRATs.

1. The technique.

Mr. and Mrs. Insurance could also take the preferred interests and contribute them to long term GRATs. For instance, Mr. and Mrs. Insurance could take their proportionate share of the $30,000,000 of preferred partnership interests, which are presumed to pay a 10.5% coupon, and contribute those interests to either 10 year or 11 year term GRATs. Assume the annuity amount that will be paid each year by the 10 year or 11 year GRAT to the grantor of the GRAT will be equal to the preferred coupon, 10.5% or $3,050,000. Trusts for the benefit of their children could be the remainderman beneficiaries of the GRAT. If both Mr. and Mrs. Insurance live longer than the annuity period of the GRATs, the $30,000,000 of preferred interests would pass to the trusts for the benefit of their children.

2. Outcome.

If Mr. and Mrs. Insurance create GRATs that last 10 years, with the payouts described above, the gift will be $905,120.50, assuming the IRC Section 7520 rate is 2.8%, even though trusts for their children will receive $30,000,000 of preferred partnership interests at the end of 10 years. If the term of the GRAT is 11 years, assuming the IRC Section 7520 rate is 2.8%, the gift will be $170,620. If the appraisers find that the rate of return on the preferred interests should be equal to 11.60375%, in order to support par value of the preferred interests, and the 10 year GRATs are created with $30,000,000 of preferred interest paying a 11.60375% coupon, the GRATs will be a near zeroed out GRATs.

Thus, in each of these scenarios, Mr. and Mrs. Insurance could be in the position to receive substantial cash flows for a 10 year or 11 year period, and assuming the gift tax exemption that they each have is $1,000,000, they will each transfer preferred interests that are equal in value to over $30,000,000 to trusts for the benefit of their children without paying gift taxes.

I. Conclusions.

Significant wealth may be able to be transferred from one generation to the next using the valuation arbitrage that may exist between a coupon on a preferred partnership interest determined under the parameters of Revenue Ruling 83-120 and the AFR rate on intra-family notes. This valuation arbitrage has an inherent advantage over the valuation arbitrage that exists for a sale of a pro rata partnership interest for two reasons. The "rate of return" difference between the arbitrage for high yield non-marketable preferred and an AFR denominated notes is probably greater, in the current market, than the difference between a pro rata partnership interest and an AFR denominated note. Secondly, the IRS agrees that the marketability discount exists for closely held preferred partnership interests.

This arbitrage may make possible the purchase of significance life insurance without the payment of gift taxes and could operate to have a "Pac-man" effect in buying the retained growth interest held by the senior generation. That takes time. In order to hedge against the possibility that long planning period may not exist, due to the early deaths of clients the insurance could also serve a role to put the family in almost the same position they would have been in if the patriarch and matriarch had lived their life expectancies and/or beyond their life expectancies.

XI. THE BEST IDEAS FOR ALLOWING A CLIENT TO BE IN CONTROL OF FAMILY LIMITED PARTNERSHIP IN THE CONTEXT OF I.R.C. SECTION 2036(a) (2) – REVENUE RULINGS 73-143, 95-58 AND 81-15

A. Brief Summary.

The "conventional wisdom" this author sometimes hears on this subject is as follows: "a partner should never retain any management control of a family limited partnership" or a "partner may not have any input, directly or indirectly, on the distribution policy of a family limited partnership." This "conventional wisdom," under the circumstances discussed below, is incorrect.

The taxpayer can retain investment control of a partnership. However, if a taxpayer has control of partnership distributions, according to one judge in an advisory opinion, there may not be a discount available on retained partnership interests at death, or even possibly any partnership interests that were given away before death. Obviously, a taxpayer could only retain investment control, give away those management interests that control distributions, and this doctrine would not apply. The good news is, even for those who believe that the judge in that advisory opinion may have it right, that the courts and the IRS have provided three safe harbors for taxpayers who wish to at least, indirectly, have an impact on the level of partnership distributions.

What should the taxpayer who wishes to have some impact on partnership distributions do to avoid this potential I.R.C. Section 2036(a)(2) attack? The taxpayer should either adopt a strategy of selling all partnership interests, except the management interest, for full consideration, *or* take one of the following actions:

1. The retained distribution power is subject to a standard that could be enforced by a court;
2. The general partnership interest that has distribution power could be contributed by the taxpayer to a trust where the taxpayer has the right to remove and replace the trustee, as long as the replacement is not related or subservient; *or*
3. The general partnership interest, that has the distribution power, could be contributed by the taxpayer to a corporation and the taxpayer could retain the voting stock and transfer the non-voting stock to his family.

B. Analysis of Case Law.

1. Supreme Court Analysis.

Even if a general partner controls partnership distributions, the partnership agreement could be designed to avoid I.R.C. § 2036(a) from including any previously transferred limited partnership interests or assignee interests in his estate. The Supreme Court's analysis in *United States v. Byrum*[227] provides authority that I.R.C. § 2036(a)(1), I.R.C. § 2036(a)(2) and I.R.C. § 2038 do not apply (under the right facts).

A transferred partnership interest will not be included in the donor's estate under I.R.C. Section 2036(a)(2) where the only distribution power is one subject to a definite external standard, which could be enforced by a court. If a distribution power is so constrained, the donor does not have the legal right to designate the persons who shall possess or enjoy the property or the income there from. The original source of this doctrine is *Jennings v. Smith,*[228] and several other cases (*e.g.*, see the discussion by Justice Powell of *Northern Trust Co.* and *King* cases below) have followed that logic. That court made doctrine, or exception, to I.R.C. Section 2036(a)(2) was approved by the I.R.S. in Rev. Rul. 73-143. The *Jennings v. Smith* line of cases involved retained trustee powers by a donor of a trust. In the corporate or partnership context the external standard may be satisfied, if normal fiduciary constraints exist in the corporation or partnership. *United States v. Byrum* endorsed the proposition that this may be all that is required.

United States v. Byrum involved a case in which the I.R.S. determined that certain transferred stock of a closely held corporation was included in a decedent's estate under I.R.C. § 2036(a)(2). The decedent had transferred stock to a trust and retained the rights to vote the stock and also retained the power to disapprove the transfer of any trust assets, investments and reinvestments, and to remove the trustee and designate a corporate trustee. The decedent's right

[227] 408 U.S. 125 (1972).

[228] 161 F2d, 74 (2nd Cir., 1947).

to vote the stock of the trust corpus, together with his right to vote the stock he owned individually, gave him the right to vote 71% of the stock.

The I.R.S. argued that under I.R.C. § 2036(a)(2), Mr. Byrum, the decedent, retained the right to designate the persons who had enjoyed the income from the transferred property. The Service argued that he had this right because he had control over the corporate dividend policy and could liquidate the corporation. By increasing, decreasing, or stopping the dividends completely, Byrum could indirectly "regulate the flow of the income to the trust" and thereby shift or defer the beneficial enjoyment of the trust income between the beneficiaries.

The Supreme Court rejected the Service's reasoning based on three different theories. The first theory was that the power to manage transferred assets that affect the income of a transferee, and the power to determine the inherent distributions associated with the transferred assets within a court enforceable standard, are not powers that are subject to I.R.C. § 2036(a)(2):

> At the outset we observe that this Court has never held that trust property must be included in a settlor's gross estate solely because the settlor retained the power to manage trust assets. On the contrary, since our decision in *Reinecke v. Northern Trust Co.*, 278 U.S. 339, 49 S.Ct. 123, 73 L.Ed. 410, 66 A.L.R. 397 (1929), it has been recognized that a settlor's retention of broad powers of management does not necessarily subject an inter vivos trust to the federal estate tax. Although there was no statutory analogue to § 2036(a)(2) when Northern Trust was decided, several lower court decisions decided after the enactment of the predecessor of § 2036(a)(2) have upheld the settlor's right to exercise managerial powers without incurring estate-tax liability. In *Estate of King v. Commissioner*, 37 T.C. 973 (1962), a settlor reserved the power to direct the trustee in the management and investment of trust assets. The Government argued that the settlor was thereby empowered to cause investments to be made in such a manner as to control significantly the flow of income into the trust. The Tax Court rejected this argument, and held for the taxpayer. Although the court recognized that the settlor had reserved "wide latitude in the exercise of his discretion as to the types of investments to be made," id. at 980, it did not find this control over the flow of income to be equivalent to the power to designate who shall enjoy the income from the transferred property.
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> Essentially the power retained by Byrum is the same managerial power retained by the settlors in *Northern Trust* and in *King*. Although neither case controls this one--*Northern Trust*, because it was not decided under § 2036(a)(2) or a predecessor; and *King*, because it is a lower court opinion--the existence of such precedents carries weight. The holding of *Northern Trust*, that the settlor of a trust may retain broad powers of management without adverse estate-tax consequences, may have been relied upon in the drafting of hundreds of inter vivos trusts. The modifications of this principle now sought by the Government could have a seriously adverse impact, especially upon settlors (and their estates) who happen to have been "controlling" stockholders of a closely held corporation. Courts properly have been reluctant to depart from an interpretation of tax law,

> which has been generally accepted when the departure could have potentially far-reaching consequences. When a principle of taxation requires reexamination, Congress is better equipped than a court to define precisely the type of conduct, which results in tax consequences. When courts readily undertake such tasks, taxpayers may not rely with assurance on what appear to be established rules lest they be subsequently overturned. Legislative enactments, on the other hand, although not always free from ambiguity, at least afford the taxpayers advance warning.[229]

Secondly, the Supreme Court held that *Byrum* did not have a retained "right" as that term is used in I.R.C. § 2036(a)(2) because of the fiduciary duty *Byrum* owed to the corporation:

> It must be conceded that Byrum reserved no such "right" in the trust instrument or otherwise. The term "right," certainly when used in a tax statute, must be given its normal and customary meaning. It connotes an ascertainable and legally enforceable power, such as that involved in O'Malley. Here, the right ascribed to Byrum was the power to use his majority position and influence over the corporate directors to "regulate" the flow of dividends" to the trust. That "right" was neither ascertainable nor legally enforceable and hence was not a right in any normal sense of that term.
>
> . . . .
>
> A majority shareholder has a fiduciary duty not to misuse his power by promoting his personal interests at the expense of corporate interests. Moreover, the directors also have a fiduciary duty to promote the interests of the corporation. However great Byrum's influence may have been with the corporate directors, their responsibilities were to all stockholders and were enforceable according to legal standards entirely unrelated to the needs of the trust or to Byrum's desires with respect thereto.[230]

Thirdly, the Supreme Court ruled that Byrum was not in control of determining the dividends of the corporation because of the many practical difficulties and business realities involved in such a determination, over which Byrum had no control:

> There is no reason to suppose that the three corporations controlled by Byrum were other than typical small businesses. The customary vicissitudes of such enterprises--bad years; product obsolescence; new competition; disastrous litigation; new, inhibiting Government regulations; even bankruptcy--prevent any certainty or predictability as to earnings or dividends. There is no assurance that a small corporation will have a flow of net earnings or that income earned will in

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[229]*Byrum*, *supra* at 132-35.

[230] Byrum, 408 U.S. at 136, 137, 138 (footnotes omitted).

> fact be available for dividends. Thus, Byrum's alleged de facto "power to control the flow of dividends" to the trust was subject to business and economic variables over which [he] had little or no control.
>
> . . . .
>
> These various economic considerations are ignored at the directors' peril. Although vested with broad discretion in determining whether, when, and what amount of dividends shall be paid, that discretion is subject to legal restraints. If, in obedience to the will of the majority stockholder, corporate directors disregard the interests of shareholders by accumulating earnings to an unreasonable extent, they are vulnerable to a derivative suit. They are similarly vulnerable if they make an unlawful payment of dividends in the absence of net earnings or available surplus, or if they fail to exercise the requisite degree of care in discharging their duty to act only in the best interest of the corporation and its stockholders.[231]

All three of the considerations that led the Supreme Court to rule that I.R.C. § 2036(a)(2) does not exist in the corporate context could also apply in the partnership context. First of all, the partnership agreement could be designed where the donor general partner does not have the "legal right" to enjoy any of the income of that transferred limited partnership interest or that assignee interest, or to determine who does enjoy that income because he may only retain a distribution power that relates to partnership objectives that may be enforced by a court. Secondly, the partnership agreement could be designed where the donor general partner has a fiduciary duty not to misuse his power to promote his personal interest at the expense of the partnership (just as a majority shareholder has a fiduciary duty not to misuse his power by promoting his personal interests at the expense of the corporation). Thus, it is important not to negate normal state law fiduciary duties a partner owes to the partnership. Thirdly, the customary vicissitudes of enterprises that affect a corporation's ability to make distributions also affect a partnership's ability to make distributions (even with securities partnerships, the vicissitudes of the Dow certainly affect distribution). Thus, just as Byrum was not in control of the dividend policy of the corporations because of these outside factors, a general partner may not be in control of the cash flow of the partnership because of those same outside factors.

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[231] *Byrum*, 408 U.S. at 139, 140, 141, 142 (footnotes omitted).

2. Tax Court Analysis By Judge Cohen in the *Strangi* Case.

In the past, the I.R.S. has ruled privately that because of the controlling case authority in *United States v. Byrum*, I.R.C. § 2036(a)(2) does not apply with a properly worded partnership agreement where the partners follow the agreement.[232] However, *Byrum* was distinguished, and the private rulings disavowed, by Judge Cohen in dicta in a memorandum opinion in the *Strangi* case discussed above.

In addition to whether I.R.C. Section 2036(a)(1) applies to the facts of *Strangi* (discussed above), Judge Cohen addressed whether I.R.C. Section 2036(a)(2) applies to the facts of *Strangi*. Judge Cohen, citing *United States v. O'Malley*, 383 U.S. 627, 631 (1966), held that I.R.C. Section 2036(a)(2) applies because the decedent, in conjunction with other individuals, had the power to accumulate partnership income for the benefit of each partner, rather than disperse that income, which in turn constituted a "right to designate" under I.R.C. Section 2036(a)(2). The Court distinguished the facts under *United States v. Byrum*, supra, finding that the decedent, along with others, had management rights that exceeded the administrative powers in *Byrum* and, most important, that management in *Strangi* did not owe fiduciary duties that would limit its distribution powers as they were limited in *Byrum*.

Judge Cohen's holding in effect attributes the power of the corporate general partner to the decedent, among others, both because of the decedent's 47% ownership of, and board membership in, the corporate general partner, and because the general partner hired as managing partner the decedent's attorney-in-fact. Since the general partner's right to distribute income or not distribute it does not include a right to shift ownership of the income among partners or to a non-partner, Judge Cohen's holding endorses (without discussing) the idea that a power to control only the timing of receipt of income is a power to designate under I.R.C. Sec. 2036(a)(2).

C. Six Separate Methodologies For Avoiding I.R.C. Section 2036(a)(2) Inclusion With Respect to Managing Partner Donors and Owners of Partnership Interests.

Clearly, an I.R.C. Section 2036(a)(2) attack could be avoided, if the taxpayer did not retain a distribution power. Other than not retaining any input in distribution decisions by the partnership, what should a potential donor of partnership interests do to avoid an I.R.C. Section 2036(a) attack? The following actions should assist:

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[232]*See* Tech. Adv. Mem. 91-31-006, citing *Byrum*, for the proposition that the Service will not consider the managing partner in a typical family limited partnership, because of his or her fiduciary duty obligations, as having retained an I.R.C. § 2036(a)(2) power over the transferred limited partnership interest. *See also* Rev. Rul. 81-15, 1981-1 C.B. 457; P.L.R. 94-15-007 (Jan. 12, 1994); P.L.R. 93-32-006 (Aug. 20, 1992); P.L.R. 93-10-039 (Dec. 16, 1992); P.L.R. 90-26-021 (Mar. 26, 1990); G.C.M. 38,984 (May 6, 1983); G.C.M. 38,375 (May 12, 1980).

1. Successfully Making the Argument That the *O'Malley* Analysis and the Prerequisites of I.R.C. Section 2036(a)(2) Are Not Applicable to a Donor Partner, Who Retains a Distribution Power Over a Family Partnership.

No other court has reviewed Judge Cohen's analysis. This writer believes that if another court reviews her analysis that Court may find her analysis problematic for two reasons: (i) that court may find that it is a matter in which I.R.C. Section 2033 supersedes I.R.C. Section 2036 for estate inclusion purposes (see the above argument as discussed in Article III C 1of this paper) and/or (ii) that court may find that, unlike the situation with the trust described in the *O'Malley* case, supra, cited by Judge Cohen in *Strangi*, the decedent did not retain the "legal right to designate" who would receive the income of the partnership assets, because each donee partner beneficially owns, through the partnership, any past, current or future income that belongs to his partnership interest, whether it is distributed to him or not.

I.R.C. Section 2036(a)(2) will apply to assets contributed to a partnership, if the decedent at the moment of his death had the legal right, either alone or in conjunction with any person, to designate the *persons* who shall possess or enjoy the property or the income therefrom, and not solely the power to affect the *timing* of distributions to such persons, particularly when those persons have the power to receive value for any distributions that are not currently paid.

Assuming the managing partner acts in that capacity with others, it is generally existing precedent that the phrase "in conjunction with any person" in I.R.C. Section 2036(a)(2) does not apply to a decedent, like the decedent in *Strangi*, who would have to persuade others (in a non-trusteeship capacity) to act. As Professor Dodge noted:

> . . . a 'power' to persuade others to act, or join in acting, in a way that could affect possession or enjoyment of the transferred property is not considered to be a taxable power. This rule is not limited to the obvious situation where the transferor is not a member of the decision-making body (if such were deemed to be a taxable power, nothing would be immune from §§2036(a)(2) and 2038). The rule applies even to cases in which the transferor is a member of the decision-making group, provided that such body is not a trusteeship (or equivalent body) whose sole purpose is to administer the transferred property. Thus, the doctrine has been applied to irrevocable death-benefit and stock-transfer situations in which the transferor was a major stockholder, executive committee member, and/or member of the board of directors. These holdings probably cover the situation in which the transferor has more than 50% control over the entity, although there is authority in other areas [life insurance and contractual death benefits] lending support to the contrary position. . .[233]

See Estate of Tully v. United States, 528 F.2d 1401 (Ct. Cl. 1976). *But see Estate of Levin v. Commissioner*, 90 T.C. 723 (1988).

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[233] Dodge, 50-5th T.M. , Transfers With Retained Interest In Powers (page A-46).

A court may also find that I.R.C. Section 2036(a)(2) does not apply, even if the court finds the decedent managing partner had control, because the managing partner did not have the *legal right to designate the persons* who shall possess or enjoy the property or the income therefrom. The managing partner in the subject partnership may have the power to accumulate income owed to a partner and pay it at a later time to the partner (or to the partner's estate). However, that income will always be paid or held for the benefit of *that partner* and not some other person. That partner, directly or indirectly, has the ability to enjoy the benefit of any accumulation of income, without interference from the managing partner, by selling his partnership interest. Stated differently, any partner, by simply selling his interest, has the right, in effect, to veto a managing partner's attempt to deny that partner the economic benefit of accumulating the current income.

A court may conclude that Judge Cohen incorrectly compares the trust in *O'Malley* (in which the current beneficiaries may not receive all of the trust estate) to a vested partnership interest. Trusts, of course, are significantly different legal relationships than partnerships. In *O'Malley* the trustee had the ability to withhold income and that withheld income would be accumulated in the trust estate, which could then pass to beneficiaries at the time of the termination of the trust. If the beneficiary did not live beyond the term of the trust, then that property would pass to a different beneficiary (i.e., a different person).

Assume, instead of the facts of *O'Malley*, that a beneficiary of a trust had, at any time, the right to enjoy the income of the trust without trustee interference. For instance, if the beneficiary of the trust in *O'Malley* had a unilateral, unlimited power to enjoy the benefit of the past, current and future income of the trust by vetoing the trustee's accumulation exercise and/or a power to sell the past, current or future income rights of the trust, at any time before the trust terminates, without trustee interference, the trustee would not have the *legal right to designate* which trust beneficiary would enjoy the income.

Similarly, the partners in *Strangi* (and almost all other partnerships) had the right at any time to sell the past, current and future income of the partnership, without managing partner interference, through their right to sell their partnership interests (subject to any rights of first refusal that may have existed under the partnership agreement). The managing partner in *Strangi* did not retain the *legal right to designate* that another person (i.e., another partner) had the right to enjoy that partner's past, current or future income of the partnership. Thus, another court may conclude the distribution powers of the managing partner may affect valuation under I.R.C. Section 2033, but those powers do not constitute a *legal right to designate* that another person receives the benefit of that partner's income.

2. Taxpayers Should Consider Adopting a Strategy of Selling Partnership Interests (Perhaps to Defective Grantor Trusts) in Exchange For a Note or Other Full Consideration.

Also, see the discussion in this paper about avoiding I.R.C. Section 2036(a)(1) inclusion by sales for full consideration. Obviously, the preference is that those sales should be made for full and adequate consideration. If there is any gift element, and if the prerequisites of I.R.C. Section 2036(a)(2) are met, I.R.C. Section 2036(a)(2) could apply at least with respect to the growth in value of the partnership interest into the donor's estate. Thus, that transferor partner may wish to sell his or her partnership interest, pursuant to a defined value formula (assuming the formula can be structured, and is structured, in a manner that is not contrary to public policy). Even if the transferor retains a potential I.R.C. Section 2036(a)(2) power, if the transfer is for full and adequate consideration (i.e., if the formula is honored), I.R.C. Section 2036(a)(2) does not apply. (Additionally, if there is some consideration, but not full consideration, I.R.C. Section 2043 would provide for partial inclusion.)

3. I.R.C. Section 2036(a)(2) Inclusion Should Be Avoided if the Partnership Agreement is Structured to Provide the Same Fiduciary Constraints That Mr. Bryum Had.

Normal partnership fiduciary duties should be affirmed in the partnership agreement, including fiduciary constraints on the distribution power that are consistent with Mr. Byrum's constraints. In order to provide protection for management that is acceptable under I.R.C. Section 2036(a)(2), consider providing for arbitration for any partner disagreements with management decisions. Consider providing that management will only be liable for decisions that are not within the confines of the business judgment rule. Also consider providing in the partnership agreement that any party who loses that arbitration action shall pay for all costs associated with that arbitration action.

4. I.R.C. Section 2036(a)(2) Inclusion Should Be Avoided if the Donor Partner's Distribution Power is Limited By Standards That a Court Could Enforce.

If the donor partner is going to retain a distribution power, consideration should be given to having the distribution power of the managing partner limited to a standard that may be enforced by a court. See Rev. Rul. 73-143 (1973-1 CB 407). This may be crucial. If the donor of a partnership interest is the sole managing partner, any gifts of partnership interest may be brought back into the donor's estate under I.R.C. Section 2036(a)(2), if the ability to accumulate income for a partner is considered to be a legal right to designate that another person (i.e. another partner) enjoys the past, current or future income of the partnership. Stated differently, if *O'Malley* analysis applies to partnerships and if the transfer of the partnership interest is not for adequate and full consideration, I.R.C. Section 2036(a)(2) may apply unless the dispositive powers are limited by standards that a court can enforce. If the dispositive powers retained by the donor partner are not limited by standards, it may not matter what other actions or drafting constraints are present (with the possible exception of a sale for adequate and full consideration). On the other hand, the transferred partnership interest will not be included in the donor's estate under I.R.C. Section 2036(a)(2) where the only distribution power is one subject to a definite external standard subject to supervision by a court. If a power is so constrained, the donor does not have the legal right to designate the persons who shall possess or enjoy the property or the income therefrom. The original source of this doctrine is *Jennings v. Smith,* [234] but it has been approved by the I.R.S. in Rev. Rul. 73-143.

> A caveat: the application of the doctrine to powers that, though subject to an enforceable standard, are exercisable in favor of the creator of the power is uncertain. Thus, this approach has greater certainty in negating I.R.C. Sec. 2036(a)(2) with respect to gifted partnership interests than with respect to partnership assets deemed retained by the decedent under I.R.C. Sec. 2036(a)(1). Obviously, this is not a concern, if the taxpayer only retained *de minimis* partnership interests (i.e., that partner has already transferred all but a small portion of the partnership interests). Secondly, in those situations where significant partnership interests have been retained, if as a matter of partnership practice, the partnership distributions pursuant to the standard are different than the income earned by the partnership assets, the standard may buttress the argument that the decedent-managing partner did not retain income rights with respect to the underlying partnership assets. Furthermore, if the managing partner retains most of his limited partnership interest, there is significant authority that the underlying assets of the partnership that the managing partner originally contributed will not be brought back into that partner's estate under I.R.C. Section 2036(a)(1), because the retained right with respect to the distributions is *a retained right with respect to the partnership interest* and not a retained right with respect to the underlying assets of the partnership. *See Estate of Boykin v. Commissioner*, TC Memo 1987-134, 53 TCM 345, (1987). *Boykin* (according to legislative history) led to the passage of the infamous I.R.C. Section 2036(c), in which Congress overturned existing case law and applied I.R.C. Section 2036 to include the contributed assets to an "enterprise" back into the partner or shareholder's estate. In 1990, Congress repudiated its previous work and repealed I.R.C. Section 2036(c) (thus, implicitly approving the result of *Boykin*). Stated differently, the prevailing case law with respect to entities, and recent Congressional legislative history, may be persuasive that rights with respect to income of significant retained partnership interests should not be considered rights to possess the partnership assets or income.
>
> An example of partnership drafting that provides a distribution power that is subject to court enforcement is the following:
>
> > <u>No Other Distributions</u>. Except as provided in this Article, the Partnership shall make no distributions of cash or other property to any Partner until its liquidation as provided in Section ____.
> >
> > <u>Distributable Cash</u>. Distributable Cash includes only that cash held by the Partnership at the end of a Fiscal Year after reasonable reserves of cash have been set aside by the Partnership Management, subject to the

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[234] 161 F2d 74 (2nd Cir. 1947).

> duties imposed by Section ___, for working capital and other cash requirements, including current and reasonably projected expenses, current and reasonably projected investment opportunities, and reasonably anticipated contingencies. For purposes of this Section, any of the Partnership Assets which are contributed to the Partnership by the Partners, any borrowed funds, and any cash generated upon the sale of any of the Partnership Assets, including Partnership Assets which are purchased with borrowed funds and including the cash attributable to appreciation in value, shall be considered as necessary for investment purposes.
>
> Operating Distributions. From time to time during each Fiscal Year, the Partnership may distribute any part or all of the Distributable Cash proportionately to each of the Partners based on their Percentage Interests; provided that no more than sixty days after each Fiscal Year, the Partnership shall distribute all of the Distributable Cash proportionately to each of the Partners based on their Percentage Interests. No distributions under this Section shall have the effect of changing any of the Percentage Interests.

Caution would indicate that this method of avoiding I.R.C. Section 2036(a)(2) listed above should be implemented, even if the donor is not a general partner or manager, because the donor may be imputed with the actions of other partners, as per the analysis of the Court in *Strangi*, and because of the Court's interpretation of the "in conjunction with any person" rule of I.R.C. Section 2036(a)(2).

If discretion is not removed from the general partner or manager, is it sufficient protection under I.R.C. Section 2036(a)(2) for the transferor not to act as general partner or manager? The answer should be yes. In this regard, however, it should be noted that under Judge Cohen's analysis there are two pitfalls that must be avoided. First, the donor must not bear such a relationship to any of the general partners or managers that their powers will be attributed to him. For example, in *Strangi* the manager was the donor's attorney-in-fact, who had established the partnership, and the manager's powers were imputed to the donor. Whether this principle would be extended to, for example, the donor's children or spouse, is uncertain, but a strong argument can be made that it should not be extended to anyone, such as a child or spouse, who could serve as trustee of a trust created by the donor without triggering I.R.C. Sec. 2036(a)(2). However, it should be noted that the person who had Mr. Strangi's power of attorney (Mr. Gulig) could have served as trustee without triggering I.R.C. Sec. 2036(a)(2). Second, the donor must not have any rights as limited partner that could affect the timing of distribution of income. One such right identified by Judge Cohen was the right as limited partner to participate in a vote to dissolve the partnership. While this holding was questionable (see the discussion of joint action as a retained "power" above), it cannot be ignored until it is overturned. In effect the limited partners (or at least the donor as limited partner) must be stripped of any rights normally pertaining to limited partners under state law that could implicate I.R.C. Section 2036. It is difficult to say where the line must be drawn; as a practical matter for safety is achieved only by stripping the transferor of all voting rights he would otherwise have as limited partner.

5. I.R.C. Section 2036(a)(2) Inclusion Should Be Avoided if the Donor Partner Contributes the Partnership Interest That Controls the Distribution Power to a Trust and Retains the Power to Remove and Replace the Trustee in a Manner That Complies With Revenue Ruling 95-58.

If a donor partner wishes to have some influence on distributions, but does not wish to have distributions subject to an enforceable standard, the donor partner could utilize Rev. Rul. 95-58. For instance, the potential donor-managing partner could bifurcate the powers of the general partner. That is, one general partnership interest could have all of the powers of management, except the discretionary right to make distributions. Another general partnership interest would only have rights with respect to determining the distributions of the partnership. The donor general partner would not own the general partnership interest that has the distribution power. The "distribution power" general partnership interest then could be contributed to a trust. The donor could retain the right to remove the trustee, and under Rev. Rul. 95-58 (I.R.B. 1995-36, 16), as long as the successor trustee is not related or subservient to the donor, application of I.R.C. Section 2036(a)(2) is avoided.

6. I.R.C. Section 2036(a)(2) Inclusion Should Be Avoided if the Donor Partner Contributes the Partnership Interest That Controls Distribution Powers to a Corporation That Has the Same Considerations and Constraints in its Structure as Existed in *Byrum* and Complies With Revenue Ruling 81-15.

If a donor partner, wishes to retain the distribution power (and not delegate it to a "removable" independent trustee) and have that power "free" of an enforceable standard, except to the extent restraints exist in the corporation consistent with the *Byrum* case, consideration should be given to utilizing the safe harbor under Revenue Ruling 81-15 (1981-1 C.B. 457).[235] The managing partner interest, including all powers with respect to making discretionary distributions of the partnership, could be contributed by the taxpayer to a Subchapter S corporation. The voting rights of the stock of the corporation could be bifurcated between full voting stock and limited voting stock (e.g., a ratio of 1:99). The "limited" voting stock may be allowed to only vote on decisions with respect to dissolution of the partnership or the corporation. The potential donor could then transfer both limited partnership units and a majority of the stock that has the limited voting rights to a trust for the benefit of others in his family. Even though the taxpayer controls a corporation, which in turn controls distributions from the partnership, Revenue Ruling 81-15, in combination with the reasoning of the *Byrum* case, appears to provide a safe harbor from application of I.R.C. Section 2036(a)(2) to such transfers.

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[235] Rev. Rul. 81-15, 1981-1 C.B. 457.

Schedule 1

GRAT Remainderman's Return at the End of One Year as a Percentage the Initial Contribution

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

Stock Price	Increase (Decrease) in the Value of GE Stock	Transaction 1 Traditional GRAT With Stock	Transaction 2 GRAT With Call Spread	Transaction 3 GRAT With Put Spread
$10.00	-69.41%	0.00%	0.00%	196.44%
$15.00	-54.11%	0.00%	0.00%	196.44%
$20.00	-38.82%	0.00%	0.00%	196.44%
$25.00	-23.52%	0.00%	0.00%	196.44%
$27.00	-17.41%	0.00%	0.00%	196.44%
$28.00	-14.35%	0.00%	0.00%	196.44%
$29.00	-11.29%	0.00%	0.00%	196.44%
$30.00	-8.23%	0.00%	0.00%	196.44%
$30.80	-5.78%	0.00%	0.00%	196.44%
$31.00	-5.17%	0.00%	0.00%	164.42%
$32.00	-2.11%	0.00%	0.00%	4.29%
$33.00	0.95%	0.00%	0.00%	0.00%
$35.00	7.07%	0.87%	140.99%	0.00%
$35.10	7.37%	1.17%	151.69%	0.00%
$41.00	25.42%	19.22%	151.69%	0.00%
$50.00	52.95%	46.75%	151.69%	0.00%
$55.00	68.25%	62.05%	151.69%	0.00%
$60.00	83.54%	77.34%	151.69%	0.00%

Transactions are assumed to take place on July 31, 2006.

Schedule 2

Transaction 1: Purchase a Share for $32.69 (Utilize One GRAT) on July 31, 2006

GRAT # 1

Assumptions:	
Value of Stock at Time of Funding:	$32.69
7520 Rate	6.20%

	Net Return on Stock			GRAT Remainderman's Return at the End of One Year	
Stock Value	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate*Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets**
$10.00	($22.69)	-69.41%	($34.72)	$0.00	**0.00%**
$11.00	($21.69)	-66.35%	($34.72)	$0.00	**0.00%**
$12.00	($20.69)	-63.29%	($34.72)	$0.00	**0.00%**
$13.00	($19.69)	-60.23%	($34.72)	$0.00	**0.00%**
$14.00	($18.69)	-57.17%	($34.72)	$0.00	**0.00%**
$15.00	($17.69)	-54.11%	($34.72)	$0.00	**0.00%**
$16.00	($16.69)	-51.06%	($34.72)	$0.00	**0.00%**
$17.00	($15.69)	-48.00%	($34.72)	$0.00	**0.00%**
$18.00	($14.69)	-44.94%	($34.72)	$0.00	**0.00%**
$19.00	($13.69)	-41.88%	($34.72)	$0.00	**0.00%**
$20.00	($12.69)	-38.82%	($34.72)	$0.00	**0.00%**
$21.00	($11.69)	-35.76%	($34.72)	$0.00	**0.00%**
$22.00	($10.69)	-32.70%	($34.72)	$0.00	**0.00%**
$23.00	($9.69)	-29.64%	($34.72)	$0.00	**0.00%**
$24.00	($8.69)	-26.58%	($34.72)	$0.00	**0.00%**
$25.00	($7.69)	-23.52%	($34.72)	$0.00	**0.00%**
$26.00	($6.69)	-20.46%	($34.72)	$0.00	**0.00%**
$27.00	($5.69)	-17.41%	($34.72)	$0.00	**0.00%**
$28.00	($4.69)	-14.35%	($34.72)	$0.00	**0.00%**
$29.00	($3.69)	-11.29%	($34.72)	$0.00	**0.00%**
$30.00	($2.69)	-8.23%	($34.72)	$0.00	**0.00%**
$30.80	($1.89)	-5.78%	($34.72)	$0.00	**0.00%**
$31.00	($1.69)	-5.17%	($34.72)	$0.00	**0.00%**
$32.00	($0.69)	-2.11%	($34.72)	$0.00	**0.00%**
$33.00	$0.31	0.95%	($34.72)	$0.00	**0.00%**
$34.00	$1.31	4.01%	($34.72)	$0.00	**0.00%**
$35.00	$2.31	7.07%	($34.72)	$0.28	**0.81%**
$35.10	$2.41	7.37%	($34.72)	$0.38	**1.09%**
$36.00	$3.31	10.13%	($34.72)	$1.28	**3.56%**
$37.00	$4.31	13.18%	($34.72)	$2.28	**6.17%**
$38.00	$5.31	16.24%	($34.72)	$3.28	**8.64%**
$39.00	$6.31	19.30%	($34.72)	$4.28	**10.98%**
$40.00	$7.31	22.36%	($34.72)	$5.28	**13.21%**
$41.00	$8.31	25.42%	($34.72)	$6.28	**15.32%**
$42.00	$9.31	28.48%	($34.72)	$7.28	**17.34%**
$43.00	$10.31	31.54%	($34.72)	$8.28	**19.26%**
$44.00	$11.31	34.60%	($34.72)	$9.28	**21.10%**
$45.00	$12.31	37.66%	($34.72)	$10.28	**22.85%**
$46.00	$13.31	40.72%	($34.72)	$11.28	**24.53%**
$47.00	$14.31	43.77%	($34.72)	$12.28	**26.13%**
$48.00	$15.31	46.83%	($34.72)	$13.28	**27.67%**
$49.00	$16.31	49.89%	($34.72)	$14.28	**29.15%**
$50.00	$17.31	52.95%	($34.72)	$15.28	**30.57%**
$51.00	$18.31	56.01%	($34.72)	$16.28	**31.93%**
$52.00	$19.31	59.07%	($34.72)	$17.28	**33.24%**
$53.00	$20.31	62.13%	($34.72)	$18.28	**34.50%**
$54.00	$21.31	65.19%	($34.72)	$19.28	**35.71%**
$55.00	$22.31	68.25%	($34.72)	$20.28	**36.88%**
$56.00	$23.31	71.31%	($34.72)	$21.28	**38.01%**
$57.00	$24.31	74.37%	($34.72)	$22.28	**39.09%**
$58.00	$25.31	77.42%	($34.72)	$23.28	**40.14%**
$59.00	$26.31	80.48%	($34.72)	$24.28	**41.16%**
$60.00	$27.31	83.54%	($34.72)	$25.28	**42.14%**

Schedule 3

Transaction 2: Contribute $32.69 Cash, Purchase 17.49 at the Money Calls for $1.87 Each, Sell 34.98 Calls at $35.10 for $0.93 Each, and Invest in 17.49 at the Money Calls (Utilize One GRAT) on July 31, 2006

GRAT # 1*

Assumptions:			
Cash Contributed:		$32.69	
(1) Purchased 17.49 Calls at:	$32.69 for	($1.87)	each
(2) Sold 34.98 Calls at:	$35.10 for	$0.93	each
(3) Purchased 17.49 Calls at:	$32.69 for	($1.87)	each
7520 Rate		6.20%	

	Return on Calls Purchased (1)		Return on Calls Sold (2)		Return on Calls Purchased (3)		Net Return			GRAT Remainderman's Return at End of One Year †	
Stock Value	**Profit (Loss)**	**Return %**	**Net Profit (Loss) (Gain - Cost)**	**Return %**	**Net Profit (Loss) (Proceeds -Gain)**	**Return %**	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate * Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets ~**
$10.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$11.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$12.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$13.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$14.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$15.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$16.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$17.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$18.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$19.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$20.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$21.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$22.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$23.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$24.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$25.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$26.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$27.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$28.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$29.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$30.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$30.80	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$31.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$32.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$33.00	($27.27)	-83.41%	$32.69	100.00%	($27.27)	-83.41%	($21.85)	-22.28%	($34.72)	$0.00	**0.00%**
$34.00	($9.78)	-29.91%	$32.69	100.00%	($9.78)	-29.91%	$13.14	13.39%	($34.72)	$11.11	**24.24%**
$35.00	$7.71	23.60%	$32.69	100.00%	$7.71	23.60%	$48.12	49.06%	($34.72)	$46.09	**57.04%**
$35.10	$9.46	28.95%	$32.69	100.00%	$9.46	28.95%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$36.00	$25.20	77.10%	$1.21	3.69%	$25.20	77.10%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$37.00	$42.69	130.60%	($33.77)	-103.32%	$42.69	130.60%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$38.00	$60.19	184.11%	($68.76)	-210.33%	$60.19	184.11%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$39.00	$77.68	237.61%	($103.74)	-317.34%	$77.68	237.61%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$40.00	$95.17	291.12%	($138.72)	-424.34%	$95.17	291.12%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$41.00	$112.66	344.62%	($173.70)	-531.35%	$112.66	344.62%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$42.00	$130.15	398.13%	($208.68)	-638.36%	$130.15	398.13%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$43.00	$147.64	451.63%	($243.66)	-745.37%	$147.64	451.63%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$44.00	$165.13	505.14%	($278.64)	-852.38%	$165.13	505.14%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$45.00	$182.62	558.64%	($313.62)	-959.39%	$182.62	558.64%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$46.00	$200.11	612.15%	($348.61)	-1066.40%	$200.11	612.15%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$47.00	$217.60	665.65%	($383.59)	-1173.41%	$217.60	665.65%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$48.00	$235.09	719.15%	($418.57)	-1280.42%	$235.09	719.15%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$49.00	$252.58	772.66%	($453.55)	-1387.43%	$252.58	772.66%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$50.00	$270.07	826.16%	($488.53)	-1494.44%	$270.07	826.16%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$51.00	$287.56	879.67%	($523.51)	-1601.44%	$287.56	879.67%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$52.00	$305.05	933.17%	($558.49)	-1708.45%	$305.05	933.17%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$53.00	$322.54	986.68%	($593.47)	-1815.46%	$322.54	986.68%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$54.00	$340.04	1040.18%	($628.46)	-1922.47%	$340.04	1040.18%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$55.00	$357.53	1093.69%	($663.44)	-2029.48%	$357.53	1093.69%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$56.00	$375.02	1147.19%	($698.42)	-2136.49%	$375.02	1147.19%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$57.00	$392.51	1200.70%	($733.40)	-2243.50%	$392.51	1200.70%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$58.00	$410.00	1254.20%	($768.38)	-2350.51%	$410.00	1254.20%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$59.00	$427.49	1307.70%	($803.36)	-2457.52%	$427.49	1307.70%	$51.61	52.63%	($34.72)	$49.59	**58.82%**
$60.00	$444.98	1361.21%	($838.34)	-2564.53%	$444.98	1361.21%	$51.61	52.63%	($34.72)	$49.59	**58.82%**

*** Owns: 34.98 at the money calls, but assets are subject to 34.98 calls at $35.10**
† Profit/Loss tracking is all within the family
~ Any excess return over 100% implies reduction of non-GRAT assets

Schedule 4

Transaction 3: Contribute $32.69 Cash, Purchase 26.17 at the Money Puts for $1.25 Each, Sell 52.34 Puts at $30.80 for $0.62 Each, and Invest in 26.17 at the Money Puts (Utilize One GRAT) on July 31, 2006

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

Goldman, Sachs & Co. does not provide tax and/or legal advice to its clients and all investors are strongly urged to consult with their own advisors regarding any potential investment or strategy. This material is intended for educational purposes only. While it is based on information believed to be reliable, no representation or warranty is given as to its accuracy or completeness, and it should not be relied on as such.

GRAT # 1*

Assumptions:			
Cash Contributed:		$32.69	
Purchased 26.17 Puts at:	$32.69 for	($1.25)	each
Sold 52.34 Puts at:	$30.80 for	$0.62	each
Purchased 26.17 Puts at:	$32.69 for	($1.25)	each
7520 Rate		6.20%	

	Return on Puts Purchased (1)		Return on Puts Sold (2)		Return on Puts Purchased (3)		Net Return			GRAT Remainderman's Return at End of One Year †	
Stock Value	**Profit (Loss)**	**Return %**	**Net Profit (Loss) (Gain - Cost)**	**Return %**	**Net Profit (Loss) (Proceeds -Gain)**	**Return %**	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate * Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets ~**
$10.00	$561.17	1716.65%	($1,056.10)	-3230.66%	$561.17	1716.65%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$11.00	$535.00	1636.59%	($1,003.76)	-3070.54%	$535.00	1636.59%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$12.00	$508.83	1556.53%	($951.41)	-2910.41%	$508.83	1556.53%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$13.00	$482.66	1476.46%	($899.07)	-2750.28%	$482.66	1476.46%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$14.00	$456.48	1396.40%	($846.72)	-2590.15%	$456.48	1396.40%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$15.00	$430.31	1316.33%	($794.37)	-2430.02%	$430.31	1316.33%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$16.00	$404.14	1236.27%	($742.03)	-2269.90%	$404.14	1236.27%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$17.00	$377.96	1156.20%	($689.68)	-2109.77%	$377.96	1156.20%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$18.00	$351.79	1076.14%	($637.34)	-1949.64%	$351.79	1076.14%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$19.00	$325.62	996.08%	($584.99)	-1789.51%	$325.62	996.08%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$20.00	$299.44	916.01%	($532.65)	-1629.38%	$299.44	916.01%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$21.00	$273.27	835.95%	($480.30)	-1469.26%	$273.27	835.95%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$22.00	$247.10	755.88%	($427.95)	-1309.13%	$247.10	755.88%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$23.00	$220.93	675.82%	($375.61)	-1149.00%	$220.93	675.82%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$24.00	$194.75	595.76%	($323.26)	-988.87%	$194.75	595.76%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$25.00	$168.58	515.69%	($270.92)	-828.74%	$168.58	515.69%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$26.00	$142.41	435.63%	($218.57)	-668.61%	$142.41	435.63%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$27.00	$116.23	355.56%	($166.22)	-508.49%	$116.23	355.56%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$28.00	$90.06	275.50%	($113.88)	-348.36%	$90.06	275.50%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$29.00	$63.89	195.44%	($61.53)	-188.23%	$63.89	195.44%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$30.00	$37.72	115.37%	($9.19)	-28.10%	$37.72	115.37%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$30.80	$16.78	51.32%	$32.69	100.00%	$16.78	51.32%	$66.24	67.55%	($34.72)	$64.22	**64.91%**
$31.00	$11.54	35.31%	$32.69	100.00%	$11.54	35.31%	$55.77	56.87%	($34.72)	$53.75	**60.76%**
$32.00	($14.63)	-44.76%	$32.69	100.00%	($14.63)	-44.76%	$3.43	3.50%	($34.72)	$1.40	**3.88%**
$33.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$34.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$35.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$35.10	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$36.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$37.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$38.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$39.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$40.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$41.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$42.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$43.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$44.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$45.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$46.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$47.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$48.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$49.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$50.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$51.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$52.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$53.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$54.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$55.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$56.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$57.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$58.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$59.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**
$60.00	($32.69)	-100.00%	$32.69	100.00%	($32.69)	-100.00%	($32.69)	-33.33%	($34.72)	$0.00	**0.00%**

*** Owns: 52.34 at the money puts, but assets are subject to 52.34 puts at $30.80**
† Profit/Loss tracking is all within the family
~ Any excess return over 100% implies reduction of non-GRAT assets

Schedule 5

GRAT Remainderman's Return at the End of One Year as a Percentage of the Initial Contribution

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

Stock Price	Increase (Decrease) in the Value of Stock	Transaction 1 Traditional GRAT With Stock	Transaction 2 GRAT With Call Spread	Transaction 3 GRAT With Put Spread
$10.00	-58.45%	0.00%	0.00%	136.20%
$15.00	-37.68%	0.00%	0.00%	136.12%
$20.00	-16.91%	0.00%	0.00%	136.04%
$21.00	-12.75%	0.00%	0.00%	78.79%
$22.00	-8.60%	0.00%	0.00%	18.53%
$23.00	-4.45%	0.00%	0.00%	0.00%
$24.00	-0.29%	0.00%	0.00%	0.00%
$25.00	3.86%	0.00%	0.00%	0.00%
$26.00	8.02%	1.82%	0.00%	0.00%
$27.00	12.17%	5.97%	24.02%	0.00%
$29.00	20.48%	14.28%	112.91%	0.00%
$31.00	28.79%	22.59%	201.80%	0.00%
$31.35	30.25%	24.05%	217.36%	0.00%
$32.00	32.95%	26.75%	217.36%	0.00%
$41.00	70.34%	64.14%	217.36%	0.00%
$42.00	74.49%	68.29%	217.36%	0.00%
$50.00	107.73%	101.53%	217.36%	0.00%

Transactions are assumed to take place on July 31, 2006.

Schedule 6

Transaction 1: Purchase a Share for $24.07 (Utilize One GRAT) on July 31, 2006

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

Goldman, Sachs & Co. does not provide tax and/or legal advice to its clients and all investors are strongly urged to consult with their own advisors regarding any potential investment or strategy. This material is intended for educational purposes only. While it is based on information believed to be reliable, no representation or warranty is given as to its accuracy or completeness, and it should not be relied on as such.

GRAT # 1

Assumptions:	
Value of Stock at Time of Funding:	$24.070
7520 Rate	6.20%

	Return on Stock			GRAT Remainderman's Return at the End of One Year	
Stock Value	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate*Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets**
$10.00	($14.07)	-58.45%	($25.56)	$0.00	**0.00%**
$11.00	($13.07)	-54.30%	($25.56)	$0.00	**0.00%**
$12.00	($12.07)	-50.15%	($25.56)	$0.00	**0.00%**
$13.00	($11.07)	-45.99%	($25.56)	$0.00	**0.00%**
$14.00	($10.07)	-41.84%	($25.56)	$0.00	**0.00%**
$15.00	($9.07)	-37.68%	($25.56)	$0.00	**0.00%**
$16.00	($8.07)	-33.53%	($25.56)	$0.00	**0.00%**
$17.00	($7.07)	-29.37%	($25.56)	$0.00	**0.00%**
$18.00	($6.07)	-25.22%	($25.56)	$0.00	**0.00%**
$19.00	($5.07)	-21.06%	($25.56)	$0.00	**0.00%**
$20.00	($4.07)	-16.91%	($25.56)	$0.00	**0.00%**
$21.00	($3.07)	-12.75%	($25.56)	$0.00	**0.00%**
$22.00	($2.07)	-8.60%	($25.56)	$0.00	**0.00%**
$23.00	($1.07)	-4.45%	($25.56)	$0.00	**0.00%**
$24.00	($0.07)	-0.29%	($25.56)	$0.00	**0.00%**
$25.00	$0.93	3.86%	($25.56)	$0.00	**0.00%**
$26.00	$1.93	8.02%	($25.56)	$0.44	**1.68%**
$27.00	$2.93	12.17%	($25.56)	$1.44	**5.32%**
$28.00	$3.93	16.33%	($25.56)	$2.44	**8.71%**
$29.00	$4.93	20.48%	($25.56)	$3.44	**11.85%**
$30.00	$5.93	24.64%	($25.56)	$4.44	**14.79%**
$31.00	$6.93	28.79%	($25.56)	$5.44	**17.54%**
$31.35	$7.28	30.25%	($25.56)	$5.79	**18.46%**
$32.00	$7.93	32.95%	($25.56)	$6.44	**20.12%**
$33.00	$8.93	37.10%	($25.56)	$7.44	**22.54%**
$34.00	$9.93	41.25%	($25.56)	$8.44	**24.82%**
$35.00	$10.93	45.41%	($25.56)	$9.44	**26.96%**
$36.00	$11.93	49.56%	($25.56)	$10.44	**28.99%**
$37.00	$12.93	53.72%	($25.56)	$11.44	**30.91%**
$38.00	$13.93	57.87%	($25.56)	$12.44	**32.73%**
$39.00	$14.93	62.03%	($25.56)	$13.44	**34.46%**
$40.00	$15.93	66.18%	($25.56)	$14.44	**36.09%**
$41.00	$16.93	70.34%	($25.56)	$15.44	**37.65%**
$42.00	$17.93	74.49%	($25.56)	$16.44	**39.14%**
$43.00	$18.93	78.65%	($25.56)	$17.44	**40.55%**
$44.00	$19.93	82.80%	($25.56)	$18.44	**41.90%**
$45.00	$20.93	86.95%	($25.56)	$19.44	**43.19%**
$46.00	$21.93	91.11%	($25.56)	$20.44	**44.43%**
$47.00	$22.93	95.26%	($25.56)	$21.44	**45.61%**
$48.00	$23.93	99.42%	($25.56)	$22.44	**46.75%**
$49.00	$24.93	103.57%	($25.56)	$23.44	**47.83%**
$50.00	$25.93	107.73%	($25.56)	$24.44	**48.88%**

Schedule 7

Transaction 2: Contribute $24.07 Cash, Purchase 5.35 at the Money Calls for $4.50 Each, Sell 10.70 Calls at $31.35 for $2.25 Each, and Invest in 5.35 at the Money Calls (Utilize One GRAT) on July 31, 2006

GRAT # 1*

Assumptions:			
Cash Contributed:			$24.07
(1) Purchased 5.35 Calls at:	$24.07	for	($4.50) each
(2) Sold 10.70 Calls at:	$31.35	for	$2.25 each
(3) Purchased 5.35 Calls at:	$24.07	for	($4.50) each
7520 Rate			6.20%

	Return on Calls Purchased (1)		Return on Calls Sold (2)		Return on Calls Purchased (3)		Net Return			GRAT Remainderman's Return at End of One Year †	
Stock Value	**Profit (Loss)**	**Return %**	**Net Profit (Loss) (Gain - Cost)**	**Return %**	**Net Profit (Loss) (Proceeds -Gain)**	**Return %**	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate * Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets ~**
$10.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$11.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$12.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$13.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$14.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$15.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$16.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$17.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$18.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$19.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$20.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$21.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$22.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$23.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$24.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$25.00	($19.10)	-79.33%	$24.07	100.00%	($19.10)	-79.33%	($14.12)	-19.56%	($25.56)	$0.00	**0.00%**
$26.00	($13.75)	-57.11%	$24.07	100.00%	($13.75)	-57.11%	($3.42)	-4.74%	($25.56)	$0.00	**0.00%**
$27.00	($8.40)	-34.89%	$24.07	100.00%	($8.40)	-34.89%	$7.27	10.07%	($25.56)	$5.78	**18.45%**
$28.00	($3.05)	-12.67%	$24.07	100.00%	($3.05)	-12.67%	$17.97	24.89%	($25.56)	$16.48	**39.20%**
$29.00	$2.30	9.56%	$24.07	100.00%	$2.30	9.56%	$28.67	39.70%	($25.56)	$27.18	**51.53%**
$30.00	$7.65	31.78%	$24.07	100.00%	$7.65	31.78%	$39.37	54.52%	($25.56)	$37.88	**59.70%**
$31.00	$13.00	54.00%	$24.07	100.00%	$13.00	54.00%	$50.07	69.33%	($25.56)	$48.57	**65.52%**
$31.35	$14.87	61.78%	$24.07	100.00%	$14.87	61.78%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$32.00	$18.35	76.22%	$17.12	71.11%	$18.35	76.22%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$33.00	$23.70	98.44%	$6.42	26.67%	$23.70	98.44%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$34.00	$29.04	120.67%	($4.28)	-17.78%	$29.04	120.67%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$35.00	$34.39	142.89%	($14.98)	-62.22%	$34.39	142.89%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$36.00	$39.74	165.11%	($25.67)	-106.67%	$39.74	165.11%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$37.00	$45.09	187.33%	($36.37)	-151.11%	$45.09	187.33%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$38.00	$50.44	209.56%	($47.07)	-195.56%	$50.44	209.56%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$39.00	$55.79	231.78%	($57.77)	-240.00%	$55.79	231.78%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$40.00	$61.14	254.00%	($68.47)	-284.44%	$61.14	254.00%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$41.00	$66.49	276.22%	($79.16)	-328.89%	$66.49	276.22%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$42.00	$71.84	298.44%	($89.86)	-373.33%	$71.84	298.44%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$43.00	$77.18	320.67%	($100.56)	-417.78%	$77.18	320.67%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$44.00	$82.53	342.89%	($111.26)	-462.22%	$82.53	342.89%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$45.00	$87.88	365.11%	($121.95)	-506.67%	$87.88	365.11%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$46.00	$93.23	387.33%	($132.65)	-551.11%	$93.23	387.33%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$47.00	$98.58	409.56%	($143.35)	-595.56%	$98.58	409.56%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$48.00	$103.93	431.78%	($154.05)	-640.00%	$103.93	431.78%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$49.00	$109.28	454.00%	($164.75)	-684.44%	$109.28	454.00%	$53.81	74.52%	($25.56)	$52.32	**67.18%**
$50.00	$114.63	476.22%	($175.44)	-728.89%	$114.63	476.22%	$53.81	74.52%	($25.56)	$52.32	**67.18%**

*** Owns: 10.70 at the money calls, but assets are subject to 10.70 calls at $31.35**

† Profit/Loss tracking is all within the family

~ Any excess return over 100% implies reduction of non-GRAT assets

Schedule 8

Transaction 3: Contribute $24.07 Cash, Purchase 7.25 at the Money Puts for $3.32 Each, Sell 14.50 Puts at $20.05 for $1.66 Each, and Invest in 7.25 at the Money Puts (Utilize One GRAT) on July 31, 2006

GRAT # 1*

Assumptions:			
Cash Contributed:			$24.07
Purchased 7.25 Puts at:	$24.07	for	($3.32) each
Sold 14.50 Puts at:	$20.05	for	$1.66 each
Purchased 7.25 Puts at:	$24.07	for	($3.32) each
7520 Rate			6.20%

	Return on Puts Purchased (1)		Return on Puts Sold (2)		Return on Puts Purchased (3)		Net Return			GRAT Remainderman's Return at End of One Year †	
Stock Value	**Profit (Loss)**	**Return %**	**Net Profit (Loss) (Gain - Cost)**	**Return %**	**Net Profit (Loss) (Proceeds -Gain)**	**Return %**	**Profit (Loss)**	**Return %**	**Payout Amount = (7520 Rate * Initial Investment) + Initial Investment**	**Dollar Amount**	**Percentage of Overall Family Assets ~**
$10.00	$77.97	323.91%	($121.66)	-505.42%	$77.97	323.91%	$34.28	47.47%	($25.56)	$32.78	**56.19%**
$11.00	$70.71	293.78%	($107.16)	-445.18%	$70.71	293.78%	$34.27	47.46%	($25.56)	$32.78	**56.19%**
$12.00	$63.46	263.65%	($92.66)	-384.94%	$63.46	263.65%	$34.27	47.46%	($25.56)	$32.78	**56.18%**
$13.00	$56.21	233.53%	($78.16)	-324.70%	$56.21	233.53%	$34.26	47.45%	($25.56)	$32.77	**56.18%**
$14.00	$48.96	203.40%	($63.66)	-264.46%	$48.96	203.40%	$34.26	47.45%	($25.56)	$32.77	**56.18%**
$15.00	$41.71	173.27%	($49.16)	-204.22%	$41.71	173.27%	$34.26	47.44%	($25.56)	$32.76	**56.17%**
$16.00	$34.45	143.14%	($34.66)	-143.98%	$34.45	143.14%	$34.25	47.43%	($25.56)	$32.76	**56.17%**
$17.00	$27.20	113.01%	($20.16)	-83.73%	$27.20	113.01%	$34.25	47.43%	($25.56)	$32.76	**56.17%**
$18.00	$19.95	82.88%	($5.66)	-23.49%	$19.95	82.88%	$34.24	47.42%	($25.56)	$32.75	**56.16%**
$19.00	$12.70	52.75%	$8.84	36.75%	$12.70	52.75%	$34.24	47.42%	($25.56)	$32.75	**56.16%**
$20.00	$5.45	22.62%	$23.35	96.99%	$5.45	22.62%	$34.24	47.41%	($25.56)	$32.74	**56.16%**
$21.00	($1.81)	-7.50%	$24.07	100.00%	($1.81)	-7.50%	$20.46	28.33%	($25.56)	$18.96	**42.59%**
$22.00	($9.06)	-37.63%	$24.07	100.00%	($9.06)	-37.63%	$5.95	8.24%	($25.56)	$4.46	**14.86%**
$23.00	($16.31)	-67.76%	$24.07	100.00%	($16.31)	-67.76%	($8.55)	-11.84%	($25.56)	$0.00	**0.00%**
$24.00	($23.56)	-97.89%	$24.07	100.00%	($23.56)	-97.89%	($23.05)	-31.93%	($25.56)	$0.00	**0.00%**
$25.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$26.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$27.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$28.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$29.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$30.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$31.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$31.35	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$32.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$33.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$34.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$35.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$36.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$37.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$38.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$39.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$40.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$41.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$42.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$43.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$44.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$45.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$46.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$47.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$48.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$49.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**
$50.00	($24.07)	-100.00%	$24.07	100.00%	($24.07)	-100.00%	($24.07)	-33.33%	($25.56)	$0.00	**0.00%**

*** Owns: 14.50 at the money puts, but assets are subject to 14.50 puts at $20.05**
† Profit/Loss tracking is all within the family
~ Any excess return over 100% implies reduction of non-GRAT assets

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (NO DISCOUNT)	Pre-Death	Post Death	Percentage of Total
Mimi Minimum	70,542,566	-	0.00%
Minimum Family	-	38,798,412	19.28%
Consumption - Direct Cost	16,651,395	16,651,395	8.27%
Consumption - Investment Opportunity Cost	36,796,365	36,796,365	18.28%
IRS - Income Tax	19,551,445	19,551,445	9.71%
IRS - Investment Opportunity Costs	57,711,366	57,711,366	28.68%
IRS - Estate Tax (at 45%)	-	31,744,155	15.77%
Total	$201,253,138	$201,253,138	100.00%

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (WITH DISCOUNT)			
Mimi Minimum	70,542,566	-	0.00%
Minimum Family	-	49,908,866	24.80%
Consumption - Direct Cost	16,651,395	16,651,395	8.27%
Consumption - Investment Opportunity Cost	36,796,365	36,796,365	18.28%
IRS - Income Tax	19,551,445	19,551,445	9.71%
IRS - Investment Opportunity Costs	57,711,366	57,711,366	28.68%
IRS - Estate Tax (at 45%)	-	20,633,701	10.25%
Total	$201,253,138	$201,253,138	100.00%

HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A GIFT/SALE TO A GST; BEQUEATHS ESTATE TO FAMILY			
Mimi Minimum	1,081,514	-	0.00%
Minimum Family	67,735,438	68,330,271	33.95%
Consumption - Direct Cost	16,651,395	16,651,395	8.27%
Consumption - Investment Opportunity Cost	36,796,365	36,796,365	18.28%
IRS - Income Tax	21,277,059	21,277,059	10.57%
IRS - Investment Opportunity Costs	57,711,366	57,711,366	28.68%
IRS - Estate Tax (at 45%)	-	486,681	0.24%
Total	$201,253,138	$201,253,138	100.00%

TAX PLAN WITH A PARTNERSHIP AND WITH A GIFT/SALE TO A GST; BEQUEATHS ESTATE TO FAMILY			
Mimi Minimum	218,548	-	0.00%
Minimum Family	68,477,925	68,598,127	34.09%
Consumption - Direct Cost	16,651,395	16,651,395	8.27%
Consumption - Investment Opportunity Cost	36,796,365	36,796,365	18.28%
IRS - Income Tax	21,397,537	21,397,537	10.63%
IRS - Investment Opportunity Costs	57,711,366	57,711,366	28.68%
IRS - Estate Tax (at 45%)	-	98,347	0.05%
Total	$201,253,138	$201,253,138	100.00%

Schedule 9
MINIMUM FAMILY
ASSET PAGE

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Family Limited Partnership	
Asset: Miscellaneous Assets	$18,000,000
Basis: Miscellaneous Assets	$0
Other Miscellaneous Assets	
Asset: Miscellaneous Assets	$2,000,000
Basis: Miscellaneous Assets	$0
Total Assets*	**$20,000,000**
Total Basis	**$0**

* There is not any proposed planning for Mimi Minimum's other assets

Schedule 9
MINIMUM FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (NO DISCOUNT)

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	350,000

Mimi Minimum

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	20,000,000	400,000	1,200,000	(3,411,980)	(350,000)	17,838,020
Year 2	17,838,020	356,760	1,070,281	(220,592)	(360,500)	18,683,969
Year 3	18,683,969	373,679	1,121,038	(253,075)	(371,315)	19,554,297
Year 4	19,554,297	391,086	1,173,258	(280,334)	(382,454)	20,455,852
Year 5	20,455,852	409,117	1,227,351	(304,127)	(393,928)	21,394,266
Year 6	21,394,266	427,885	1,283,656	(325,709)	(405,746)	22,374,352
Year 7	22,374,352	447,487	1,342,461	(345,978)	(417,918)	23,400,404
Year 8	23,400,404	468,008	1,404,024	(365,582)	(430,456)	24,476,399
Year 9	24,476,399	489,528	1,468,584	(384,993)	(443,370)	25,606,149
Year 10	25,606,149	512,123	1,536,369	(404,559)	(456,671)	26,793,411
Year 11	26,793,411	535,868	1,607,605	(424,544)	(470,371)	28,041,970
Year 12	28,041,970	560,839	1,682,518	(445,150)	(484,482)	29,355,695
Year 13	29,355,695	587,114	1,761,342	(466,540)	(499,016)	30,738,594
Year 14	30,738,594	614,772	1,844,316	(488,849)	(513,987)	32,194,846
Year 15	32,194,846	643,897	1,931,691	(512,192)	(529,406)	33,728,835
Year 16	33,728,835	674,577	2,023,730	(536,675)	(545,289)	35,345,178
Year 17	35,345,178	706,904	2,120,711	(562,394)	(561,647)	37,048,751
Year 18	37,048,751	740,975	2,222,925	(589,444)	(578,497)	38,844,711
Year 19	38,844,711	776,894	2,330,683	(617,918)	(595,852)	40,738,517
Year 20	40,738,517	814,770	2,444,311	(647,912)	(613,727)	42,735,960
Year 21	42,735,960	854,719	2,564,158	(679,522)	(632,139)	44,843,176
Year 22	44,843,176	896,864	2,690,591	(712,848)	(651,103)	47,066,679
Year 23	47,066,679	941,334	2,824,001	(747,996)	(670,636)	49,413,381
Year 24	49,413,381	988,268	2,964,803	(785,078)	(690,755)	51,890,618
Year 25	51,890,618	1,037,812	3,113,437	(824,208)	(711,478)	54,506,182
Year 26	54,506,182	1,090,124	3,270,371	(865,512)	(732,822)	57,268,342
Year 27	57,268,342	1,145,367	3,436,101	(909,119)	(754,807)	60,185,884
Year 28	60,185,884	1,203,718	3,611,153	(955,167)	(777,451)	63,268,136
Year 29	63,268,136	1,265,363	3,796,088	(1,003,804)	(800,775)	66,525,009
Year 30	66,525,009	1,330,500	3,991,501	(479,645)	(824,798)	70,542,566

Schedule 9
MINIMUM FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (WITH DISCOUNT)

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	350,000

Mimi Minimum

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	20,000,000	400,000	1,200,000	(3,411,980)	(350,000)	17,838,020
Year 2	17,838,020	356,760	1,070,281	(220,592)	(360,500)	18,683,969
Year 3	18,683,969	373,679	1,121,038	(253,075)	(371,315)	19,554,297
Year 4	19,554,297	391,086	1,173,258	(280,334)	(382,454)	20,455,852
Year 5	20,455,852	409,117	1,227,351	(304,127)	(393,928)	21,394,266
Year 6	21,394,266	427,885	1,283,656	(325,709)	(405,746)	22,374,352
Year 7	22,374,352	447,487	1,342,461	(345,978)	(417,918)	23,400,404
Year 8	23,400,404	468,008	1,404,024	(365,582)	(430,456)	24,476,399
Year 9	24,476,399	489,528	1,468,584	(384,993)	(443,370)	25,606,149
Year 10	25,606,149	512,123	1,536,369	(404,559)	(456,671)	26,793,411
Year 11	26,793,411	535,868	1,607,605	(424,544)	(470,371)	28,041,970
Year 12	28,041,970	560,839	1,682,518	(445,150)	(484,482)	29,355,695
Year 13	29,355,695	587,114	1,761,342	(466,540)	(499,016)	30,738,594
Year 14	30,738,594	614,772	1,844,316	(488,849)	(513,987)	32,194,846
Year 15	32,194,846	643,897	1,931,691	(512,192)	(529,406)	33,728,835
Year 16	33,728,835	674,577	2,023,730	(536,675)	(545,289)	35,345,178
Year 17	35,345,178	706,904	2,120,711	(562,394)	(561,647)	37,048,751
Year 18	37,048,751	740,975	2,222,925	(589,444)	(578,497)	38,844,711
Year 19	38,844,711	776,894	2,330,683	(617,918)	(595,852)	40,738,517
Year 20	40,738,517	814,770	2,444,311	(647,912)	(613,727)	42,735,960
Year 21	42,735,960	854,719	2,564,158	(679,522)	(632,139)	44,843,176
Year 22	44,843,176	896,864	2,690,591	(712,848)	(651,103)	47,066,679
Year 23	47,066,679	941,334	2,824,001	(747,996)	(670,636)	49,413,381
Year 24	49,413,381	988,268	2,964,803	(785,078)	(690,755)	51,890,618
Year 25	51,890,618	1,037,812	3,113,437	(824,208)	(711,478)	54,506,182
Year 26	54,506,182	1,090,124	3,270,371	(865,512)	(732,822)	57,268,342
Year 27	57,268,342	1,145,367	3,436,101	(909,119)	(754,807)	60,185,884
Year 28	60,185,884	1,203,718	3,611,153	(955,167)	(777,451)	63,268,136
Year 29	63,268,136	1,265,363	3,796,088	(1,003,804)	(800,775)	66,525,009
Year 30	66,525,009	1,330,500	3,991,501	(479,645)	(824,798)	70,542,566

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Mimi Minimum

	Beginning of Year	Income	Growth	Gift to Minimum GST Grantor Trust	Note Payments	Income Taxes	Consumption	End of Year
Year 1	2,000,000	40,000	120,000	(2,000,000)	5,770,800	(3,411,980)	(350,000)	2,168,820
Year 2	2,168,820	43,376	130,129	-	1,519,560	(220,592)	(360,500)	3,280,793
Year 3	3,280,793	65,616	196,848	-	1,367,604	(253,075)	(371,315)	4,286,470
Year 4	4,286,470	85,729	257,188	-	1,230,844	(280,334)	(382,454)	5,197,444
Year 5	5,197,444	103,949	311,847	-	1,107,759	(304,127)	(393,928)	6,022,944
Year 6	6,022,944	120,459	361,377	-	996,983	(325,709)	(405,746)	6,770,308
Year 7	6,770,308	135,406	406,218	-	897,285	(345,978)	(417,918)	7,445,321
Year 8	7,445,321	148,906	446,719	-	807,556	(365,582)	(430,456)	8,052,466
Year 9	8,052,466	161,049	483,148	-	726,801	(384,993)	(443,370)	8,595,102
Year 10	8,595,102	171,902	515,706	-	654,121	(404,559)	(456,671)	9,075,601
Year 11	9,075,601	181,512	544,536	-	588,709	(424,544)	(470,371)	9,495,444
Year 12	9,495,444	189,909	569,727	-	529,838	(445,150)	(484,482)	9,855,285
Year 13	9,855,285	197,106	591,317	-	476,854	(466,540)	(499,016)	10,155,005
Year 14	10,155,005	203,100	609,300	-	429,169	(488,849)	(513,987)	10,393,738
Year 15	10,393,738	207,875	623,624	-	386,252	(512,192)	(529,406)	10,569,890
Year 16	10,569,890	211,398	634,193	-	347,627	(536,675)	(545,289)	10,681,145
Year 17	10,681,145	213,623	640,869	-	312,864	(562,394)	(561,647)	10,724,459
Year 18	10,724,459	214,489	643,468	-	281,578	(589,444)	(578,497)	10,696,052
Year 19	10,696,052	213,921	641,763	-	253,420	(617,918)	(595,852)	10,591,386
Year 20	10,591,386	211,828	635,483	-	228,078	(647,912)	(613,727)	10,405,136
Year 21	10,405,136	208,103	624,308	-	205,270	(679,522)	(632,139)	10,131,157
Year 22	10,131,157	202,623	607,869	-	184,743	(712,848)	(651,103)	9,762,441
Year 23	9,762,441	195,249	585,746	-	166,269	(747,996)	(670,636)	9,291,072
Year 24	9,291,072	185,821	557,464	-	149,642	(785,078)	(690,755)	8,708,167
Year 25	8,708,167	174,163	522,490	-	134,678	(824,208)	(711,478)	8,003,812
Year 26	8,003,812	160,076	480,229	-	121,210	(865,512)	(732,822)	7,166,992
Year 27	7,166,992	143,340	430,020	-	109,089	(909,119)	(754,807)	6,185,515
Year 28	6,185,515	123,710	371,131	-	98,180	(955,167)	(777,451)	5,045,918
Year 29	5,045,918	100,918	302,755	-	88,362	(1,003,804)	(800,775)	3,733,376
Year 30	3,733,376	74,668	224,003	-	79,526	(2,205,260)	(824,798)	1,081,514

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Minimum GST Grantor Trust

	Beginning of Year	Income	Growth	Gift From Mimi Minimum	Note Payments	Income Taxes	End of Year
Year 1	18,000,000	360,000	1,080,000	2,000,000	(5,770,800)	-	15,669,200
Year 2	15,669,200	313,384	940,152	-	(1,519,560)	-	15,403,176
Year 3	15,403,176	308,064	924,191	-	(1,367,604)	-	15,267,826
Year 4	15,267,826	305,357	916,070	-	(1,230,844)	-	15,258,409
Year 5	15,258,409	305,168	915,505	-	(1,107,759)	-	15,371,322
Year 6	15,371,322	307,426	922,279	-	(996,983)	-	15,604,044
Year 7	15,604,044	312,081	936,243	-	(897,285)	-	15,955,083
Year 8	15,955,083	319,102	957,305	-	(807,556)	-	16,423,933
Year 9	16,423,933	328,479	985,436	-	(726,801)	-	17,011,047
Year 10	17,011,047	340,221	1,020,663	-	(654,121)	-	17,717,810
Year 11	17,717,810	354,356	1,063,069	-	(588,709)	-	18,546,526
Year 12	18,546,526	370,931	1,112,792	-	(529,838)	-	19,500,410
Year 13	19,500,410	390,008	1,170,025	-	(476,854)	-	20,583,589
Year 14	20,583,589	411,672	1,235,015	-	(429,169)	-	21,801,108
Year 15	21,801,108	436,022	1,308,066	-	(386,252)	-	23,158,945
Year 16	23,158,945	463,179	1,389,537	-	(347,627)	-	24,664,034
Year 17	24,664,034	493,281	1,479,842	-	(312,864)	-	26,324,292
Year 18	26,324,292	526,486	1,579,458	-	(281,578)	-	28,148,658
Year 19	28,148,658	562,973	1,688,919	-	(253,420)	-	30,147,131
Year 20	30,147,131	602,943	1,808,828	-	(228,078)	-	32,330,824
Year 21	32,330,824	646,616	1,939,849	-	(205,270)	-	34,712,020
Year 22	34,712,020	694,240	2,082,721	-	(184,743)	-	37,304,238
Year 23	37,304,238	746,085	2,238,254	-	(166,269)	-	40,122,308
Year 24	40,122,308	802,446	2,407,339	-	(149,642)	-	43,182,451
Year 25	43,182,451	863,649	2,590,947	-	(134,678)	-	46,502,370
Year 26	46,502,370	930,047	2,790,142	-	(121,210)	-	50,101,349
Year 27	50,101,349	1,002,027	3,006,081	-	(109,089)	-	54,000,368
Year 28	54,000,368	1,080,007	3,240,022	-	(98,180)	-	58,222,218
Year 29	58,222,218	1,164,444	3,493,333	-	(88,362)	-	62,791,633
Year 30	62,791,633	1,255,833	3,767,498	-	(79,526)	-	67,735,438

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Note Between Mimi Minimum and Minimum GST Grantor Trust

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	18,000,000	370,800	(5,770,800)	12,600,000
Year 2	12,600,000	259,560	(1,519,560)	11,340,000
Year 3	11,340,000	233,604	(1,367,604)	10,206,000
Year 4	10,206,000	210,244	(1,230,844)	9,185,400
Year 5	9,185,400	189,219	(1,107,759)	8,266,860
Year 6	8,266,860	170,297	(996,983)	7,440,174
Year 7	7,440,174	153,268	(897,285)	6,696,157
Year 8	6,696,157	137,941	(807,556)	6,026,541
Year 9	6,026,541	124,147	(726,801)	5,423,887
Year 10	5,423,887	111,732	(654,121)	4,881,498
Year 11	4,881,498	100,559	(588,709)	4,393,348
Year 12	4,393,348	90,503	(529,838)	3,954,014
Year 13	3,954,014	81,453	(476,854)	3,558,612
Year 14	3,558,612	73,307	(429,169)	3,202,751
Year 15	3,202,751	65,977	(386,252)	2,882,476
Year 16	2,882,476	59,379	(347,627)	2,594,228
Year 17	2,594,228	53,441	(312,864)	2,334,805
Year 18	2,334,805	48,097	(281,578)	2,101,325
Year 19	2,101,325	43,287	(253,420)	1,891,192
Year 20	1,891,192	38,959	(228,078)	1,702,073
Year 21	1,702,073	35,063	(205,270)	1,531,866
Year 22	1,531,866	31,556	(184,743)	1,378,679
Year 23	1,378,679	28,401	(166,269)	1,240,811
Year 24	1,240,811	25,561	(149,642)	1,116,730
Year 25	1,116,730	23,005	(134,678)	1,005,057
Year 26	1,005,057	20,704	(121,210)	904,551
Year 27	904,551	18,634	(109,089)	814,096
Year 28	814,096	16,770	(98,180)	732,687
Year 29	732,687	15,093	(88,362)	659,418
Year 30	659,418	13,584	(79,526)	593,476

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Minimum FLP

	Beginning of Year	Income	Growth	Distributions	End of Year
Year 1	18,000,000	360,000	1,080,000	(4,780,782)	14,659,218
Year 2	14,659,218	293,184	879,553	(1,577,071)	14,254,885
Year 3	14,254,885	285,098	855,293	(1,553,300)	13,841,975
Year 4	13,841,975	276,840	830,519	(1,522,194)	13,427,139
Year 5	13,427,139	268,543	805,628	(1,486,363)	13,014,948
Year 6	13,014,948	260,299	780,897	(1,447,640)	12,608,503
Year 7	12,608,503	252,170	756,510	(1,407,309)	12,209,875
Year 8	12,209,875	244,197	732,592	(1,366,261)	11,820,403
Year 9	11,820,403	236,408	709,224	(1,325,116)	11,440,920
Year 10	11,440,920	228,818	686,455	(1,284,296)	11,071,898
Year 11	11,071,898	221,438	664,314	(1,244,089)	10,713,561
Year 12	10,713,561	214,271	642,814	(1,204,686)	10,365,960
Year 13	10,365,960	207,319	621,958	(1,166,209)	10,029,028
Year 14	10,029,028	200,581	601,742	(1,128,734)	9,702,616
Year 15	9,702,616	194,052	582,157	(1,092,302)	9,386,524
Year 16	9,386,524	187,730	563,191	(1,056,933)	9,080,513
Year 17	9,080,513	181,610	544,831	(1,022,628)	8,784,326
Year 18	8,784,326	175,687	527,060	(989,380)	8,497,692
Year 19	8,497,692	169,954	509,862	(957,173)	8,220,335
Year 20	8,220,335	164,407	493,220	(925,986)	7,951,976
Year 21	7,951,976	159,040	477,119	(895,794)	7,692,340
Year 22	7,692,340	153,847	461,540	(866,573)	7,441,154
Year 23	7,441,154	148,823	446,469	(838,295)	7,198,151
Year 24	7,198,151	143,963	431,889	(810,933)	6,963,070
Year 25	6,963,070	139,261	417,784	(784,459)	6,735,657
Year 26	6,735,657	134,713	404,139	(758,845)	6,515,664
Year 27	6,515,664	130,313	390,940	(734,065)	6,302,852
Year 28	6,302,852	126,057	378,171	(710,093)	6,096,987
Year 29	6,096,987	121,940	365,819	(686,902)	5,897,844
Year 30	5,897,844	117,957	353,871	(808,316)	5,561,356

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Mimi Minimum

	Beginning of Year	Income	Growth	Gift to Minimum GST Grantor Trust	Distribution from Partnership	Note Payments	Income Taxes	Consumption	End of Year
Year 1	2,000,000	40,000	120,000	(2,000,000)	47,808	4,732,974	(3,411,980)	(350,000)	1,178,802
Year 2	1,178,802	23,576	70,728	-	15,771	1,561,300	(220,592)	(360,500)	2,269,085
Year 3	2,269,085	45,382	136,145	-	15,533	1,537,767	(253,075)	(371,315)	3,379,521
Year 4	3,379,521	67,590	202,771	-	15,222	1,506,972	(280,334)	(382,454)	4,509,289
Year 5	4,509,289	90,186	270,557	-	14,864	1,471,499	(304,127)	(393,928)	5,658,340
Year 6	5,658,340	113,167	339,500	-	14,476	1,433,164	(325,709)	(405,746)	6,827,193
Year 7	6,827,193	136,544	409,632	-	14,073	16,375	(345,978)	(417,918)	6,639,920
Year 8	6,639,920	132,798	398,395	-	13,663	-	(99,727)	(430,456)	6,654,593
Year 9	6,654,593	133,092	399,276	-	13,251	-	(104,080)	(443,370)	6,652,762
Year 10	6,652,762	133,055	399,166	-	12,843	-	(107,015)	(456,671)	6,634,141
Year 11	6,634,141	132,683	398,048	-	12,441	-	(108,873)	(470,371)	6,598,069
Year 12	6,598,069	131,961	395,884	-	12,047	-	(109,886)	(484,482)	6,543,594
Year 13	6,543,594	130,872	392,616	-	11,662	-	(110,209)	(499,016)	6,469,518
Year 14	6,469,518	129,390	388,171	-	11,287	-	(109,946)	(513,987)	6,374,433
Year 15	6,374,433	127,489	382,466	-	10,923	-	(109,160)	(529,406)	6,256,745
Year 16	6,256,745	125,135	375,405	-	10,569	-	(107,885)	(545,289)	6,114,680
Year 17	6,114,680	122,294	366,881	-	10,226	-	(106,137)	(561,647)	5,946,296
Year 18	5,946,296	118,926	356,778	-	9,894	-	(103,916)	(578,497)	5,749,481
Year 19	5,749,481	114,990	344,969	-	9,572	-	(101,209)	(595,852)	5,521,950
Year 20	5,521,950	110,439	331,317	-	9,260	-	(97,996)	(613,727)	5,261,243
Year 21	5,261,243	105,225	315,675	-	8,958	-	(94,249)	(632,139)	4,964,712
Year 22	4,964,712	99,294	297,883	-	8,666	-	(89,935)	(651,103)	4,629,516
Year 23	4,629,516	92,590	277,771	-	8,383	-	(85,015)	(670,636)	4,252,610
Year 24	4,252,610	85,052	255,157	-	8,109	-	(79,443)	(690,755)	3,830,729
Year 25	3,830,729	76,615	229,844	-	7,845	-	(73,174)	(711,478)	3,360,380
Year 26	3,360,380	67,208	201,623	-	7,588	-	(66,153)	(732,822)	2,837,823
Year 27	2,837,823	56,756	170,269	-	7,341	-	(58,325)	(754,807)	2,259,058
Year 28	2,259,058	45,181	135,543	-	7,101	-	(49,627)	(777,451)	1,619,806
Year 29	1,619,806	32,396	97,188	-	6,869	-	(39,993)	(800,775)	915,491
Year 30	915,491	18,310	54,929	-	8,083	-	(9,081)	(824,798)	162,935

Schedule 9

MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Minimum GST Grantor Trust

	Beginning of Year	Income	Growth	Gift From Mimi Minimum	Distribution from Partnership	Note Payments	Income Taxes	End of Year
Year 1	-	-	-	2,000,000	4,732,974	(4,732,974)	-	2,000,000
Year 2	2,000,000	40,000	120,000	-	1,561,300	(1,561,300)	-	2,160,000
Year 3	2,160,000	43,200	129,600	-	1,537,767	(1,537,767)	-	2,332,800
Year 4	2,332,800	46,656	139,968	-	1,506,972	(1,506,972)	-	2,519,424
Year 5	2,519,424	50,388	151,165	-	1,471,499	(1,471,499)	-	2,720,978
Year 6	2,720,978	54,420	163,259	-	1,433,164	(1,433,164)	-	2,938,656
Year 7	2,938,656	58,773	176,319	-	1,393,236	(16,375)	-	4,550,610
Year 8	4,550,610	91,012	273,037	-	1,352,599	-	(265,855)	6,001,403
Year 9	6,001,403	120,028	360,084	-	1,311,864	-	(280,913)	7,512,467
Year 10	7,512,467	150,249	450,748	-	1,271,453	-	(297,544)	9,087,373
Year 11	9,087,373	181,747	545,242	-	1,231,648	-	(315,671)	10,730,340
Year 12	10,730,340	214,607	643,820	-	1,192,639	-	(335,264)	12,446,142
Year 13	12,446,142	248,923	746,768	-	1,154,547	-	(356,331)	14,240,049
Year 14	14,240,049	284,801	854,403	-	1,117,446	-	(378,903)	16,117,796
Year 15	16,117,796	322,356	967,068	-	1,081,379	-	(403,033)	18,085,566
Year 16	18,085,566	361,711	1,085,134	-	1,046,363	-	(428,790)	20,149,985
Year 17	20,149,985	403,000	1,208,999	-	1,012,402	-	(456,257)	22,318,129
Year 18	22,318,129	446,363	1,339,088	-	979,486	-	(485,528)	24,597,538
Year 19	24,597,538	491,951	1,475,852	-	947,601	-	(516,709)	26,996,232
Year 20	26,996,232	539,925	1,619,774	-	916,726	-	(549,916)	29,522,741
Year 21	29,522,741	590,455	1,771,364	-	886,836	-	(585,272)	32,186,124
Year 22	32,186,124	643,722	1,931,167	-	857,907	-	(622,913)	34,996,009
Year 23	34,996,009	699,920	2,099,761	-	829,912	-	(662,982)	37,962,620
Year 24	37,962,620	759,252	2,277,757	-	802,824	-	(705,634)	41,096,819
Year 25	41,096,819	821,936	2,465,809	-	776,614	-	(751,034)	44,410,145
Year 26	44,410,145	888,203	2,664,609	-	751,257	-	(799,358)	47,914,854
Year 27	47,914,854	958,297	2,874,891	-	726,725	-	(850,794)	51,623,973
Year 28	51,623,973	1,032,479	3,097,438	-	702,992	-	(905,540)	55,551,343
Year 29	55,551,343	1,111,027	3,333,081	-	680,033	-	(963,810)	59,711,673
Year 30	59,711,673	1,194,233	3,582,700	-	800,233	-	(2,316,657)	62,972,183

Schedule 9
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Note Between Mimi Minimum and Minimum GST Grantor Trust

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	11,583,000	238,610	(4,732,974)	7,088,636
Year 2	7,088,636	146,026	(1,561,300)	5,673,362
Year 3	5,673,362	116,871	(1,537,767)	4,252,465
Year 4	4,252,465	87,601	(1,506,972)	2,833,094
Year 5	2,833,094	58,362	(1,471,499)	1,419,957
Year 6	1,419,957	29,251	(1,433,164)	16,044
Year 7	16,044	331	(16,375)	-
Year 8	-	-	-	-
Year 9	-	-	-	-
Year 10	-	-	-	-
Year 11	-	-	-	-
Year 12	-	-	-	-
Year 13	-	-	-	-
Year 14	-	-	-	-
Year 15	-	-	-	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-
Year 26	-	-	-	-
Year 27	-	-	-	-
Year 28	-	-	-	-
Year 29	-	-	-	-
Year 30	-	-	-	-

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (NO DISCOUNT)	Pre-Death	Post Death	Percentage of Total
Mimi Minimum	27,013,350	-	0.00%
Minimum Family	-	14,857,342	34.41%
Consumption - Direct Cost	4,012,358	4,012,358	9.29%
Consumption - Investment Opportunity Cost	1,692,703	1,692,703	3.92%
IRS - Income Tax	6,076,989	6,076,989	14.07%
IRS - Investment Opportunity Costs	4,383,101	4,383,101	10.15%
IRS - Estate Tax (at 45%)	-	12,156,007	28.15%
Total	$43,178,500	$43,178,500	100.00%

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (WITH DISCOUNT)	Pre-Death	Post Death	Percentage of Total
Mimi Minimum	27,013,350	-	0.00%
Minimum Family	-	19,111,945	44.26%
Consumption - Direct Cost	4,012,358	4,012,358	9.29%
Consumption - Investment Opportunity Cost	1,692,703	1,692,703	3.92%
IRS - Income Tax	6,076,989	6,076,989	14.07%
IRS - Investment Opportunity Costs	4,383,101	4,383,101	10.15%
IRS - Estate Tax (at 45%)	-	7,901,405	18.30%
Total	$43,178,500	$43,178,500	100.00%

TAX PLAN WITH A GIFT/SALE TO A GST; BEQUEATHS ESTATE TO FAMILY			
Mimi Minimum	10,861,543	-	0.00%
Minimum Family	15,447,568	21,421,417	49.61%
Consumption - Direct Cost	4,012,358	4,012,358	9.29%
Consumption - Investment Opportunity Cost	1,692,703	1,692,703	3.92%
IRS - Income Tax	6,781,228	6,781,228	15.71%
IRS - Investment Opportunity Costs	4,383,101	4,383,101	10.15%
IRS - Estate Tax (at 45%)	-	4,887,694	11.32%
Total	$43,178,500	$43,178,500	100.00%

TAX PLAN WITH A PARTNERSHIP AND WITH A GIFT/SALE TO A GST; BEQUEATHS ESTATE TO FAMILY			
Mimi Minimum	5,503,634	-	0.00%
Minimum Family	20,959,574	23,986,573	55.55%
Consumption - Direct Cost	4,012,358	4,012,358	9.29%
Consumption - Investment Opportunity Cost	1,692,703	1,692,703	3.92%
IRS - Income Tax	6,627,131	6,627,131	15.35%
IRS - Investment Opportunity Costs	4,383,101	4,383,101	10.15%
IRS - Estate Tax (at 45%)	-	2,476,635	5.74%
Total	$43,178,500	$43,178,500	100.00%

Schedule 10
MINIMUM FAMILY
ASSET PAGE

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Family Limited Partnership	
Asset: Miscellaneous Assets	$18,000,000
Basis: Miscellaneous Assets	$0
Other Miscellaneous Assets	
Asset: Miscellaneous Assets	$2,000,000
Basis: Miscellaneous Assets	$0
Total Assets*	**$20,000,000**
Total Basis	**$0**

* There is not any proposed planning for Mimi Minimum's other assets

Schedule 10
MINIMUM FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (NO DISCOUNT)

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	350,000

Mimi Minimum

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	20,000,000	400,000	1,200,000	(3,411,980)	(350,000)	17,838,020
Year 2	17,838,020	356,760	1,070,281	(220,592)	(360,500)	18,683,969
Year 3	18,683,969	373,679	1,121,038	(253,075)	(371,315)	19,554,297
Year 4	19,554,297	391,086	1,173,258	(280,334)	(382,454)	20,455,852
Year 5	20,455,852	409,117	1,227,351	(304,127)	(393,928)	21,394,266
Year 6	21,394,266	427,885	1,283,656	(325,709)	(405,746)	22,374,352
Year 7	22,374,352	447,487	1,342,461	(345,978)	(417,918)	23,400,404
Year 8	23,400,404	468,008	1,404,024	(365,582)	(430,456)	24,476,399
Year 9	24,476,399	489,528	1,468,584	(384,993)	(443,370)	25,606,149
Year 10	25,606,149	512,123	1,536,369	(184,620)	(456,671)	27,013,350

Schedule 10
MINIMUM FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY (WITH DISCOUNT)

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	350,000

Mimi Minimum

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	20,000,000	400,000	1,200,000	(3,411,980)	(350,000)	17,838,020
Year 2	17,838,020	356,760	1,070,281	(220,592)	(360,500)	18,683,969
Year 3	18,683,969	373,679	1,121,038	(253,075)	(371,315)	19,554,297
Year 4	19,554,297	391,086	1,173,258	(280,334)	(382,454)	20,455,852
Year 5	20,455,852	409,117	1,227,351	(304,127)	(393,928)	21,394,266
Year 6	21,394,266	427,885	1,283,656	(325,709)	(405,746)	22,374,352
Year 7	22,374,352	447,487	1,342,461	(345,978)	(417,918)	23,400,404
Year 8	23,400,404	468,008	1,404,024	(365,582)	(430,456)	24,476,399
Year 9	24,476,399	489,528	1,468,584	(384,993)	(443,370)	25,606,149
Year 10	25,606,149	512,123	1,536,369	(184,620)	(456,671)	27,013,350

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Mimi Minimum

	Beginning of Year	Income	Growth	Gift to Minimum GST Grantor Trust	Note Payments	Income Taxes	Consumption	End of Year
Year 1	2,000,000	40,000	120,000	(2,000,000)	4,870,800	(3,411,980)	(350,000)	1,268,820
Year 2	1,268,820	25,376	76,129	-	561,600	(220,592)	(360,500)	1,350,833
Year 3	1,350,833	27,017	81,050	-	549,806	(253,075)	(371,315)	1,384,316
Year 4	1,384,316	27,686	83,059	-	538,260	(280,334)	(382,454)	1,370,534
Year 5	1,370,534	27,411	82,232	-	526,957	(304,127)	(393,928)	1,309,079
Year 6	1,309,079	26,182	78,545	-	515,891	(325,709)	(405,746)	1,198,241
Year 7	1,198,241	23,965	71,894	-	505,057	(345,978)	(417,918)	1,035,262
Year 8	1,035,262	20,705	62,116	-	494,451	(365,582)	(430,456)	816,496
Year 9	816,496	16,330	48,990	-	484,068	(384,993)	(443,370)	537,521
Year 10	537,521	10,750	32,251	-	11,626,550	(888,859)	(456,671)	10,861,543

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Minimum GST Grantor Trust

	Beginning of Year	Income	Growth	Gift From Mimi Minimum	Note Payments	Income Taxes	End of Year
Year 1	18,000,000	360,000	1,080,000	2,000,000	(4,870,800)	-	16,569,200
Year 2	16,569,200	331,384	994,152	-	(561,600)	-	17,333,136
Year 3	17,333,136	346,663	1,039,988	-	(549,806)	-	18,169,980
Year 4	18,169,980	363,400	1,090,199	-	(538,260)	-	19,085,318
Year 5	19,085,318	381,706	1,145,119	-	(526,957)	-	20,085,187
Year 6	20,085,187	401,704	1,205,111	-	(515,891)	-	21,176,111
Year 7	21,176,111	423,522	1,270,567	-	(505,057)	-	22,365,143
Year 8	22,365,143	447,303	1,341,909	-	(494,451)	-	23,659,903
Year 9	23,659,903	473,198	1,419,594	-	(484,068)	-	25,068,628
Year 10	25,068,628	501,373	1,504,118	-	(11,626,550)	-	15,447,568

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

Note Between Mimi Minimum and Minimum GST Grantor Trust

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	18,000,000	370,800	(4,870,800)	13,500,000
Year 2	13,500,000	278,100	(561,600)	13,216,500
Year 3	13,216,500	272,260	(549,806)	12,938,954
Year 4	12,938,954	266,542	(538,260)	12,667,235
Year 5	12,667,235	260,945	(526,957)	12,401,224
Year 6	12,401,224	255,465	(515,891)	12,140,798
Year 7	12,140,798	250,100	(505,057)	11,885,841
Year 8	11,885,841	244,848	(494,451)	11,636,238
Year 9	11,636,238	239,707	(484,068)	11,391,877
Year 10	11,391,877	234,673	(11,626,550)	-

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Minimum FLP

	Beginning of Year	Income	Growth	Distributions	End of Year
Year 1	18,000,000	360,000	1,080,000	(4,780,782)	14,659,218
Year 2	14,659,218	293,184	879,553	(1,577,071)	14,254,885
Year 3	14,254,885	285,098	855,293	(1,553,300)	13,841,975
Year 4	13,841,975	276,840	830,519	(1,522,194)	13,427,139
Year 5	13,427,139	268,543	805,628	(1,486,363)	13,014,948
Year 6	13,014,948	260,299	780,897	(1,447,640)	12,608,503
Year 7	12,608,503	252,170	756,510	(1,407,309)	12,209,875
Year 8	12,209,875	244,197	732,592	(1,366,261)	11,820,403
Year 9	11,820,403	236,408	709,224	(1,325,116)	11,440,920
Year 10	11,440,920	228,818	686,455	(1,552,441)	10,803,753

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Mimi Minimum

	Beginning of Year	Income	Growth	Gift to Minimum GST Grantor Trust	Distribution from Partnership	Note Payments	Income Taxes	Consumption	End of Year
Year 1	2,000,000	40,000	120,000	(2,000,000)	47,808	4,732,974	(3,411,980)	(350,000)	1,178,802
Year 2	1,178,802	23,576	70,728	-	15,771	1,561,300	(220,592)	(360,500)	2,269,085
Year 3	2,269,085	45,382	136,145	-	15,533	1,537,767	(253,075)	(371,315)	3,379,521
Year 4	3,379,521	67,590	202,771	-	15,222	1,506,972	(280,334)	(382,454)	4,509,289
Year 5	4,509,289	90,186	270,557	-	14,864	1,471,499	(304,127)	(393,928)	5,658,340
Year 6	5,658,340	113,167	339,500	-	14,476	1,433,164	(325,709)	(405,746)	6,827,193
Year 7	6,827,193	136,544	409,632	-	14,073	16,375	(345,978)	(417,918)	6,639,920
Year 8	6,639,920	132,798	398,395	-	13,663	-	(365,582)	(430,456)	6,388,738
Year 9	6,388,738	127,775	383,324	-	13,251	-	(384,993)	(443,370)	6,084,727
Year 10	6,084,727	121,695	365,084	-	15,524	-	(734,762)	(456,671)	5,395,596

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Minimum GST Grantor Trust

	Beginning of Year	Income	Growth	Gift From Mimi Minimum	Distribution from Partnership	Note Payments	Income Taxes	End of Year
Year 1	-	-	-	2,000,000	4,732,974	(4,732,974)	-	2,000,000
Year 2	2,000,000	40,000	120,000	-	1,561,300	(1,561,300)	-	2,160,000
Year 3	2,160,000	43,200	129,600	-	1,537,767	(1,537,767)	-	2,332,800
Year 4	2,332,800	46,656	139,968	-	1,506,972	(1,506,972)	-	2,519,424
Year 5	2,519,424	50,388	151,165	-	1,471,499	(1,471,499)	-	2,720,978
Year 6	2,720,978	54,420	163,259	-	1,433,164	(1,433,164)	-	2,938,656
Year 7	2,938,656	58,773	176,319	-	1,393,236	(16,375)	-	4,550,610
Year 8	4,550,610	91,012	273,037	-	1,352,599	-	-	6,267,257
Year 9	6,267,257	125,345	376,035	-	1,311,864	-	-	8,080,502
Year 10	8,080,502	161,610	484,830	-	1,536,916	-	-	10,263,859

Schedule 10
MINIMUM FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Mimi Minimum	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	350,000
Intra-Family Note Interest Percentage	2.06%

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Mimi Minimum's Percentage Ownership in Minimum FLP	1.00%
GST Grantor Trust's Ownership in Minimum FLP	99.00%
Minimum FLP Valuation Discount	35.00%

Note Between Mimi Minimum and Minimum GST Grantor Trust

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	11,583,000	238,610	(4,732,974)	7,088,636
Year 2	7,088,636	146,026	(1,561,300)	5,673,362
Year 3	5,673,362	116,871	(1,537,767)	4,252,465
Year 4	4,252,465	87,601	(1,506,972)	2,833,094
Year 5	2,833,094	58,362	(1,471,499)	1,419,957
Year 6	1,419,957	29,251	(1,433,164)	16,044
Year 7	16,044	331	(16,375)	-
Year 8	-	-	-	-
Year 9	-	-	-	-
Year 10	-	-	-	-

Schedule 11a
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS - 20 YEAR TERM SCENARIO

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY	Pre-Death	Post-Death	Present Value (Discounted at 3%)	Percentage of Total
Lenny Leverage	100,513,787	-	-	0.00%
Leverage Children	-	55,282,583	30,608,626	34.52%
Leverage GST Trust	13,317,021	13,317,021	7,373,312	8.32%
Consumption - Direct Cost	2,687,037	2,687,037	1,487,747	1.68%
Consumption - Investment Opportunity Cost	3,022,654	3,022,654	1,673,570	1.89%
IRS - Income Tax	20,916,430	20,916,430	11,580,920	13.06%
IRS - Investment Opportunity Costs	19,680,241	19,680,241	10,896,472	12.29%
IRS - Estate Tax (at 45%)	-	45,231,204	25,043,421	28.25%
Total	$160,137,171	$160,137,171	$88,664,069	100.00%

HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY				
Lenny Leverage	17,613,195	-	-	0.00%
Leverage Children	-	9,687,257	5,363,600	6.05%
Leverage GST Trust	98,772,116	98,772,116	54,687,726	61.68%
Consumption - Direct Cost	2,687,037	2,687,037	1,487,747	1.68%
Consumption - Investment Opportunity Cost	3,022,654	3,022,654	1,673,570	1.89%
IRS - Income Tax	20,778,989	20,778,989	11,504,822	12.98%
IRS - Investment Opportunity Costs	17,263,179	17,263,179	9,558,204	10.78%
IRS - Estate Tax (at 45%)	-	7,925,938	4,388,400	4.95%
Total	$160,137,171	$160,137,171	$88,664,069	100.00%

Schedule 11a
LEVERAGE FAMILY
ASSET PAGE

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FLP	
Asset: Miscellaneous Investments	$30,000,000
Basis: Miscellaneous Investments	$30,000,000
GST Trust	
Asset: Cash	$2,857,143
Basis: Cash	$2,857,143
Other Miscellaneous Assets	
Asset: Cash	$1,500,000
Basis: Cash	$1,500,000
Total Assets*	**$34,357,143**
Total Basis	**$34,357,143**

* There is not any proposed planning for Lenny Leverage's other assets

Schedule 11a
LEVERAGE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	18.25%
Ordinary Tax Rate	38.25%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	100,000

Lenny Leverage

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	31,500,000	630,000	1,890,000	(375,695)	(100,000)	33,544,305
Year 2	33,544,305	670,886	2,012,658	(479,554)	(103,000)	35,645,296
Year 3	35,645,296	712,906	2,138,718	(565,757)	(106,090)	37,825,072
Year 4	37,825,072	756,501	2,269,504	(640,277)	(109,273)	40,101,528
Year 5	40,101,528	802,031	2,406,092	(707,383)	(112,551)	42,489,716
Year 6	42,489,716	849,794	2,549,383	(770,140)	(115,927)	45,002,826
Year 7	45,002,826	900,057	2,700,170	(830,769)	(119,405)	47,652,878
Year 8	47,652,878	953,058	2,859,173	(890,898)	(122,987)	50,451,223
Year 9	50,451,223	1,009,024	3,027,073	(951,739)	(126,677)	53,408,905
Year 10	53,408,905	1,068,178	3,204,534	(1,014,212)	(130,477)	56,536,928
Year 11	56,536,928	1,130,739	3,392,216	(1,079,042)	(134,392)	59,846,449
Year 12	59,846,449	1,196,929	3,590,787	(1,146,810)	(138,423)	63,348,931
Year 13	63,348,931	1,266,979	3,800,936	(1,218,011)	(142,576)	67,056,258
Year 14	67,056,258	1,341,125	4,023,376	(1,293,075)	(146,853)	70,980,831
Year 15	70,980,831	1,419,617	4,258,850	(1,372,398)	(151,259)	75,135,641
Year 16	75,135,641	1,502,713	4,508,138	(1,456,353)	(155,797)	79,534,342
Year 17	79,534,342	1,590,687	4,772,061	(1,545,306)	(160,471)	84,191,313
Year 18	84,191,313	1,683,826	5,051,479	(1,639,622)	(165,285)	89,121,712
Year 19	89,121,712	1,782,434	5,347,303	(1,739,674)	(170,243)	94,341,532
Year 20	94,341,532	1,886,831	5,660,492	(1,199,716)	(175,351)	100,513,787

Schedule 11a
LEVERAGE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	18.25%
Ordinary Tax Rate	38.25%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	100,000

Leverage GST Trust

	Beg. of Year	Income	Growth	Income Taxes	End of Year
Year 1	2,857,143	57,143	171,429	-	3,085,714
Year 2	3,085,714	61,714	185,143	-	3,332,572
Year 3	3,332,572	66,651	199,954	-	3,599,177
Year 4	3,599,177	71,984	215,951	-	3,887,112
Year 5	3,887,112	77,742	233,227	-	4,198,080
Year 6	4,198,080	83,962	251,885	-	4,533,927
Year 7	4,533,927	90,679	272,036	-	4,896,641
Year 8	4,896,641	97,933	293,798	-	5,288,372
Year 9	5,288,372	105,767	317,302	-	5,711,442
Year 10	5,711,442	114,229	342,687	-	6,168,357
Year 11	6,168,357	123,367	370,101	-	6,661,826
Year 12	6,661,826	133,237	399,710	-	7,194,772
Year 13	7,194,772	143,895	431,686	-	7,770,354
Year 14	7,770,354	155,407	466,221	-	8,391,982
Year 15	8,391,982	167,840	503,519	-	9,063,341
Year 16	9,063,341	181,267	543,800	-	9,788,408
Year 17	9,788,408	195,768	587,304	-	10,571,481
Year 18	10,571,481	211,430	634,289	-	11,417,199
Year 19	11,417,199	228,344	685,032	-	12,330,575
Year 20	12,330,575	246,612	739,835	-	13,317,021

Schedule 11a
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	146,297	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

Leverage FLP

	Beginning of Year	Income	Growth	Distributions	End of Year
Year 1	32,857,143	657,143	1,971,429	(1,961,571)	33,524,143
Year 2	33,524,143	670,483	2,011,449	(2,063,491)	34,142,583
Year 3	34,142,583	682,852	2,048,555	(2,145,143)	34,728,847
Year 4	34,728,847	694,577	2,083,731	(2,212,623)	35,294,532
Year 5	35,294,532	705,891	2,117,672	(2,270,239)	35,847,855
Year 6	35,847,855	716,957	2,150,871	(2,321,032)	36,394,652
Year 7	36,394,652	727,893	2,183,679	(2,367,154)	36,939,070
Year 8	36,939,070	738,781	2,216,344	(2,410,124)	37,484,072
Year 9	37,484,072	749,681	2,249,044	(2,451,017)	38,031,781
Year 10	38,031,781	760,636	2,281,907	(2,490,595)	38,583,729
Year 11	38,583,729	771,675	2,315,024	(2,529,397)	39,141,030
Year 12	39,141,030	782,821	2,348,462	(2,567,806)	39,704,506
Year 13	39,704,506	794,090	2,382,270	(2,606,096)	40,274,771
Year 14	40,274,771	805,495	2,416,486	(2,644,461)	40,852,291
Year 15	40,852,291	817,046	2,451,137	(2,683,041)	41,437,432

Schedule 11a
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

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Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	146,297	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

GRAT

	Undiscounted Beg. of Year Value	Income	Growth	Distribution from Partnership	Cash Portion of Annuity Payment	Partnership Share Portion of Annuity Payment (Pre-discount)	Undiscounted End of Year Value	Percentage Ownership of FLP by GRAT At End of Year	Percentage Ownership of FLP by Lenny Leverage At End of Year
Year 1	30,000,000	-	-	1,791,000	(146,297)	-	32,253,703	91.30%	8.70%
Year 2	32,253,703	32,894	98,682	1,884,057	(175,556)	-	34,658,443	91.30%	8.70%
Year 3	34,658,443	69,696	209,087	1,958,609	(210,668)	-	37,220,451	91.30%	8.70%
Year 4	37,220,451	110,230	330,690	2,020,221	(252,801)	-	39,945,285	91.30%	8.70%
Year 5	39,945,285	154,397	463,191	2,072,827	(303,361)	-	42,837,547	91.30%	8.70%
Year 6	42,837,547	202,138	606,414	2,119,203	(364,034)	-	45,900,517	91.30%	8.70%
Year 7	45,900,517	253,412	760,237	2,161,314	(436,841)	-	49,135,718	91.30%	8.70%
Year 8	49,135,718	308,175	924,524	2,200,548	(524,209)	-	52,542,366	91.30%	8.70%
Year 9	52,542,366	366,356	1,099,067	2,237,885	(629,050)	-	56,116,705	91.30%	8.70%
Year 10	56,116,705	427,841	1,283,522	2,274,021	(754,860)	-	59,851,181	91.30%	8.70%
Year 11	59,851,181	492,451	1,477,354	2,309,449	(905,832)	-	63,733,444	91.30%	8.70%
Year 12	63,733,444	559,920	1,679,759	2,344,519	(1,086,999)	-	67,745,120	91.30%	8.70%
Year 13	67,745,120	629,864	1,889,591	2,379,479	(1,304,399)	-	71,860,331	91.30%	8.70%
Year 14	71,860,331	701,754	2,105,263	2,414,508	(1,565,278)	-	76,043,879	91.30%	8.70%
Year 15	76,043,879	774,879	2,324,638	2,449,733	(1,878,334)	-	80,249,055	91.30%	8.70%
Year 16	80,249,055	1,604,981	4,814,943	-	(2,254,001)	-	84,414,978	-	-
Year 17	84,414,978	1,688,300	5,064,899	-	(2,704,801)	-	88,463,375	-	-
Year 18	88,463,375	1,769,268	5,307,803	-	(3,245,761)	-	92,294,684	-	-
Year 19	92,294,684	1,845,894	5,537,681	-	(3,894,914)	-	95,783,345	-	-
Year 20	95,783,345	1,915,667	5,747,001	-	(4,673,897)	-	98,772,116	-	-

Schedule 11a
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

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Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	146,297	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

Lenny Leverage

	Beginning of Year*	Income	Growth	Distribution from Partnership	Cash Annuity Payment	Income Taxes	Consumption	End of Year
Year 1	1,500,000	30,000	90,000	170,571	146,297	(333,264)	(100,000)	1,503,604
Year 2	1,503,604	30,072	90,216	179,434	175,556	(420,658)	(103,000)	1,455,225
Year 3	1,455,225	29,105	87,314	186,534	210,668	(493,867)	(106,090)	1,368,888
Year 4	1,368,888	27,378	82,133	192,402	252,801	(557,812)	(109,273)	1,256,519
Year 5	1,256,519	25,130	75,391	197,412	303,361	(616,010)	(112,551)	1,129,252
Year 6	1,129,252	22,585	67,755	201,829	364,034	(670,995)	(115,927)	998,533
Year 7	998,533	19,971	59,912	205,839	436,841	(724,604)	(119,405)	877,087
Year 8	877,087	17,542	52,625	209,576	524,209	(778,191)	(122,987)	779,859
Year 9	779,859	15,597	46,792	213,132	629,050	(832,775)	(126,677)	724,979
Year 10	724,979	14,500	43,499	216,573	754,860	(889,135)	(130,477)	734,798
Year 11	734,798	14,696	44,088	219,948	905,832	(947,894)	(134,392)	837,077
Year 12	837,077	16,742	50,225	223,288	1,086,999	(1,009,563)	(138,423)	1,066,343
Year 13	1,066,343	21,327	63,981	226,617	1,304,399	(1,074,582)	(142,576)	1,465,508
Year 14	1,465,508	29,310	87,930	229,953	1,565,278	(1,143,345)	(146,853)	2,087,781
Year 15	2,087,781	41,756	125,267	233,308	1,878,334	(1,216,220)	(151,259)	2,998,967
Year 16	6,602,222	132,044	396,133	-	2,254,001	(1,293,559)	(155,797)	7,935,045
Year 17	7,935,045	158,701	476,103	-	2,704,801	(1,375,716)	(160,471)	9,738,464
Year 18	9,738,464	194,769	584,308	-	3,245,761	(1,463,044)	(165,285)	12,134,974
Year 19	12,134,974	242,699	728,098	-	3,894,914	(1,555,909)	(170,243)	15,274,533
Year 20	15,274,533	305,491	916,472	-	4,673,897	(3,381,846)	(175,351)	17,613,195

* Assumes $2.86 million of LP interests is paid from Leverage GST Trust for purchase of remainder interest

Schedule 11a

LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

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Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	146,297	* based on nominal amount of $21,000,000 [$30,000,000 * (1-
Leverage FLP Valuation Discount	30.00%	30%)]

Leverage GST Trust

	Beginning of Year	Income	Growth	Remainder Interest from GRAT	Income Taxes	End of Year
Year 1	-	-	-	-	-	-
Year 2	-	-	-	-	-	-
Year 3	-	-	-	-	-	-
Year 4	-	-	-	-	-	-
Year 5	-	-	-	-	-	-
Year 6	-	-	-	-	-	-
Year 7	-	-	-	-	-	-
Year 8	-	-	-	-	-	-
Year 9	-	-	-	-	-	-
Year 10	-	-	-	-	-	-
Year 11	-	-	-	-	-	-
Year 12	-	-	-	-	-	-
Year 13	-	-	-	-	-	-
Year 14	-	-	-	-	-	-
Year 15	-	-	-	-	-	-
Year 16	-	-	-	-	-	-
Year 17	-	-	-	-	-	-
Year 18	-	-	-	-	-	-
Year 19	-	-	-	-	-	-
Year 20	-	-	-	98,772,116	-	98,772,116

Schedule 11b

LEVERAGE FAMILY

HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS - SHORTER OF LENNY LEVERAGE'S DEATH OR 20 YEARS SCENARIO

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY	Pre-Death	Post-Death	Present Value (Discounted at 3%)	Percentage of Total
Lenny Leverage	100,513,787	-	-	0.00%
Leverage Children	-	55,282,583	30,608,626	34.52%
Leverage GST Trust	13,317,021	13,317,021	7,373,312	8.32%
Consumption - Direct Cost	2,687,037	2,687,037	1,487,747	1.68%
Consumption - Investment Opportunity Cost	3,022,654	3,022,654	1,673,570	1.89%
IRS - Income Tax	20,916,430	20,916,430	11,580,920	13.06%
IRS - Investment Opportunity Costs	19,680,241	19,680,241	10,896,472	12.29%
IRS - Estate Tax (at 45%)	-	45,231,204	25,043,421	28.25%
Total	$160,137,171	$160,137,171	$88,664,069	100.00%

HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY				
Lenny Leverage	34,976,018	-	-	0.00%
Leverage Children	-	19,236,810	10,650,955	12.01%
Leverage GST Trust	81,703,110	81,703,110	45,237,031	51.02%
Consumption - Direct Cost	2,687,037	2,687,037	1,487,747	1.68%
Consumption - Investment Opportunity Cost	3,022,654	3,022,654	1,673,570	1.89%
IRS - Income Tax	20,485,173	20,485,173	11,342,144	12.79%
IRS - Investment Opportunity Costs	17,263,179	17,263,179	9,558,204	10.78%
IRS - Estate Tax (at 45%)	-	15,739,208	8,714,418	9.83%
Total	$160,137,171	$160,137,171	$88,664,069	100.00%

Schedule 11b
LEVERAGE FAMILY
ASSET PAGE

FLP	
Asset: Miscellaneous Investments	$30,000,000
Basis: Miscellaneous Investments	$30,000,000
GST Trust	
Asset: Cash	$2,857,143
Basis: Cash	$2,857,143
Other Miscellaneous Assets	
Asset: Cash	$1,500,000
Basis: Cash	$1,500,000
Total Assets*	**$34,357,143**
Total Basis	**$34,357,143**

* There is not any proposed planning for Lenny Leverage's other assets

Schedule 11b
LEVERAGE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	18.25%
Ordinary Tax Rate	38.25%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	100,000

Lenny Leverage

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	31,500,000	630,000	1,890,000	(375,695)	(100,000)	33,544,305
Year 2	33,544,305	670,886	2,012,658	(479,554)	(103,000)	35,645,296
Year 3	35,645,296	712,906	2,138,718	(565,757)	(106,090)	37,825,072
Year 4	37,825,072	756,501	2,269,504	(640,277)	(109,273)	40,101,528
Year 5	40,101,528	802,031	2,406,092	(707,383)	(112,551)	42,489,716
Year 6	42,489,716	849,794	2,549,383	(770,140)	(115,927)	45,002,826
Year 7	45,002,826	900,057	2,700,170	(830,769)	(119,405)	47,652,878
Year 8	47,652,878	953,058	2,859,173	(890,898)	(122,987)	50,451,223
Year 9	50,451,223	1,009,024	3,027,073	(951,739)	(126,677)	53,408,905
Year 10	53,408,905	1,068,178	3,204,534	(1,014,212)	(130,477)	56,536,928
Year 11	56,536,928	1,130,739	3,392,216	(1,079,042)	(134,392)	59,846,449
Year 12	59,846,449	1,196,929	3,590,787	(1,146,810)	(138,423)	63,348,931
Year 13	63,348,931	1,266,979	3,800,936	(1,218,011)	(142,576)	67,056,258
Year 14	67,056,258	1,341,125	4,023,376	(1,293,075)	(146,853)	70,980,831
Year 15	70,980,831	1,419,617	4,258,850	(1,372,398)	(151,259)	75,135,641
Year 16	75,135,641	1,502,713	4,508,138	(1,456,353)	(155,797)	79,534,342
Year 17	79,534,342	1,590,687	4,772,061	(1,545,306)	(160,471)	84,191,313
Year 18	84,191,313	1,683,826	5,051,479	(1,639,622)	(165,285)	89,121,712
Year 19	89,121,712	1,782,434	5,347,303	(1,739,674)	(170,243)	94,341,532
Year 20	94,341,532	1,886,831	5,660,492	(1,199,716)	(175,351)	100,513,787

Schedule 11b
LEVERAGE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	18.25%
Ordinary Tax Rate	38.25%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	100,000

Leverage GST Trust

	Beg. of Year	Income	Growth	Income Taxes	End of Year
Year 1	2,857,143	57,143	171,429	-	3,085,714
Year 2	3,085,714	61,714	185,143	-	3,332,572
Year 3	3,332,572	66,651	199,954	-	3,599,177
Year 4	3,599,177	71,984	215,951	-	3,887,112
Year 5	3,887,112	77,742	233,227	-	4,198,080
Year 6	4,198,080	83,962	251,885	-	4,533,927
Year 7	4,533,927	90,679	272,036	-	4,896,641
Year 8	4,896,641	97,933	293,798	-	5,288,372
Year 9	5,288,372	105,767	317,302	-	5,711,442
Year 10	5,711,442	114,229	342,687	-	6,168,357
Year 11	6,168,357	123,367	370,101	-	6,661,826
Year 12	6,661,826	133,237	399,710	-	7,194,772
Year 13	7,194,772	143,895	431,686	-	7,770,354
Year 14	7,770,354	155,407	466,221	-	8,391,982
Year 15	8,391,982	167,840	503,519	-	9,063,341
Year 16	9,063,341	181,267	543,800	-	9,788,408
Year 17	9,788,408	195,768	587,304	-	10,571,481
Year 18	10,571,481	211,430	634,289	-	11,417,199
Year 19	11,417,199	228,344	685,032	-	12,330,575
Year 20	12,330,575	246,612	739,835	-	13,317,021

Schedule 11b
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	207,119	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

Leverage FLP

	Beginning of Year	Income	Growth	Distributions	End of Year
Year 1	32,857,143	657,143	1,971,429	(1,961,571)	33,524,143
Year 2	33,524,143	670,483	2,011,449	(2,063,491)	34,142,583
Year 3	34,142,583	682,852	2,048,555	(2,145,143)	34,728,847
Year 4	34,728,847	694,577	2,083,731	(2,212,623)	35,294,532
Year 5	35,294,532	705,891	2,117,672	(2,270,239)	35,847,855
Year 6	35,847,855	716,957	2,150,871	(2,321,032)	36,394,652
Year 7	36,394,652	727,893	2,183,679	(2,367,154)	36,939,070
Year 8	36,939,070	738,781	2,216,344	(2,410,124)	37,484,072
Year 9	37,484,072	749,681	2,249,044	(2,451,017)	38,031,781
Year 10	38,031,781	760,636	2,281,907	(2,490,595)	38,583,729
Year 11	38,583,729	771,675	2,315,024	(2,529,397)	39,141,030
Year 12	39,141,030	782,821	2,348,462	(2,567,806)	39,704,506
Year 13	39,704,506	794,090	2,382,270	(2,606,096)	40,274,771
Year 14	40,274,771	805,495	2,416,486	(2,644,461)	40,852,291
Year 15	40,852,291	817,046	2,451,137	(2,683,041)	41,437,432

Schedule 11b
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

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Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	207,119	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

GRAT

	Undiscounted Beg. of Year Value	Income	Growth	Distribution from Partnership	Cash Portion of Annuity Payment	Partnership Share Portion of Annuity Payment (Pre-discount)	Undiscounted End of Year Value	Percentage Ownership of FLP by GRAT At End of Year	Percentage Ownership of FLP by Lenny Leverage At End of Year
Year 1	30,000,000	-	-	1,791,000	(207,119)	-	32,192,881	91.30%	8.70%
Year 2	32,192,881	31,678	95,033	1,884,057	(248,543)	-	34,519,769	91.30%	8.70%
Year 3	34,519,769	66,922	200,766	1,958,609	(298,251)	-	36,983,099	91.30%	8.70%
Year 4	36,983,099	105,483	316,449	2,020,221	(357,902)	-	39,583,845	91.30%	8.70%
Year 5	39,583,845	147,168	441,504	2,072,827	(429,482)	-	42,321,071	91.30%	8.70%
Year 6	42,321,071	191,808	575,425	2,119,203	(515,378)	-	45,191,378	91.30%	8.70%
Year 7	45,191,378	239,230	717,689	2,161,314	(618,454)	-	48,188,234	91.30%	8.70%
Year 8	48,188,234	289,225	867,675	2,200,548	(742,145)	-	51,301,148	91.30%	8.70%
Year 9	51,301,148	341,531	1,024,594	2,237,885	(890,574)	-	54,514,666	91.30%	8.70%
Year 10	54,514,666	395,800	1,187,400	2,274,021	(1,068,689)	-	57,807,151	91.30%	8.70%
Year 11	57,807,151	451,571	1,354,712	2,309,449	(1,282,426)	-	61,149,297	91.30%	8.70%
Year 12	61,149,297	508,237	1,524,710	2,344,519	(1,538,912)	-	64,502,329	91.30%	8.70%
Year 13	64,502,329	565,008	1,695,023	2,379,479	(1,846,694)	-	67,815,822	91.30%	8.70%
Year 14	67,815,822	620,864	1,862,592	2,414,508	(2,216,033)	-	71,025,055	91.30%	8.70%
Year 15	71,025,055	674,503	2,023,508	2,449,733	(2,659,239)	-	74,047,820	91.30%	8.70%
Year 16	74,047,820	1,480,956	4,442,869	-	(3,191,087)	-	76,780,559	-	-
Year 17	76,780,559	1,535,611	4,606,834	-	(3,829,304)	-	79,093,699	-	-
Year 18	79,093,699	1,581,874	4,745,622	-	(4,595,165)	-	80,826,030	-	-
Year 19	80,826,030	1,616,521	4,849,562	-	(5,514,198)	-	81,777,914	-	-
Year 20	81,777,914	1,635,558	4,906,675	-	(6,617,038)	-	81,703,110	-	-

Schedule 11b
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	207,119	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

Lenny Leverage

	Beginning of Year*	Income	Growth	Distribution from Partnership	Cash Annuity Payment	Income Taxes	Consumption	End of Year
Year 1	1,500,000	30,000	90,000	170,571	207,119	(333,264)	(100,000)	1,564,426
Year 2	1,564,426	31,289	93,866	179,434	248,543	(420,658)	(103,000)	1,593,899
Year 3	1,593,899	31,878	95,634	186,534	298,251	(493,867)	(106,090)	1,606,240
Year 4	1,606,240	32,125	96,374	192,402	357,902	(557,812)	(109,273)	1,617,959
Year 5	1,617,959	32,359	97,078	197,412	429,482	(616,010)	(112,551)	1,645,728
Year 6	1,645,728	32,915	98,744	201,829	515,378	(670,995)	(115,927)	1,707,672
Year 7	1,707,672	34,153	102,460	205,839	618,454	(724,604)	(119,405)	1,824,570
Year 8	1,824,570	36,491	109,474	209,576	742,145	(778,191)	(122,987)	2,021,078
Year 9	2,021,078	40,422	121,265	213,132	890,574	(832,775)	(126,677)	2,327,018
Year 10	2,327,018	46,540	139,621	216,573	1,068,689	(889,135)	(130,477)	2,778,829
Year 11	2,778,829	55,577	166,730	219,948	1,282,426	(947,894)	(134,392)	3,421,223
Year 12	3,421,223	68,424	205,273	223,288	1,538,912	(1,009,563)	(138,423)	4,309,134
Year 13	4,309,134	86,183	258,548	226,617	1,846,694	(1,074,582)	(142,576)	5,510,017
Year 14	5,510,017	110,200	330,601	229,953	2,216,033	(1,143,345)	(146,853)	7,106,605
Year 15	7,106,605	142,132	426,396	233,308	2,659,239	(1,216,220)	(151,259)	9,200,202
Year 16	12,803,457	256,069	768,207	-	3,191,087	(1,293,559)	(155,797)	15,569,465
Year 17	15,569,465	311,389	934,168	-	3,829,304	(1,375,716)	(160,471)	19,108,140
Year 18	19,108,140	382,163	1,146,488	-	4,595,165	(1,463,044)	(165,285)	23,603,628
Year 19	23,603,628	472,073	1,416,218	-	5,514,198	(1,555,909)	(170,243)	29,279,964
Year 20	29,279,964	585,599	1,756,798	-	6,617,038	(3,088,030)	(175,351)	34,976,018

* Assumes $2.86 million of LP interests is paid from Leverage GST Trust for purchase of remainder interest

Schedule 11b
LEVERAGE FAMILY
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS REMAINING ESTATE TO FAMILY

Assumptions:	
Lenny Leverage	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	100,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%

FLP		
Rate of Return Taxed at Ordinary Rates	2.00%	
Rate of Return Taxed at Capital Gains Rates	6.00%	
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%	
Lenny Leverage Percentage Ownership in Leverage FLP	8.70%	
GRAT Percentage Ownership in Leverage FLP	91.30%	
GRAT Annuity* (20% Increasing Annuity)	207,119	* based on nominal amount of $21,000,000 [$30,000,000 * (1-30%)]
Leverage FLP Valuation Discount	30.00%	

Leverage GST Trust

	Beginning of Year	Income	Growth	Remainder Interest from GRAT	Income Taxes	End of Year
Year 1	-	-	-	-	-	-
Year 2	-	-	-	-	-	-
Year 3	-	-	-	-	-	-
Year 4	-	-	-	-	-	-
Year 5	-	-	-	-	-	-
Year 6	-	-	-	-	-	-
Year 7	-	-	-	-	-	-
Year 8	-	-	-	-	-	-
Year 9	-	-	-	-	-	-
Year 10	-	-	-	-	-	-
Year 11	-	-	-	-	-	-
Year 12	-	-	-	-	-	-
Year 13	-	-	-	-	-	-
Year 14	-	-	-	-	-	-
Year 15	-	-	-	-	-	-
Year 16	-	-	-	-	-	-
Year 17	-	-	-	-	-	-
Year 18	-	-	-	-	-	-
Year 19	-	-	-	-	-	-
Year 20	-	-	-	81,703,110	-	81,703,110

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS - CONNIE CONFUSED DIES END OF YEAR 20

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY	**Pre-Death**	**Post Death**	**Present Value (Discounted at 3%)**	**Percentage of Total**
Connie Confused	23,569,414	-	-	0.00%
Confused Children	-	14,538,178	8,049,437	25.99%
Confused GST Trust	7,041,630	7,041,630	3,898,780	12.59%
Consumption - Direct Cost	6,717,594	6,717,594	3,719,369	12.01%
Consumption - Investment Opportunity Cost	7,556,636	7,556,636	4,183,926	13.51%
IRS - Income Tax	5,569,070	5,569,070	3,083,459	9.96%
IRS - Investment Opportunity Costs	5,477,142	5,477,142	3,032,561	9.79%
IRS - Estate Tax (at 45%)	-	9,031,236	5,000,377	16.15%
Total	$55,931,486	$55,931,486	30,967,908	100.00%

HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY				
Connie Confused	4,684,856	-	-	0.00%
Confused Children	-	3,701,671	2,049,525	6.62%
Confused GST Trust	25,629,169	25,629,169	14,190,249	45.82%
Consumption - Direct Cost	6,717,594	6,717,594	3,719,369	12.01%
Consumption - Investment Opportunity Cost	7,556,636	7,556,636	4,183,926	13.51%
Investment Opportunity Cost/(Benefit) of Buying Life Insurance	377,325	377,325	208,916	0.67%
IRS - Income Tax	5,777,962	5,777,962	3,199,117	10.33%
IRS - Investment Opportunity Costs	5,187,944	5,187,944	2,872,439	9.28%
IRS - Estate Tax (at 45%)	-	983,185	544,366	1.76%
Total	$55,931,486	$55,931,486	30,967,908	100.00%

Schedule 12
CONFUSED FAMILY
ASSET PAGE

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Family Limited Partnership	
Asset: Miscellaneous Assets	$12,000,000
Basis: Miscellaneous Assets	$12,000,000
Total Assets*	**$12,000,000**
Total Basis	**$12,000,000**

* There is not any proposed planning for Connie Confused's other assets

Schedule 12
CONFUSED FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	250,000

Connie Confused

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	10,000,000	200,000	600,000	(97,000)	(250,000)	10,453,000
Year 2	10,453,000	209,060	627,180	(120,294)	(257,500)	10,911,446
Year 3	10,911,446	218,229	654,687	(138,827)	(265,225)	11,380,309
Year 4	11,380,309	227,606	682,819	(154,102)	(273,182)	11,863,450
Year 5	11,863,450	237,269	711,807	(167,183)	(281,377)	12,363,966
Year 6	12,363,966	247,279	741,838	(178,828)	(289,819)	12,884,437
Year 7	12,884,437	257,689	773,066	(189,575)	(298,513)	13,427,104
Year 8	13,427,104	268,542	805,626	(199,812)	(307,468)	13,993,992
Year 9	13,993,992	279,880	839,639	(209,817)	(316,693)	14,587,001
Year 10	14,587,001	291,740	875,220	(219,795)	(326,193)	15,207,973
Year 11	15,207,973	304,159	912,478	(229,898)	(335,979)	15,858,734
Year 12	15,858,734	317,175	951,524	(240,239)	(346,058)	16,541,135
Year 13	16,541,135	330,823	992,468	(250,909)	(356,440)	17,257,077
Year 14	17,257,077	345,142	1,035,425	(261,978)	(367,133)	18,008,531
Year 15	18,008,531	360,171	1,080,512	(273,508)	(378,147)	18,797,559
Year 16	18,797,559	375,951	1,127,854	(285,550)	(389,492)	19,626,322
Year 17	19,626,322	392,526	1,177,579	(298,152)	(401,177)	20,497,099
Year 18	20,497,099	409,942	1,229,826	(311,359)	(413,212)	21,412,295
Year 19	21,412,295	428,246	1,284,738	(325,215)	(425,608)	22,374,455
Year 20	22,374,455	447,489	1,342,467	(156,621)	(438,377)	23,569,414

Schedule 12
CONFUSED FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	250,000

Confused GST Trust

	Beg. of Year	Income	Growth	Income Taxes	End of Year
Year 1	2,000,000	40,000	120,000	(19,400)	2,140,600
Year 2	2,140,600	42,812	128,436	(24,544)	2,287,304
Year 3	2,287,304	45,746	137,238	(28,879)	2,441,410
Year 4	2,441,410	48,828	146,485	(32,689)	2,604,034
Year 5	2,604,034	52,081	156,242	(36,178)	2,776,178
Year 6	2,776,178	55,524	166,571	(39,494)	2,958,778
Year 7	2,958,778	59,176	177,527	(42,743)	3,152,738
Year 8	3,152,738	63,055	189,164	(46,003)	3,358,953
Year 9	3,358,953	67,179	201,537	(49,336)	3,578,334
Year 10	3,578,334	71,567	214,700	(52,786)	3,811,814
Year 11	3,811,814	76,236	228,709	(56,391)	4,060,369
Year 12	4,060,369	81,207	243,622	(60,181)	4,325,017
Year 13	4,325,017	86,500	259,501	(64,184)	4,606,834
Year 14	4,606,834	92,137	276,410	(68,422)	4,906,959
Year 15	4,906,959	98,139	294,418	(72,920)	5,226,596
Year 16	5,226,596	104,532	313,596	(77,698)	5,567,026
Year 17	5,567,026	111,341	334,022	(82,778)	5,929,609
Year 18	5,929,609	118,592	355,777	(88,184)	6,315,795
Year 19	6,315,795	126,316	378,948	(93,937)	6,727,122
Year 20	6,727,122	134,542	403,627	(223,661)	7,041,630

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Consumption (increasing at 3% per year	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Confused FLP

	Beginning of Year	Income	Growth	Note Payments to Connie Confused	Note Payments to Confused QTIP Grantor Trust	Partnership Distributions	Single Insurance Premium	Death Benefit of Insurance	End of Year
Year 1	12,000,000	240,000	720,000	(348,500)	(278,800)	(142,845)	(666,711)	-	11,523,144
Year 2	11,523,144	230,463	691,389	(286,560)	(229,248)	(159,873)	-	-	11,769,314
Year 3	11,769,314	235,386	706,159	(277,963)	(222,371)	(182,392)	-	-	12,028,134
Year 4	12,028,134	240,563	721,688	(269,624)	(215,699)	(201,052)	-	-	12,304,009
Year 5	12,304,009	246,080	738,241	(261,536)	(209,228)	(217,174)	-	-	12,600,392
Year 6	12,600,392	252,008	756,024	(253,690)	(202,952)	(231,700)	-	-	12,920,082
Year 7	12,920,082	258,402	775,205	(246,079)	(196,863)	(245,303)	-	-	13,265,444
Year 8	13,265,444	265,309	795,927	(238,696)	(190,957)	(258,469)	-	-	13,638,557
Year 9	13,638,557	272,771	818,313	(231,536)	(185,228)	(271,550)	-	-	14,041,328
Year 10	14,041,328	280,827	842,480	(224,589)	(179,672)	(284,807)	-	-	14,475,566
Year 11	14,475,566	289,511	868,534	(217,852)	(174,281)	(298,436)	-	-	14,943,042
Year 12	14,943,042	298,861	896,582	(211,316)	(169,053)	(312,589)	-	-	15,445,527
Year 13	15,445,527	308,911	926,732	(204,977)	(163,981)	(327,385)	-	-	15,984,826
Year 14	15,984,826	319,697	959,090	(198,827)	(159,062)	(342,923)	-	-	16,562,799
Year 15	16,562,799	331,256	993,768	(192,863)	(154,290)	(359,289)	-	-	17,181,382
Year 16	17,181,382	343,628	1,030,883	(187,077)	(149,661)	(376,557)	-	-	17,842,597
Year 17	17,842,597	356,852	1,070,556	(181,464)	(145,172)	(394,800)	-	-	18,548,569
Year 18	18,548,569	370,971	1,112,914	(176,021)	(140,816)	(414,084)	-	-	19,301,534
Year 19	19,301,534	386,031	1,158,092	(170,740)	(136,592)	(434,476)	-	-	20,103,849
Year 20	20,103,849	402,077	1,206,231	(2,856,559)	(2,285,247)	(843,805)	-	2,500,000	18,226,546

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Connie Confused

	Beginning of Year	Income	Growth	Note Payments from Confused FLP	Distributions from Confused QTIP Trust	Partnership Distribution from Confused FLP	Income Taxes	Consumption	End of Year
Year 1	-	-	-	348,500	278,800	1,428	(101,322)	(250,000)	277,406
Year 2	277,406	5,548	16,644	286,560	229,248	1,599	(108,139)	(257,500)	451,366
Year 3	451,366	9,027	27,082	277,963	222,371	1,824	(115,113)	(265,225)	609,295
Year 4	609,295	12,186	36,558	269,624	215,699	2,011	(121,025)	(273,182)	751,166
Year 5	751,166	15,023	45,070	261,536	209,228	2,172	(126,220)	(281,377)	876,597
Year 6	876,597	17,532	52,596	253,690	202,952	2,317	(130,943)	(289,819)	984,922
Year 7	984,922	19,698	59,095	246,079	196,863	2,453	(135,366)	(298,513)	1,075,231
Year 8	1,075,231	21,505	64,514	238,696	190,957	2,585	(139,612)	(307,468)	1,146,408
Year 9	1,146,408	22,928	68,784	231,536	185,228	2,715	(143,768)	(316,693)	1,197,139
Year 10	1,197,139	23,943	71,828	224,589	179,672	2,848	(147,897)	(326,193)	1,225,929
Year 11	1,225,929	24,519	73,556	217,852	174,281	2,984	(152,044)	(335,979)	1,231,098
Year 12	1,231,098	24,622	73,866	211,316	169,053	3,126	(156,240)	(346,058)	1,210,782
Year 13	1,210,782	24,216	72,647	204,977	163,981	3,274	(160,510)	(356,440)	1,162,927
Year 14	1,162,927	23,259	69,776	198,827	159,062	3,429	(164,871)	(367,133)	1,085,275
Year 15	1,085,275	21,706	65,117	192,863	154,290	3,593	(169,336)	(378,147)	975,360
Year 16	975,360	19,507	58,522	187,077	149,661	3,766	(173,915)	(389,492)	830,486
Year 17	830,486	16,610	49,829	181,464	145,172	3,948	(178,617)	(401,177)	647,716
Year 18	647,716	12,954	38,863	176,021	140,816	4,141	(183,447)	(413,212)	423,851
Year 19	423,851	8,477	25,431	170,740	136,592	4,345	(188,413)	(425,608)	155,415
Year 20	155,415	3,108	9,325	2,856,559	2,285,247	8,438	(377,125)	(438,377)	4,502,591

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Confused QTIP Trust

	Beginning of Year	Income	Growth	Note Payments from Confused FLP	Distributions to Connie Confused	Income Taxes	End of Year
Year 1	-	-	-	278,800	(278,800)	-	-
Year 2	-	-	-	229,248	(229,248)	-	-
Year 3	-	-	-	222,371	(222,371)	-	-
Year 4	-	-	-	215,699	(215,699)	-	-
Year 5	-	-	-	209,228	(209,228)	-	-
Year 6	-	-	-	202,952	(202,952)	-	-
Year 7	-	-	-	196,863	(196,863)	-	-
Year 8	-	-	-	190,957	(190,957)	-	-
Year 9	-	-	-	185,228	(185,228)	-	-
Year 10	-	-	-	179,672	(179,672)	-	-
Year 11	-	-	-	174,281	(174,281)	-	-
Year 12	-	-	-	169,053	(169,053)	-	-
Year 13	-	-	-	163,981	(163,981)	-	-
Year 14	-	-	-	159,062	(159,062)	-	-
Year 15	-	-	-	154,290	(154,290)	-	-
Year 16	-	-	-	149,661	(149,661)	-	-
Year 17	-	-	-	145,172	(145,172)	-	-
Year 18	-	-	-	140,816	(140,816)	-	-
Year 19	-	-	-	136,592	(136,592)	-	-
Year 20	-	-	-	2,285,247	(2,285,247)	-	-

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Connie Confused GST Grantor Trust

	Beginning of Year	Income	Growth	Partnership Distribution from Confused FLP	Income Taxes	End of Year
Year 1	-	-	-	47,139	-	47,139
Year 2	47,139	943	2,828	52,758	-	103,668
Year 3	103,668	2,073	6,220	60,189	-	172,151
Year 4	172,151	3,443	10,329	66,347	-	252,270
Year 5	252,270	5,045	15,136	71,667	-	344,119
Year 6	344,119	6,882	20,647	76,461	-	448,110
Year 7	448,110	8,962	26,887	80,950	-	564,908
Year 8	564,908	11,298	33,894	85,295	-	695,396
Year 9	695,396	13,908	41,724	89,611	-	840,639
Year 10	840,639	16,813	50,438	93,986	-	1,001,876
Year 11	1,001,876	20,038	60,113	98,484	-	1,180,510
Year 12	1,180,510	23,610	70,831	103,154	-	1,378,105
Year 13	1,378,105	27,562	82,686	108,037	-	1,596,391
Year 14	1,596,391	31,928	95,783	113,165	-	1,837,267
Year 15	1,837,267	36,745	110,236	118,565	-	2,102,813
Year 16	2,102,813	42,056	126,169	124,264	-	2,395,302
Year 17	2,395,302	47,906	143,718	130,284	-	2,717,210
Year 18	2,717,210	54,344	163,033	136,648	-	3,071,235
Year 19	3,071,235	61,425	184,274	143,377	-	3,460,311
Year 20	3,460,311	69,206	207,619	278,456	-	4,015,591

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Confused GST Trust

	Beginning of Year	Income	Growth	Partnership Distribution from Confused FLP	Income Taxes	End of Year
Year 1	-	-	-	94,278	(15,078)	79,200
Year 2	79,200	1,584	4,752	105,516	(30,232)	160,821
Year 3	160,821	3,216	9,649	120,379	(44,411)	249,654
Year 4	249,654	4,993	14,979	132,694	(56,139)	346,182
Year 5	346,182	6,924	20,771	143,335	(66,244)	450,967
Year 6	450,967	9,019	27,058	152,922	(75,319)	564,647
Year 7	564,647	11,293	33,879	161,900	(83,786)	687,933
Year 8	687,933	13,759	41,276	170,589	(91,955)	821,602
Year 9	821,602	16,432	49,296	179,223	(100,049)	966,504
Year 10	966,504	19,330	57,990	187,973	(108,238)	1,123,559
Year 11	1,123,559	22,471	67,414	196,968	(116,648)	1,293,764
Year 12	1,293,764	25,875	77,626	206,309	(125,382)	1,478,191
Year 13	1,478,191	29,564	88,691	216,074	(134,521)	1,678,000
Year 14	1,678,000	33,560	100,680	226,329	(144,134)	1,894,435
Year 15	1,894,435	37,889	113,666	237,130	(154,283)	2,128,837
Year 16	2,128,837	42,577	127,730	248,528	(165,025)	2,382,648
Year 17	2,382,648	47,653	142,959	260,568	(176,413)	2,657,415
Year 18	2,657,415	53,148	159,445	273,295	(188,501)	2,954,802
Year 19	2,954,802	59,096	177,288	286,754	(201,342)	3,276,598
Year 20	3,276,598	65,532	196,596	556,911	(526,340)	3,569,297

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Consumption (increasing at 3% per year	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Note Between Connie Confused and Confused FLP

	Beginning of Year	Interest to be Paid	Note Payment - Interest	Note Payment - Principal	End of Year
Year 1	5,000,000	148,500	(148,500)	(200,000)	4,800,000
Year 2	4,800,000	142,560	(142,560)	(144,000)	4,656,000
Year 3	4,656,000	138,283	(138,283)	(139,680)	4,516,320
Year 4	4,516,320	134,135	(134,135)	(135,490)	4,380,830
Year 5	4,380,830	130,111	(130,111)	(131,425)	4,249,405
Year 6	4,249,405	126,207	(126,207)	(127,482)	4,121,923
Year 7	4,121,923	122,421	(122,421)	(123,658)	3,998,266
Year 8	3,998,266	118,748	(118,748)	(119,948)	3,878,318
Year 9	3,878,318	115,186	(115,186)	(116,350)	3,761,968
Year 10	3,761,968	111,730	(111,730)	(112,859)	3,649,109
Year 11	3,649,109	108,379	(108,379)	(109,473)	3,539,636
Year 12	3,539,636	105,127	(105,127)	(106,189)	3,433,447
Year 13	3,433,447	101,973	(101,973)	(103,003)	3,330,443
Year 14	3,330,443	98,914	(98,914)	(99,913)	3,230,530
Year 15	3,230,530	95,947	(95,947)	(96,916)	3,133,614
Year 16	3,133,614	93,068	(93,068)	(94,008)	3,039,606
Year 17	3,039,606	90,276	(90,276)	(91,188)	2,948,418
Year 18	2,948,418	87,568	(87,568)	(88,453)	2,859,965
Year 19	2,859,965	84,941	(84,941)	(85,799)	2,774,166
Year 20	2,774,166	82,393	(82,393)	(2,774,166)	-

Schedule 12
CONFUSED FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Connie Confused	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Consumption (increasing at 3% per year	250,000
Intra-Family Note Interest Percentage	2.97%
7520 Rate	3.60%
Annual Insurance Premium	666,711
Death Benefit Value of Insurance	2,500,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Connie Confused's Percentage Ownership in Confused FLP	1.00%
GST Grantor Trust's Ownership in Confused FLP	33.00%
GST Trust's Ownership in Confused FLP	66.00%
Confused FLP Valuation Discount	35.00%

Note Between Confused QTIP Trust and Confused FLP

	Beginning of Year	Interest to be Paid	Note Payment - Interest	Note Payment - Principal	End of Year
Year 1	4,000,000	118,800	(118,800)	(160,000)	3,840,000
Year 2	3,840,000	114,048	(114,048)	(115,200)	3,724,800
Year 3	3,724,800	110,627	(110,627)	(111,744)	3,613,056
Year 4	3,613,056	107,308	(107,308)	(108,392)	3,504,664
Year 5	3,504,664	104,089	(104,089)	(105,140)	3,399,524
Year 6	3,399,524	100,966	(100,966)	(101,986)	3,297,539
Year 7	3,297,539	97,937	(97,937)	(98,926)	3,198,612
Year 8	3,198,612	94,999	(94,999)	(95,958)	3,102,654
Year 9	3,102,654	92,149	(92,149)	(93,080)	3,009,575
Year 10	3,009,575	89,384	(89,384)	(90,287)	2,919,287
Year 11	2,919,287	86,703	(86,703)	(87,579)	2,831,709
Year 12	2,831,709	84,102	(84,102)	(84,951)	2,746,757
Year 13	2,746,757	81,579	(81,579)	(82,403)	2,664,355
Year 14	2,664,355	79,131	(79,131)	(79,931)	2,584,424
Year 15	2,584,424	76,757	(76,757)	(77,533)	2,506,891
Year 16	2,506,891	74,455	(74,455)	(75,207)	2,431,685
Year 17	2,431,685	72,221	(72,221)	(72,951)	2,358,734
Year 18	2,358,734	70,054	(70,054)	(70,762)	2,287,972
Year 19	2,287,972	67,953	(67,953)	(68,639)	2,219,333
Year 20	2,219,333	65,914	(65,914)	(2,219,333)	-

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

Assumptions

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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Assumptions:			
Gross Proceeds	10,000,000		
Cost Basis	-		
Capital Gain	10,000,000		
Income Rate of Return on Assets	2.00%		
Growth Rate of Return on Assets	6.00%	8.00%	Client's Aggregate Annual Rate of Return
Combined Federal and State Long-Term Capital Gain Tax Rate	15.00%		
Combined Federal and State Ordinary Tax Rate	35.00%		
Combined Federal Estate Tax and State Inheritance Tax Rate	45.00%		
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%		
Valuation Discount on Partnership	35.00%		
Unitrust Rate on CRT	11.037%		
Charitable Deduction	$1,000,000		
Income Tax Benefit to Charlie	$350,000		
Interest Rate on Private Annuity (Section 7520 Rate)	2.40%		
Charlie Charitable Percentage Ownership in FLP (Children's GP interests ignored)	1.00%		
Grantor Trust Subsequent Ownership in FLP	99.00%		
Charlie Charitable's Annual Assumed Consumption With 3% Inflation Adjustment	150,000		
Interest Rate on Loan from Grantor Trust	3.57%		
Discount Rate for NPV Calculations	3.00%		
Note Between Charlie Charitable and Grantor Trust - FLP/CRUT			
CRUT Starting Value	10,000,000		
CRUT Actuarial Discount (10%)	(1,000,000)		
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000		
Partnership Discount (35%)	(3,150,000)		
Discounted Value of Partnership Actuarial Interest	5,850,000		
Note Face Value (99% Transferred to the Grantor Trust)	5,791,500		
Note Between Charlie Charitable and Grantor Trust - FLP (No CRUT)			
FLP Starting Value	10,000,000		
Partnership Discount (35%)	(3,500,000)		
Discounted Value of Partnership Interest	6,500,000		
Face Value of Note (99% Transferred to Grantor Trust)	6,435,000		

Schedule 13
ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST
Numerical Summary of Alternatives - Future Values

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

Future Values at the end of 25 Years assuming an Annual Compounded Rate of Return at 8%

Scenario	Charlie's Children	Charlie's Descendants (GST Exempt)	Charity	Charlie's Consumption - Direct Costs	Consumption - Investment Opportunity Costs	IRS - Income Taxes	IRS - Investment Opportunity Costs	IRS - Estate Taxes	Totals
Stock Sale, No Planning	14,795,841	2,000,000	-	5,468,890	8,795,202	7,413,154	16,269,613	13,742,052	68,484,752
Simulated Tax Holiday (No Initial Capital Gains Tax and No Estate Tax) 77% - 23% Split Between Family and Charity	-	28,084,515	8,479,812	5,468,890	8,795,202	8,008,304	9,648,029	-	68,484,752
FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity	-	27,867,024	8,479,812	5,468,890	8,795,202	7,655,137	10,218,688	-	68,484,752
FLP/Grantor Trust Sale, Charlie gives remaining estate to family	-	29,679,447	-	5,468,890	8,795,202	8,113,649	16,269,613	157,954	68,484,752

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

Stock Sale, No Planning

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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Assumptions:	
Income Rate of Return on Assets	2.00%
Growth Rate of Return on Assets	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%

Charlie Charitable

	Beg. of Year	Income	Growth	Consumption	Income Taxes	End of Year
Year 1	10,000,000	200,000	600,000	(150,000)	(1,597,000)	9,053,000
Year 2	9,053,000	181,060	543,180	(154,500)	(106,714)	9,516,026
Year 3	9,516,026	190,321	570,962	(159,135)	(122,646)	9,995,527
Year 4	9,995,527	199,911	599,732	(163,909)	(136,180)	10,495,080
Year 5	10,495,080	209,902	629,705	(168,826)	(148,150)	11,017,710
Year 6	11,017,710	220,354	661,063	(173,891)	(159,151)	11,566,085
Year 7	11,566,085	231,322	693,965	(179,108)	(169,610)	12,142,654
Year 8	12,142,654	242,853	728,559	(184,481)	(179,837)	12,749,748
Year 9	12,749,748	254,995	764,985	(190,016)	(190,059)	13,389,653
Year 10	13,389,653	267,793	803,379	(195,716)	(200,447)	14,064,662
Year 11	14,064,662	281,293	843,880	(201,587)	(211,131)	14,777,117
Year 12	14,777,117	295,542	886,627	(207,635)	(222,213)	15,529,438
Year 13	15,529,438	310,589	931,766	(213,864)	(233,777)	16,324,152
Year 14	16,324,152	326,483	979,449	(220,280)	(245,894)	17,163,910
Year 15	17,163,910	343,278	1,029,835	(226,888)	(258,627)	18,051,507
Year 16	18,051,507	361,030	1,083,090	(233,695)	(272,036)	18,989,897
Year 17	18,989,897	379,798	1,139,394	(240,706)	(286,174)	19,982,209
Year 18	19,982,209	399,644	1,198,933	(247,927)	(301,099)	21,031,759
Year 19	21,031,759	420,635	1,261,906	(255,365)	(316,865)	22,142,070
Year 20	22,142,070	442,841	1,328,524	(263,026)	(333,528)	23,316,882
Year 21	23,316,882	466,338	1,399,013	(270,917)	(351,147)	24,560,169
Year 22	24,560,169	491,203	1,473,610	(279,044)	(369,784)	25,876,155
Year 23	25,876,155	517,523	1,552,569	(287,416)	(389,503)	27,269,329
Year 24	27,269,329	545,387	1,636,160	(296,038)	(410,371)	28,744,467
Year 25	28,744,467	574,889	1,724,668	(304,919)	(201,211)	30,537,894

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

Simulated Tax Holiday (No Initial Capital Gains Tax and No Estate Tax) 77% - 23% Split Between Family and Charity

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Assumptions:	
Income Rate of Return on Assets	2.00%
Growth Rate of Return on Assets	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized	30.00%

Charlie Charitable

	Beg. of Year	Income	Growth	Consumption	Income Taxes	End of Year
Year 1	10,000,000	200,000	600,000	(150,000)	(97,000)	10,553,000
Year 2	10,553,000	211,060	633,180	(154,500)	(121,264)	11,121,476
Year 3	11,121,476	222,430	667,289	(159,135)	(141,053)	11,711,005
Year 4	11,711,005	234,220	702,660	(163,909)	(157,839)	12,326,138
Year 5	12,326,138	246,523	739,568	(168,826)	(172,667)	12,970,736
Year 6	12,970,736	259,415	778,244	(173,891)	(186,285)	13,648,219
Year 7	13,648,219	272,964	818,893	(179,108)	(199,231)	14,361,738
Year 8	14,361,738	287,235	861,704	(184,481)	(211,894)	15,114,302
Year 9	15,114,302	302,286	906,858	(190,016)	(224,562)	15,908,868
Year 10	15,908,868	318,177	954,532	(195,716)	(237,449)	16,748,413
Year 11	16,748,413	334,968	1,004,905	(201,587)	(250,721)	17,635,977
Year 12	17,635,977	352,720	1,058,159	(207,635)	(264,506)	18,574,714
Year 13	18,574,714	371,494	1,114,483	(213,864)	(278,913)	19,567,914
Year 14	19,567,914	391,358	1,174,075	(220,280)	(294,032)	20,619,036
Year 15	20,619,036	412,381	1,237,142	(226,888)	(309,944)	21,731,726
Year 16	21,731,726	434,635	1,303,904	(233,695)	(326,725)	22,909,844
Year 17	22,909,844	458,197	1,374,591	(240,706)	(344,448)	24,157,478
Year 18	24,157,478	483,150	1,449,449	(247,927)	(363,183)	25,478,966
Year 19	25,478,966	509,579	1,528,738	(255,365)	(383,002)	26,878,916
Year 20	26,878,916	537,578	1,612,735	(263,026)	(403,980)	28,362,224
Year 21	28,362,224	567,244	1,701,733	(270,917)	(426,193)	29,934,092
Year 22	29,934,092	598,682	1,796,046	(279,044)	(449,721)	31,600,054
Year 23	31,600,054	632,001	1,896,003	(287,416)	(474,648)	33,365,995
Year 24	33,365,995	667,320	2,001,960	(296,038)	(501,064)	35,238,173
Year 25	35,238,173	704,763	2,114,290	(304,919)	(1,187,981)	36,564,327

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

FLP

	Cash - Beginning of Year	Income	Growth	Unitrust Payments	Distributions	Cash - End of Year
Year 1	-	-	-	1,103,700	(705,555)	398,145
Year 2	398,145	7,963	23,889	1,070,181	(703,174)	797,003
Year 3	797,003	15,940	47,820	1,037,679	(701,743)	1,196,700
Year 4	1,196,700	23,934	71,802	1,006,165	(701,031)	1,597,570
Year 5	1,597,570	31,951	95,854	975,608	(700,880)	2,000,103
Year 6	2,000,103	40,002	120,006	945,978	(701,181)	2,404,909
Year 7	2,404,909	48,098	144,295	917,249	(701,857)	2,812,694
Year 8	2,812,694	56,254	168,762	889,392	(702,860)	3,224,242
Year 9	3,224,242	64,485	193,454	862,381	(704,157)	3,640,405
Year 10	3,640,405	72,808	218,424	836,191	(705,729)	4,062,100
Year 11	4,062,100	81,242	243,726	810,796	(707,565)	4,490,299
Year 12	4,490,299	89,806	269,418	786,172	(709,662)	4,926,033
Year 13	4,926,033	98,521	295,562	762,296	(712,022)	5,370,389
Year 14	5,370,389	107,408	322,223	739,145	(714,651)	5,824,514
Year 15	5,824,514	116,490	349,471	716,697	(717,555)	6,289,617
Year 16	6,289,617	125,792	377,377	694,931	(720,748)	6,766,970
Year 17	6,766,970	135,339	406,018	673,826	(724,241)	7,257,912
Year 18	7,257,912	145,158	435,475	653,362	(728,049)	7,763,858
Year 19	7,763,858	155,277	465,831	633,519	(732,190)	8,286,296
Year 20	8,286,296	165,726	497,178	614,279	(736,680)	8,826,799
Year 21	8,826,799	176,536	529,608	-	(630,610)	8,902,333
Year 22	8,902,333	178,047	534,140	-	(634,528)	8,979,991
Year 23	8,979,991	179,600	538,799	-	(637,654)	9,060,736
Year 24	9,060,736	181,215	543,644	-	(640,245)	9,145,350
Year 25	9,145,350	182,907	548,721	-	(825,572)	9,051,406

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

Charitable Remainder Unitrust

	Beginning of Year	Income	Growth	Unitrust Payment	Payment to Charity	End of Year
Year 1	10,000,000	200,000	600,000	(1,103,700)	-	9,696,300
Year 2	9,696,300	193,926	581,778	(1,070,181)	-	9,401,823
Year 3	9,401,823	188,036	564,109	(1,037,679)	-	9,116,290
Year 4	9,116,290	182,326	546,977	(1,006,165)	-	8,839,428
Year 5	8,839,428	176,789	530,366	(975,608)	-	8,570,975
Year 6	8,570,975	171,419	514,258	(945,978)	-	8,310,674
Year 7	8,310,674	166,213	498,640	(917,249)	-	8,058,279
Year 8	8,058,279	161,166	483,497	(889,392)	-	7,813,549
Year 9	7,813,549	156,271	468,813	(862,381)	-	7,576,252
Year 10	7,576,252	151,525	454,575	(836,191)	-	7,346,161
Year 11	7,346,161	146,923	440,770	(810,796)	-	7,123,058
Year 12	7,123,058	142,461	427,383	(786,172)	-	6,906,731
Year 13	6,906,731	138,135	414,404	(762,296)	-	6,696,973
Year 14	6,696,973	133,939	401,818	(739,145)	-	6,493,586
Year 15	6,493,586	129,872	389,615	(716,697)	-	6,296,376
Year 16	6,296,376	125,928	377,783	(694,931)	-	6,105,155
Year 17	6,105,155	122,103	366,309	(673,826)	-	5,919,742
Year 18	5,919,742	118,395	355,184	(653,362)	-	5,739,959
Year 19	5,739,959	114,799	344,398	(633,519)	-	5,565,636
Year 20	5,565,636	111,313	333,938	(614,279)	(5,396,608)	-

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

Charlie Charitable

	Beginning of Year	Income	Growth	Distribution from Partnership	Note Payments	Income Taxes	Consumption	End of Year
Year 1	-	-	-	7,056	698,499	144,445	(150,000)	700,000
Year 2	700,000	14,000	42,000	7,032	696,143	(209,964)	(154,500)	1,094,710
Year 3	1,094,710	21,894	65,683	7,017	694,725	(213,684)	(159,135)	1,511,210
Year 4	1,511,210	30,224	90,673	7,010	694,021	(218,685)	(163,909)	1,950,544
Year 5	1,950,544	39,011	117,033	7,009	693,871	(224,753)	(168,826)	2,413,888
Year 6	2,413,888	48,278	144,833	7,012	694,169	(231,749)	(173,891)	2,902,540
Year 7	2,902,540	58,051	174,152	7,019	694,839	(239,581)	(179,108)	3,417,911
Year 8	3,417,911	68,358	205,075	7,029	695,831	(248,198)	(184,481)	3,961,525
Year 9	3,961,525	79,230	237,691	7,042	697,115	(257,573)	(190,016)	4,535,015
Year 10	4,535,015	90,700	272,101	7,057	698,671	(267,698)	(195,716)	5,140,131
Year 11	5,140,131	102,803	308,408	7,076	37,426	(278,581)	(201,587)	5,115,674
Year 12	5,115,674	102,313	306,940	7,097	-	(290,241)	(207,635)	5,034,149
Year 13	5,034,149	100,683	302,049	7,120	-	(302,704)	(213,864)	4,927,433
Year 14	4,927,433	98,549	295,646	7,147	-	(316,004)	(220,280)	4,792,490
Year 15	4,792,490	95,850	287,549	7,176	-	(330,183)	(226,888)	4,625,994
Year 16	4,625,994	92,520	277,560	7,207	-	(345,283)	(233,695)	4,424,302
Year 17	4,424,302	88,486	265,458	7,242	-	(361,357)	(240,706)	4,183,426
Year 18	4,183,426	83,669	251,006	7,280	-	(378,457)	(247,927)	3,898,997
Year 19	3,898,997	77,980	233,940	7,322	-	(396,643)	(255,365)	3,566,230
Year 20	3,566,230	71,325	213,974	7,367	-	(415,979)	(263,026)	3,179,890
Year 21	3,179,890	63,598	190,793	6,306	-	(325,602)	(270,917)	2,844,069
Year 22	2,844,069	56,881	170,644	6,345	-	(346,112)	(279,044)	2,452,784
Year 23	2,452,784	49,056	147,167	6,377	-	(366,783)	(287,416)	2,001,185
Year 24	2,001,185	40,024	120,071	6,402	-	(387,931)	(296,038)	1,483,713
Year 25	1,483,713	29,674	89,023	8,256	-	(845,837)	(304,919)	459,910

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

Charlie Charitable Family's Grantor Trust

	Beginning of Year	Income	Growth	Distribution from Partnerships	Note Payments	Income Taxes	End of Year
Year 1	-	-	-	698,499	(698,499)	-	-
Year 2	-	-	-	696,143	(696,143)	-	-
Year 3	-	-	-	694,725	(694,725)	-	-
Year 4	-	-	-	694,021	(694,021)	-	-
Year 5	-	-	-	693,871	(693,871)	-	-
Year 6	-	-	-	694,169	(694,169)	-	-
Year 7	-	-	-	694,839	(694,839)	-	-
Year 8	-	-	-	695,831	(695,831)	-	-
Year 9	-	-	-	697,115	(697,115)	-	-
Year 10	-	-	-	698,671	(698,671)	-	-
Year 11	-	-	-	700,489	(37,426)	-	663,063
Year 12	663,063	13,261	39,784	702,566	-	-	1,418,674
Year 13	1,418,674	28,373	85,120	704,902	-	-	2,237,070
Year 14	2,237,070	44,741	134,224	707,504	-	-	3,123,540
Year 15	3,123,540	62,471	187,412	710,380	-	-	4,083,803
Year 16	4,083,803	81,676	245,028	713,540	-	-	5,124,048
Year 17	5,124,048	102,481	307,443	716,999	-	-	6,250,970
Year 18	6,250,970	125,019	375,058	720,769	-	-	7,471,816
Year 19	7,471,816	149,436	448,309	724,868	-	-	8,794,429
Year 20	8,794,429	175,889	527,666	729,313	-	-	10,227,296
Year 21	10,227,296	204,546	613,638	624,304	-	-	11,669,784
Year 22	11,669,784	233,396	700,187	628,183	-	-	13,231,550
Year 23	13,231,550	264,631	793,893	631,278	-	-	14,921,352
Year 24	14,921,352	298,427	895,281	633,843	-	-	16,748,903
Year 25	16,748,903	334,978	1,004,934	817,317	-	-	18,906,132

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

Charity

	Beginning of Year	Income	Growth	CRUT Distribution	End of Year
Year 1	-	-	-	-	-
Year 2	-	-	-	-	-
Year 3	-	-	-	-	-
Year 4	-	-	-	-	-
Year 5	-	-	-	-	-
Year 6	-	-	-	-	-
Year 7	-	-	-	-	-
Year 8	-	-	-	-	-
Year 9	-	-	-	-	-
Year 10	-	-	-	-	-
Year 11	-	-	-	-	-
Year 12	-	-	-	-	-
Year 13	-	-	-	-	-
Year 14	-	-	-	-	-
Year 15	-	-	-	-	-
Year 16	-	-	-	-	-
Year 17	-	-	-	-	-
Year 18	-	-	-	-	-
Year 19	-	-	-	-	-
Year 20	-	-	-	5,396,608	5,396,608
Year 21	5,396,608	107,932	323,796	-	5,828,337
Year 22	5,828,337	116,567	349,700	-	6,294,604
Year 23	6,294,604	125,892	377,676	-	6,798,172
Year 24	6,798,172	135,963	407,890	-	7,342,026
Year 25	7,342,026	146,841	440,522	-	7,929,388

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/CRUT/Grantor Trust Sale, Charlie gives remaining estate to charity

Simulated, modeled, or hypothetical performance results have certain inherent limitations. Simulated results are hypothetical and do not represent actual trading, such as liquidity constraints, that may have had an impact on actual decision-making. Simulated results are also achieved through retroactive application of a model designed with the benefit of hindsight. The results shown reflect the reinvestment of dividends and other earnings but do not reflect advisory fees, transaction costs and other expenses a client would have paid, which would reduce return. No representation is being made that any client will or is likely to achieve results similar to those shown.

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Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP - CRUT	
Unitrust Percentage	11.037%
Charitable Deduction	1,000,000
Income Tax Benefit to Charlie	350,000
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
CRUT Starting Value	10,000,000
CRUT Actuarial Discount (10%)	(1,000,000)
Value of Partnership Actuarial Interest in CRUT - Year 1	9,000,000
Partnership Discount (35%)	(3,150,000)
Discounted Value of Partnership Actuarial Interest	5,850,000
Face Value of Note (99% Transferred to Grantor Trust)	5,791,500

Note Between Charlie Charitable and Charlie Charitable Family's Grantor Trust - FLP

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	5,791,500	206,757	(698,499)	5,299,757
Year 2	5,299,757	189,201	(696,143)	4,792,816
Year 3	4,792,816	171,104	(694,725)	4,269,194
Year 4	4,269,194	152,410	(694,021)	3,727,584
Year 5	3,727,584	133,075	(693,871)	3,166,787
Year 6	3,166,787	113,054	(694,169)	2,585,673
Year 7	2,585,673	92,309	(694,839)	1,983,143
Year 8	1,983,143	70,798	(695,831)	1,358,110
Year 9	1,358,110	48,485	(697,115)	709,479
Year 10	709,479	25,328	(698,671)	36,136
Year 11	36,136	1,290	(37,426)	-
Year 12	-	-	-	-
Year 13	-	-	-	-
Year 14	-	-	-	-
Year 15	-	-	-	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/Grantor Trust Sale, Charlie gives remaining estate to family

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Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
FLP Starting Value	10,000,000
Partnership Discount (35%)	(3,500,000)
Discounted Value of Partnership Interest	6,500,000
Face Value of Note (99% Transferred to Grantor Trust)	6,435,000

FLP

	Cash - Beginning of Year	Income	Growth	Distributions	Cash - End of Year
Year 1	10,000,000	200,000	600,000	(2,347,000)	8,453,000
Year 2	8,453,000	169,060	507,180	(734,869)	8,394,371
Year 3	8,394,371	167,887	503,662	(740,209)	8,325,711
Year 4	8,325,711	166,514	499,543	(741,497)	8,250,271
Year 5	8,250,271	165,005	495,016	(739,950)	8,170,342
Year 6	8,170,342	163,407	490,221	(736,428)	8,087,542
Year 7	8,087,542	161,751	485,253	(731,537)	8,003,009
Year 8	8,003,009	160,060	480,181	(725,705)	7,917,544
Year 9	7,917,544	158,351	475,053	(719,237)	7,831,710
Year 10	7,831,710	156,634	469,903	(712,345)	7,745,902
Year 11	7,745,902	154,918	464,754	(705,179)	7,660,395
Year 12	7,660,395	153,208	459,624	(697,846)	7,575,381
Year 13	7,575,381	151,508	454,523	(690,420)	7,490,991
Year 14	7,490,991	149,820	449,459	(682,954)	7,407,316
Year 15	7,407,316	148,146	444,439	(675,485)	7,324,416
Year 16	7,324,416	146,488	439,465	(668,037)	7,242,332
Year 17	7,242,332	144,847	434,540	(660,630)	7,161,089
Year 18	7,161,089	143,222	429,665	(653,276)	7,080,700
Year 19	7,080,700	141,614	424,842	(645,982)	7,001,174
Year 20	7,001,174	140,023	420,070	(638,754)	6,922,514
Year 21	6,922,514	138,450	415,351	(631,598)	6,844,717
Year 22	6,844,717	136,894	410,683	(624,514)	6,767,781
Year 23	6,767,781	135,356	406,067	(617,504)	6,691,700
Year 24	6,691,700	133,834	401,502	(610,569)	6,616,467
Year 25	6,616,467	132,329	396,988	(746,414)	6,399,370

Schedule 13
ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST
FLP/Grantor Trust Sale, Charlie gives remaining estate to family

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Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
FLP Starting Value	10,000,000
Partnership Discount (35%)	(3,500,000)
Discounted Value of Partnership Interest	6,500,000
Face Value of Note (99% Transferred to Grantor Trust)	6,435,000

Charlie Charitable

	Beginning of Year	Income	Growth	Distribution from Partnership	Note Payments	Income Taxes	Consumption	End of Year
Year 1	-	-	-	23,470	2,323,530	(1,597,000)	(150,000)	600,000
Year 2	600,000	12,000	36,000	7,349	727,520	(106,714)	(154,500)	1,121,655
Year 3	1,121,655	22,433	67,299	7,402	732,807	(122,646)	(159,135)	1,669,816
Year 4	1,669,816	33,396	100,189	7,415	734,082	(136,180)	(163,909)	2,244,810
Year 5	2,244,810	44,896	134,689	7,400	732,551	(148,150)	(168,826)	2,847,368
Year 6	2,847,368	56,947	170,842	7,364	729,063	(159,151)	(173,891)	3,478,543
Year 7	3,478,543	69,571	208,713	7,315	724,221	(169,610)	(179,108)	4,139,645
Year 8	4,139,645	82,793	248,379	7,257	587,561	(179,837)	(184,481)	4,701,318
Year 9	4,701,318	94,026	282,079	7,192	-	(190,059)	(190,016)	4,704,540
Year 10	4,704,540	94,091	282,272	7,123	-	(200,447)	(195,716)	4,691,864
Year 11	4,691,864	93,837	281,512	7,052	-	(211,131)	(201,587)	4,661,546
Year 12	4,661,546	93,231	279,693	6,978	-	(222,213)	(207,635)	4,611,600
Year 13	4,611,600	92,232	276,696	6,904	-	(233,777)	(213,864)	4,539,791
Year 14	4,539,791	90,796	272,387	6,830	-	(245,894)	(220,280)	4,443,630
Year 15	4,443,630	88,873	266,618	6,755	-	(258,627)	(226,888)	4,320,360
Year 16	4,320,360	86,407	259,222	6,680	-	(272,036)	(233,695)	4,166,939
Year 17	4,166,939	83,339	250,016	6,606	-	(286,174)	(240,706)	3,980,019
Year 18	3,980,019	79,600	238,801	6,533	-	(301,099)	(247,927)	3,755,928
Year 19	3,755,928	75,119	225,356	6,460	-	(316,865)	(255,365)	3,490,632
Year 20	3,490,632	69,813	209,438	6,388	-	(333,528)	(263,026)	3,179,717
Year 21	3,179,717	63,594	190,783	6,316	-	(351,147)	(270,917)	2,818,346
Year 22	2,818,346	56,367	169,101	6,245	-	(369,784)	(279,044)	2,401,231
Year 23	2,401,231	48,025	144,074	6,175	-	(389,503)	(287,416)	1,922,586
Year 24	1,922,586	38,452	115,355	6,106	-	(410,371)	(296,038)	1,376,090
Year 25	1,376,090	27,522	82,565	7,464	-	(901,706)	(304,919)	287,016

Schedule 13
ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST
FLP/Grantor Trust Sale, Charlie gives remaining estate to family

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Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
FLP Starting Value	10,000,000
Partnership Discount (35%)	(3,500,000)
Discounted Value of Partnership Interest	6,500,000
Face Value of Note (99% Transferred to Grantor Trust)	6,435,000

Charlie Charitable Family's Grantor Trust

	Beginning of Year	Income	Growth	Distribution from Partnerships	Note Payments	Income Taxes	End of Year
Year 1	-	-	-	2,323,530	(2,323,530)	-	-
Year 2	-	-	-	727,520	(727,520)	-	-
Year 3	-	-	-	732,807	(732,807)	-	-
Year 4	-	-	-	734,082	(734,082)	-	-
Year 5	-	-	-	732,551	(732,551)	-	-
Year 6	-	-	-	729,063	(729,063)	-	-
Year 7	-	-	-	724,221	(724,221)	-	-
Year 8	-	-	-	718,448	(587,561)	-	130,887
Year 9	130,887	2,618	7,853	712,045	-	-	853,403
Year 10	853,403	17,068	51,204	705,221	-	-	1,626,897
Year 11	1,626,897	32,538	97,614	698,127	-	-	2,455,176
Year 12	2,455,176	49,104	147,311	690,868	-	-	3,342,458
Year 13	3,342,458	66,849	200,547	683,516	-	-	4,293,371
Year 14	4,293,371	85,867	257,602	676,125	-	-	5,312,965
Year 15	5,312,965	106,259	318,778	668,730	-	-	6,406,732
Year 16	6,406,732	128,135	384,404	661,357	-	-	7,580,628
Year 17	7,580,628	151,613	454,838	654,024	-	-	8,841,102
Year 18	8,841,102	176,822	530,466	646,743	-	-	10,195,133
Year 19	10,195,133	203,903	611,708	639,522	-	-	11,650,266
Year 20	11,650,266	233,005	699,016	632,367	-	-	13,214,654
Year 21	13,214,654	264,293	792,879	625,282	-	-	14,897,108
Year 22	14,897,108	297,942	893,826	618,268	-	-	16,707,145
Year 23	16,707,145	334,143	1,002,429	611,329	-	-	18,655,045
Year 24	18,655,045	373,101	1,119,303	604,463	-	-	20,751,912
Year 25	20,751,912	415,038	1,245,115	738,950	-	-	23,151,015

Schedule 13

ANALYSIS OF FLP CREATING CRUT FOLLOWED BY SALE TO GRANTOR TRUST

FLP/Grantor Trust Sale, Charlie gives remaining estate to family

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Assumptions:	
Charlie Charitable	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Capital Gains Tax Rate on Growth	15.00%
Ordinary Tax Rate	35.00%
Consumption (increasing at 3% per year)	150,000
Intra-Family Note Interest Percentage	3.57%
7520 Rate	2.40%
FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	6.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Charlie Charitable Percentage Ownership in FLP (Children's GP interest ignored)	1.00%
Grantor Trust Subsequent Ownership in FLP	99.00%
Charlie Charitable FLP Valuation Discount	35.00%

Note Between Charlie Charitable and Grantor Trust	
FLP Starting Value	10,000,000
Partnership Discount (35%)	(3,500,000)
Discounted Value of Partnership Interest	6,500,000
Face Value of Note (99% Transferred to Grantor Trust)	6,435,000

Note Between Charlie Charitable and Charlie Charitable Family's Grantor Trust - FLP

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	6,435,000	229,730	(2,323,530)	4,341,200
Year 2	4,341,200	154,981	(727,520)	3,768,660
Year 3	3,768,660	134,541	(732,807)	3,170,394
Year 4	3,170,394	113,183	(734,082)	2,549,494
Year 5	2,549,494	91,017	(732,551)	1,907,961
Year 6	1,907,961	68,114	(729,063)	1,247,011
Year 7	1,247,011	44,518	(724,221)	567,309
Year 8	567,309	20,253	(587,561)	-
Year 9	-	-	-	-
Year 10	-	-	-	-
Year 11	-	-	-	-
Year 12	-	-	-	-
Year 13	-	-	-	-
Year 14	-	-	-	-
Year 15	-	-	-	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-

Schedule 14
ELDER FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Elder LP Discount	40.00%
Gross Proceeds	28,571,429

Future Values at the end of 30 Years of Annual Compounded Growth at 3%

	Elder Children's Future Values	Elder GST Trust Future Values	Charity	IRS - Income Taxes	IRS - Investment Opp. Costs	IRS - Estate Taxes	Totals
No Further Planning - No Discount Allowed	22,381,854	17,120,821	-	5,858,591	14,989,091	9,000,000	69,350,357
No Further Planning - Discount Allowed	25,649,265	17,120,821	-	8,252,959	12,927,313	5,400,000	69,350,357
CLAT Redemption - Discount Allowed - $3 Million to Family	17,607,370	19,563,744	20,651,682	5,013,781	5,163,780	1,350,000	69,350,357
CLAT Redemption - Discount Allowed - $10 Million to Family	22,899,604	19,056,537	4,589,271	7,310,651	10,994,295	4,500,000	69,350,357

NO FURTHER PLANNING - NO DISCOUNT ALLOWED

Elder Children	22,381,854	32.27%
Elder GST Trust	17,120,821	24.69%
Charity	-	0.00%
IRS (income and estate taxes)	14,858,591	21.43%
IRS (investment opportunity costs)	14,989,091	21.61%
Total	69,350,357	100.00%

NO FURTHER PLANNING - DISCOUNT ALLOWED

Elder Children	25,649,265	36.99%
Elder GST Trust	17,120,821	24.69%
Charity	-	0.00%
IRS (income and estate taxes)	13,652,959	19.69%
IRS (investment opportunity costs)	12,927,313	18.64%
Total	69,350,357	100.00%

CLAT REDEMPTION - DISCOUNT ALLOWED - $3 MILLION TO FAMILY

Elder Children	17,607,370	25.39%
Elder GST Trust	19,563,744	28.21%
Charity	20,651,682	29.78%
IRS (income and estate taxes)	6,363,781	9.18%
IRS (investment opportunity costs)	5,163,780	7.45%
Total	69,350,357	100.00%

CLAT REDEMPTION - DISCOUNT ALLOWED - $10 MILLION TO FAMILY

Elder Children	22,899,604	33.02%
Elder GST Trust	19,056,537	27.48%
Charity	4,589,271	6.62%
IRS (income and estate taxes)	11,810,651	17.03%
IRS (investment opportunity costs)	10,994,295	15.85%
Total	69,350,357	100.00%

Schedule 14
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
3% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	200,000	400,000	(91,360)	(9,000,000)	11,508,640
Year 2	11,508,640	115,086	230,173	(66,053)	-	11,787,846
Year 3	11,787,846	117,878	235,757	(71,042)	-	12,070,439
Year 4	12,070,439	120,704	241,409	(75,121)	-	12,357,431
Year 5	12,357,431	123,574	247,149	(78,573)	-	12,649,581
Year 6	12,649,581	126,496	252,992	(81,601)	-	12,947,467
Year 7	12,947,467	129,475	258,949	(84,343)	-	13,251,548
Year 8	13,251,548	132,515	265,031	(86,900)	-	13,562,194
Year 9	13,562,194	135,622	271,244	(89,342)	-	13,879,718
Year 10	13,879,718	138,797	277,594	(91,718)	-	14,204,391
Year 11	14,204,391	142,044	284,088	(94,063)	-	14,536,460
Year 12	14,536,460	145,365	290,729	(96,402)	-	14,876,153
Year 13	14,876,153	148,762	297,523	(98,753)	-	15,223,685
Year 14	15,223,685	152,237	304,474	(101,129)	-	15,579,266
Year 15	15,579,266	155,793	311,585	(103,539)	-	15,943,105
Year 16	15,943,105	159,431	318,862	(105,991)	-	16,315,407
Year 17	16,315,407	163,154	326,308	(108,490)	-	16,696,379
Year 18	16,696,379	166,964	333,928	(111,040)	-	17,086,230
Year 19	17,086,230	170,862	341,725	(113,645)	-	17,485,172
Year 20	17,485,172	174,852	349,703	(116,307)	-	17,893,421
Year 21	17,893,421	178,934	357,868	(119,028)	-	18,311,196
Year 22	18,311,196	183,112	366,224	(121,811)	-	18,738,720
Year 23	18,738,720	187,387	374,774	(124,658)	-	19,176,224
Year 24	19,176,224	191,762	383,524	(127,570)	-	19,623,941
Year 25	19,623,941	196,239	392,479	(130,550)	-	20,082,109
Year 26	20,082,109	200,821	401,642	(133,599)	-	20,550,973
Year 27	20,550,973	205,510	411,019	(136,719)	-	21,030,783
Year 28	21,030,783	210,308	420,616	(139,912)	-	21,521,795
Year 29	21,521,795	215,218	430,436	(143,178)	-	22,024,270
Year 30	22,024,270	220,243	440,485	(303,144)	-	22,381,854

Schedule 14
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	85,714	171,429	(39,154)	-	8,789,418
Year 2	8,789,418	87,894	175,788	(45,928)	-	9,007,172
Year 3	9,007,172	90,072	180,143	(51,114)	-	9,226,273
Year 4	9,226,273	92,263	184,525	(55,196)	-	9,447,865
Year 5	9,447,865	94,479	188,957	(58,513)	-	9,672,788
Year 6	9,672,788	96,728	193,456	(61,302)	-	9,901,670
Year 7	9,901,670	99,017	198,033	(63,733)	-	10,134,987
Year 8	10,134,987	101,350	202,700	(65,923)	-	10,373,113
Year 9	10,373,113	103,731	207,462	(67,955)	-	10,616,352
Year 10	10,616,352	106,164	212,327	(69,887)	-	10,864,955
Year 11	10,864,955	108,650	217,299	(71,762)	-	11,119,142
Year 12	11,119,142	111,191	222,383	(73,608)	-	11,379,108
Year 13	11,379,108	113,791	227,582	(75,446)	-	11,645,035
Year 14	11,645,035	116,450	232,901	(77,292)	-	11,917,095
Year 15	11,917,095	119,171	238,342	(79,155)	-	12,195,452
Year 16	12,195,452	121,955	243,909	(81,045)	-	12,480,271
Year 17	12,480,271	124,803	249,605	(82,966)	-	12,771,713
Year 18	12,771,713	127,717	255,434	(84,923)	-	13,069,941
Year 19	13,069,941	130,699	261,399	(86,920)	-	13,375,119
Year 20	13,375,119	133,751	267,502	(88,960)	-	13,687,413
Year 21	13,687,413	136,874	273,748	(91,044)	-	14,006,991
Year 22	14,006,991	140,070	280,140	(93,174)	-	14,334,027
Year 23	14,334,027	143,340	286,681	(95,353)	-	14,668,694
Year 24	14,668,694	146,687	293,374	(97,582)	-	15,011,173
Year 25	15,011,173	150,112	300,223	(99,862)	-	15,361,646
Year 26	15,361,646	153,616	307,233	(102,195)	-	15,720,301
Year 27	15,720,301	157,203	314,406	(104,582)	-	16,087,328
Year 28	16,087,328	160,873	321,747	(107,024)	-	16,462,925
Year 29	16,462,925	164,629	329,258	(109,523)	-	16,847,289
Year 30	16,847,289	168,473	336,946	(231,887)	-	17,120,821

Schedule 14
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
3% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	200,000	400,000	(2,017,360)	(5,400,000)	13,182,640
Year 2	13,182,640	131,826	263,653	(73,700)	-	13,504,419
Year 3	13,504,419	135,044	270,088	(80,012)	-	13,829,539
Year 4	13,829,539	138,295	276,591	(85,103)	-	14,159,322
Year 5	14,159,322	141,593	283,186	(89,353)	-	14,494,749
Year 6	14,494,749	144,947	289,895	(93,028)	-	14,836,563
Year 7	14,836,563	148,366	296,731	(96,316)	-	15,185,344
Year 8	15,185,344	151,853	303,707	(99,348)	-	15,541,557
Year 9	15,541,557	155,416	310,831	(102,217)	-	15,905,587
Year 10	15,905,587	159,056	318,112	(104,989)	-	16,277,765
Year 11	16,277,765	162,778	325,555	(107,712)	-	16,658,386
Year 12	16,658,386	166,584	333,168	(110,417)	-	17,047,721
Year 13	17,047,721	170,477	340,954	(113,128)	-	17,446,024
Year 14	17,446,024	174,460	348,920	(115,863)	-	17,853,542
Year 15	17,853,542	178,535	357,071	(118,634)	-	18,270,514
Year 16	18,270,514	182,705	365,410	(121,450)	-	18,697,179
Year 17	18,697,179	186,972	373,944	(124,318)	-	19,133,776
Year 18	19,133,776	191,338	382,676	(127,244)	-	19,580,546
Year 19	19,580,546	195,805	391,611	(130,230)	-	20,037,732
Year 20	20,037,732	200,377	400,755	(133,282)	-	20,505,582
Year 21	20,505,582	205,056	410,112	(136,402)	-	20,984,347
Year 22	20,984,347	209,843	419,687	(139,592)	-	21,474,286
Year 23	21,474,286	214,743	429,486	(142,855)	-	21,975,659
Year 24	21,975,659	219,757	439,513	(146,193)	-	22,488,736
Year 25	22,488,736	224,887	449,775	(149,608)	-	23,013,791
Year 26	23,013,791	230,138	460,276	(153,102)	-	23,551,102
Year 27	23,551,102	235,511	471,022	(156,678)	-	24,100,957
Year 28	24,100,957	241,010	482,019	(160,336)	-	24,663,650
Year 29	24,663,650	246,636	493,273	(164,080)	-	25,239,479
Year 30	25,239,479	252,395	504,790	(347,399)	-	25,649,265

Schedule 14
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
3% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	85,714	171,429	(39,154)	-	8,789,418
Year 2	8,789,418	87,894	175,788	(45,928)	-	9,007,172
Year 3	9,007,172	90,072	180,143	(51,114)	-	9,226,273
Year 4	9,226,273	92,263	184,525	(55,196)	-	9,447,865
Year 5	9,447,865	94,479	188,957	(58,513)	-	9,672,788
Year 6	9,672,788	96,728	193,456	(61,302)	-	9,901,670
Year 7	9,901,670	99,017	198,033	(63,733)	-	10,134,987
Year 8	10,134,987	101,350	202,700	(65,923)	-	10,373,113
Year 9	10,373,113	103,731	207,462	(67,955)	-	10,616,352
Year 10	10,616,352	106,164	212,327	(69,887)	-	10,864,955
Year 11	10,864,955	108,650	217,299	(71,762)	-	11,119,142
Year 12	11,119,142	111,191	222,383	(73,608)	-	11,379,108
Year 13	11,379,108	113,791	227,582	(75,446)	-	11,645,035
Year 14	11,645,035	116,450	232,901	(77,292)	-	11,917,095
Year 15	11,917,095	119,171	238,342	(79,155)	-	12,195,452
Year 16	12,195,452	121,955	243,909	(81,045)	-	12,480,271
Year 17	12,480,271	124,803	249,605	(82,966)	-	12,771,713
Year 18	12,771,713	127,717	255,434	(84,923)	-	13,069,941
Year 19	13,069,941	130,699	261,399	(86,920)	-	13,375,119
Year 20	13,375,119	133,751	267,502	(88,960)	-	13,687,413
Year 21	13,687,413	136,874	273,748	(91,044)	-	14,006,991
Year 22	14,006,991	140,070	280,140	(93,174)	-	14,334,027
Year 23	14,334,027	143,340	286,681	(95,353)	-	14,668,694
Year 24	14,668,694	146,687	293,374	(97,582)	-	15,011,173
Year 25	15,011,173	150,112	300,223	(99,862)	-	15,361,646
Year 26	15,361,646	153,616	307,233	(102,195)	-	15,720,301
Year 27	15,720,301	157,203	314,406	(104,582)	-	16,087,328
Year 28	16,087,328	160,873	321,747	(107,024)	-	16,462,925
Year 29	16,462,925	164,629	329,258	(109,523)	-	16,847,289
Year 30	16,847,289	168,473	336,946	(231,887)	-	17,120,821

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ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	285,714	571,429	(1,926,000)	(1,350,000)	(571,886)	25,580,686
Year 2	25,580,686	255,807	511,614	-	-	(571,886)	25,776,220
Year 3	25,776,220	257,762	515,524	(5,132)	-	(571,886)	25,972,489
Year 4	25,972,489	259,725	519,450	(13,794)	-	(571,886)	26,165,985
Year 5	26,165,985	261,660	523,320	(20,133)	-	(571,886)	26,358,945
Year 6	26,358,945	263,589	527,179	(24,849)	-	(571,886)	26,552,978
Year 7	26,552,978	265,530	531,060	(28,432)	-	(571,886)	26,749,249
Year 8	26,749,249	267,492	534,985	(31,226)	-	(571,886)	26,948,615
Year 9	26,948,615	269,486	538,972	(33,473)	-	(571,886)	27,151,714
Year 10	27,151,714	271,517	543,034	(35,344)	-	(571,886)	27,359,036
Year 11	27,359,036	273,590	547,181	(36,957)	-	(571,886)	27,570,964
Year 12	27,570,964	275,710	551,419	(38,398)	-	(571,886)	27,787,808
Year 13	27,787,808	277,878	555,756	(39,726)	-	(571,886)	28,009,831
Year 14	28,009,831	280,098	560,197	(40,981)	-	(571,886)	28,237,259
Year 15	28,237,259	282,373	564,745	(42,195)	-	(571,886)	28,470,296
Year 16	28,470,296	284,703	569,406	(43,387)	-	(571,886)	28,709,132
Year 17	28,709,132	287,091	574,183	(44,573)	-	(571,886)	28,953,946
Year 18	28,953,946	289,539	579,079	(45,764)	-	(571,886)	29,204,914
Year 19	29,204,914	292,049	584,098	(46,967)	-	(571,886)	29,462,209
Year 20	29,462,209	294,622	589,244	(48,188)	-	(9,571,886)	20,726,001
Year 21	20,726,001	207,260	414,520	(159,558)	-	-	21,188,223
Year 22	21,188,223	211,882	423,764	(156,177)	-	-	21,667,693
Year 23	21,667,693	216,677	433,354	(154,833)	-	-	22,162,890
Year 24	22,162,890	221,629	443,258	(154,945)	-	-	22,672,832
Year 25	22,672,832	226,728	453,457	(156,103)	-	-	23,196,914
Year 26	23,196,914	231,969	463,938	(158,021)	-	-	23,734,801
Year 27	23,734,801	237,348	474,696	(160,498)	-	-	24,286,348
Year 28	24,286,348	242,863	485,727	(163,394)	-	-	24,851,544
Year 29	24,851,544	248,515	497,031	(166,611)	-	-	25,430,480
Year 30	25,430,480	254,305	508,610	(353,024)	-	-	25,840,370

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	337,050	1,350,000	-	(337,050)	(1,350,000)	-
Year 2	-	-	-	-	-	-	-	-	-
Year 3	-	-	-	1,246	-	-	(1,246)	-	-
Year 4	-	-	-	3,350	-	-	(3,350)	-	-
Year 5	-	-	-	4,890	-	-	(4,890)	-	-
Year 6	-	-	-	6,036	-	-	(6,036)	-	-
Year 7	-	-	-	6,906	-	-	(6,906)	-	-
Year 8	-	-	-	7,585	-	-	(7,585)	-	-
Year 9	-	-	-	8,131	-	-	(8,131)	-	-
Year 10	-	-	-	8,585	-	-	(8,585)	-	-
Year 11	-	-	-	8,977	-	-	(8,977)	-	-
Year 12	-	-	-	9,327	-	-	(9,327)	-	-
Year 13	-	-	-	9,649	-	-	(9,649)	-	-
Year 14	-	-	-	9,954	-	-	(9,954)	-	-
Year 15	-	-	-	10,249	-	-	(10,249)	-	-
Year 16	-	-	-	10,539	-	-	(10,539)	-	-
Year 17	-	-	-	10,827	-	-	(10,827)	-	-
Year 18	-	-	-	11,116	-	-	(11,116)	-	-
Year 19	-	-	-	11,408	-	-	(11,408)	-	-
Year 20	-	-	-	11,705	-	9,000,000	(11,705)	-	9,000,000
Year 21	9,000,000	90,000	180,000	38,757	-	-	(79,869)	-	9,228,888
Year 22	9,228,888	92,289	184,578	37,935	-	-	(86,160)	-	9,457,530
Year 23	9,457,530	94,575	189,151	37,609	-	-	(91,279)	-	9,687,586
Year 24	9,687,586	96,876	193,752	37,636	-	-	(95,592)	-	9,920,258
Year 25	9,920,258	99,203	198,405	37,917	-	-	(99,356)	-	10,156,428
Year 26	10,156,428	101,564	203,129	38,383	-	-	(102,751)	-	10,396,753
Year 27	10,396,753	103,968	207,935	38,985	-	-	(105,905)	-	10,641,736
Year 28	10,641,736	106,417	212,835	39,688	-	-	(108,907)	-	10,891,768
Year 29	10,891,768	108,918	217,835	40,470	-	-	(111,822)	-	11,147,169
Year 30	11,147,169	111,472	222,943	85,750	-	-	(236,589)	-	11,330,745

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	577,800	-	-	(577,800)	-	-
Year 2	-	-	-	-	-	-	-	-	-
Year 3	-	-	-	3,885	-	-	(3,885)	-	-
Year 4	-	-	-	10,443	-	-	(10,443)	-	-
Year 5	-	-	-	15,243	-	-	(15,243)	-	-
Year 6	-	-	-	18,813	-	-	(18,813)	-	-
Year 7	-	-	-	21,526	-	-	(21,526)	-	-
Year 8	-	-	-	23,641	-	-	(23,641)	-	-
Year 9	-	-	-	25,342	-	-	(25,342)	-	-
Year 10	-	-	-	26,759	-	-	(26,759)	-	-
Year 11	-	-	-	27,980	-	-	(27,980)	-	-
Year 12	-	-	-	29,071	-	-	(29,071)	-	-
Year 13	-	-	-	30,076	-	-	(30,076)	-	-
Year 14	-	-	-	31,027	-	-	(31,027)	-	-
Year 15	-	-	-	31,946	-	-	(31,946)	-	-
Year 16	-	-	-	32,848	-	-	(32,848)	-	-
Year 17	-	-	-	33,747	-	-	(33,747)	-	-
Year 18	-	-	-	34,648	-	-	(34,648)	-	-
Year 19	-	-	-	35,559	-	-	(35,559)	-	-
Year 20	-	-	-	36,483	-	-	(36,483)	-	-
Year 21	-	-	-	120,802	-	-	(120,802)	-	-
Year 22	-	-	-	118,241	-	-	(118,241)	-	-
Year 23	-	-	-	117,224	-	-	(117,224)	-	-
Year 24	-	-	-	117,309	-	-	(117,309)	-	-
Year 25	-	-	-	118,185	-	-	(118,185)	-	-
Year 26	-	-	-	119,637	-	-	(119,637)	-	-
Year 27	-	-	-	121,513	-	-	(121,513)	-	-
Year 28	-	-	-	123,705	-	-	(123,705)	-	-
Year 29	-	-	-	126,141	-	-	(126,141)	-	-
Year 30	-	-	-	267,275	-	-	(267,275)	-	-

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	1,011,150	571,886	(571,886)	(1,011,150)	-	-
Year 2	-	-	-	-	571,886	(571,886)	-	-	-
Year 3	-	-	-	-	571,886	(571,886)	-	-	-
Year 4	-	-	-	-	571,886	(571,886)	-	-	-
Year 5	-	-	-	-	571,886	(571,886)	-	-	-
Year 6	-	-	-	-	571,886	(571,886)	-	-	-
Year 7	-	-	-	-	571,886	(571,886)	-	-	-
Year 8	-	-	-	-	571,886	(571,886)	-	-	-
Year 9	-	-	-	-	571,886	(571,886)	-	-	-
Year 10	-	-	-	-	571,886	(571,886)	-	-	-
Year 11	-	-	-	-	571,886	(571,886)	-	-	-
Year 12	-	-	-	-	571,886	(571,886)	-	-	-
Year 13	-	-	-	-	571,886	(571,886)	-	-	-
Year 14	-	-	-	-	571,886	(571,886)	-	-	-
Year 15	-	-	-	-	571,886	(571,886)	-	-	-
Year 16	-	-	-	-	571,886	(571,886)	-	-	-
Year 17	-	-	-	-	571,886	(571,886)	-	-	-
Year 18	-	-	-	-	571,886	(571,886)	-	-	-
Year 19	-	-	-	-	571,886	(571,886)	-	-	-
Year 20	-	-	-	-	9,571,886	(571,886)	-	(9,000,000)	-

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	571,886	571,886
Year 2	571,886	5,719	11,438	571,886	1,160,929
Year 3	1,160,929	11,609	23,219	571,886	1,767,642
Year 4	1,767,642	17,676	35,353	571,886	2,392,558
Year 5	2,392,558	23,926	47,851	571,886	3,036,220
Year 6	3,036,220	30,362	60,724	571,886	3,699,193
Year 7	3,699,193	36,992	73,984	571,886	4,382,055
Year 8	4,382,055	43,821	87,641	571,886	5,085,402
Year 9	5,085,402	50,854	101,708	571,886	5,809,851
Year 10	5,809,851	58,099	116,197	571,886	6,556,032
Year 11	6,556,032	65,560	131,121	571,886	7,324,599
Year 12	7,324,599	73,246	146,492	571,886	8,116,223
Year 13	8,116,223	81,162	162,324	571,886	8,931,596
Year 14	8,931,596	89,316	178,632	571,886	9,771,430
Year 15	9,771,430	97,714	195,429	571,886	10,636,458
Year 16	10,636,458	106,365	212,729	571,886	11,527,438
Year 17	11,527,438	115,274	230,549	571,886	12,445,147
Year 18	12,445,147	124,451	248,903	571,886	13,390,388
Year 19	13,390,388	133,904	267,808	571,886	14,363,985
Year 20	14,363,985	143,640	287,280	571,886	15,366,791
Year 21	15,366,791	153,668	307,336	-	15,827,795
Year 22	15,827,795	158,278	316,556	-	16,302,629
Year 23	16,302,629	163,026	326,053	-	16,791,707
Year 24	16,791,707	167,917	335,834	-	17,295,459
Year 25	17,295,459	172,955	345,909	-	17,814,322
Year 26	17,814,322	178,143	356,286	-	18,348,752
Year 27	18,348,752	183,488	366,975	-	18,899,215
Year 28	18,899,215	188,992	377,984	-	19,466,191
Year 29	19,466,191	194,662	389,324	-	20,050,177
Year 30	20,050,177	200,502	401,004	-	20,651,682

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	9,000,000	571,886	(571,886)	9,000,000
Year 2	9,000,000	571,886	(571,886)	9,000,000
Year 3	9,000,000	571,886	(571,886)	9,000,000
Year 4	9,000,000	571,886	(571,886)	9,000,000
Year 5	9,000,000	571,886	(571,886)	9,000,000
Year 6	9,000,000	571,886	(571,886)	9,000,000
Year 7	9,000,000	571,886	(571,886)	9,000,000
Year 8	9,000,000	571,886	(571,886)	9,000,000
Year 9	9,000,000	571,886	(571,886)	9,000,000
Year 10	9,000,000	571,886	(571,886)	9,000,000
Year 11	9,000,000	571,886	(571,886)	9,000,000
Year 12	9,000,000	571,886	(571,886)	9,000,000
Year 13	9,000,000	571,886	(571,886)	9,000,000
Year 14	9,000,000	571,886	(571,886)	9,000,000
Year 15	9,000,000	571,886	(571,886)	9,000,000
Year 16	9,000,000	571,886	(571,886)	9,000,000
Year 17	9,000,000	571,886	(571,886)	9,000,000
Year 18	9,000,000	571,886	(571,886)	9,000,000
Year 19	9,000,000	571,886	(571,886)	9,000,000
Year 20	9,000,000	571,886	(9,571,886)	-

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	285,714	571,429	(2,010,700)	(4,500,000)	(127,086)	22,790,786
Year 2	22,790,786	227,908	455,816	(77,554)	-	(127,086)	23,269,870
Year 3	23,269,870	232,699	465,397	(89,328)	-	(127,086)	23,751,552
Year 4	23,751,552	237,516	475,031	(98,560)	-	(127,086)	24,238,453
Year 5	24,238,453	242,385	484,769	(106,032)	-	(127,086)	24,732,488
Year 6	24,732,488	247,325	494,650	(112,290)	-	(127,086)	25,235,086
Year 7	25,235,086	252,351	504,702	(117,720)	-	(127,086)	25,747,332
Year 8	25,747,332	257,473	514,947	(122,593)	-	(127,086)	26,270,073
Year 9	26,270,073	262,701	525,401	(127,099)	-	(127,086)	26,803,990
Year 10	26,803,990	268,040	536,080	(131,373)	-	(127,086)	27,349,651
Year 11	27,349,651	273,497	546,993	(135,510)	-	(127,086)	27,907,544
Year 12	27,907,544	279,075	558,151	(139,578)	-	(127,086)	28,478,107
Year 13	28,478,107	284,781	569,562	(143,623)	-	(127,086)	29,061,741
Year 14	29,061,741	290,617	581,235	(147,681)	-	(127,086)	29,658,826
Year 15	29,658,826	296,588	593,177	(151,777)	-	(127,086)	30,269,728
Year 16	30,269,728	302,697	605,395	(155,928)	-	(127,086)	30,894,806
Year 17	30,894,806	308,948	617,896	(160,147)	-	(127,086)	31,534,417
Year 18	31,534,417	315,344	630,688	(164,445)	-	(127,086)	32,188,919
Year 19	32,188,919	321,889	643,778	(168,829)	-	(127,086)	32,858,672
Year 20	32,858,672	328,587	657,173	(173,305)	-	(2,127,086)	31,544,041
Year 21	31,544,041	315,440	630,881	(214,558)	-	-	32,275,804
Year 22	32,275,804	322,758	645,516	(218,025)	-	-	33,026,053
Year 23	33,026,053	330,261	660,521	(222,033)	-	-	33,794,802
Year 24	33,794,802	337,948	675,896	(226,456)	-	-	34,582,189
Year 25	34,582,189	345,822	691,644	(231,210)	-	-	35,388,445
Year 26	35,388,445	353,884	707,769	(236,233)	-	-	36,213,866
Year 27	36,213,866	362,139	724,277	(241,485)	-	-	37,058,796
Year 28	37,058,796	370,588	741,176	(246,939)	-	-	37,923,622
Year 29	37,923,622	379,236	758,472	(252,574)	-	-	38,808,756
Year 30	38,808,756	388,088	776,175	(534,821)	-	-	39,438,198

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	1,172,908	4,500,000	-	(1,172,908)	(4,500,000)	-
Year 2	-	-	-	40,080	-	-	(40,080)	-	-
Year 3	-	-	-	46,164	-	-	(46,164)	-	-
Year 4	-	-	-	50,936	-	-	(50,936)	-	-
Year 5	-	-	-	54,797	-	-	(54,797)	-	-
Year 6	-	-	-	58,032	-	-	(58,032)	-	-
Year 7	-	-	-	60,838	-	-	(60,838)	-	-
Year 8	-	-	-	63,356	-	-	(63,356)	-	-
Year 9	-	-	-	65,685	-	-	(65,685)	-	-
Year 10	-	-	-	67,894	-	-	(67,894)	-	-
Year 11	-	-	-	70,032	-	-	(70,032)	-	-
Year 12	-	-	-	72,134	-	-	(72,134)	-	-
Year 13	-	-	-	74,224	-	-	(74,224)	-	-
Year 14	-	-	-	76,322	-	-	(76,322)	-	-
Year 15	-	-	-	78,438	-	-	(78,438)	-	-
Year 16	-	-	-	80,583	-	-	(80,583)	-	-
Year 17	-	-	-	82,764	-	-	(82,764)	-	-
Year 18	-	-	-	84,985	-	-	(84,985)	-	-
Year 19	-	-	-	87,251	-	-	(87,251)	-	-
Year 20	-	-	-	89,564	-	2,000,000	(89,564)	-	2,000,000
Year 21	2,000,000	20,000	40,000	110,884	-	-	(120,020)	-	2,050,864
Year 22	2,050,864	20,509	41,017	112,675	-	-	(123,392)	-	2,101,674
Year 23	2,101,674	21,017	42,033	114,747	-	-	(126,673)	-	2,152,797
Year 24	2,152,797	21,528	43,056	117,033	-	-	(129,912)	-	2,204,502
Year 25	2,204,502	22,045	44,090	119,489	-	-	(133,142)	-	2,256,984
Year 26	2,256,984	22,570	45,140	122,085	-	-	(136,389)	-	2,310,390
Year 27	2,310,390	23,104	46,208	124,800	-	-	(139,671)	-	2,364,830
Year 28	2,364,830	23,648	47,297	127,618	-	-	(143,000)	-	2,420,393
Year 29	2,420,393	24,204	48,408	130,530	-	-	(146,387)	-	2,477,149
Year 30	2,477,149	24,771	49,543	276,395	-	-	(309,915)	-	2,517,943

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	603,210	-	-	(603,210)	-	-
Year 2	-	-	-	37,474	-	-	(37,474)	-	-
Year 3	-	-	-	43,163	-	-	(43,163)	-	-
Year 4	-	-	-	47,624	-	-	(47,624)	-	-
Year 5	-	-	-	51,235	-	-	(51,235)	-	-
Year 6	-	-	-	54,259	-	-	(54,259)	-	-
Year 7	-	-	-	56,883	-	-	(56,883)	-	-
Year 8	-	-	-	59,237	-	-	(59,237)	-	-
Year 9	-	-	-	61,414	-	-	(61,414)	-	-
Year 10	-	-	-	63,479	-	-	(63,479)	-	-
Year 11	-	-	-	65,479	-	-	(65,479)	-	-
Year 12	-	-	-	67,444	-	-	(67,444)	-	-
Year 13	-	-	-	69,399	-	-	(69,399)	-	-
Year 14	-	-	-	71,360	-	-	(71,360)	-	-
Year 15	-	-	-	73,339	-	-	(73,339)	-	-
Year 16	-	-	-	75,344	-	-	(75,344)	-	-
Year 17	-	-	-	77,383	-	-	(77,383)	-	-
Year 18	-	-	-	79,460	-	-	(79,460)	-	-
Year 19	-	-	-	81,578	-	-	(81,578)	-	-
Year 20	-	-	-	83,741	-	-	(83,741)	-	-
Year 21	-	-	-	103,675	-	-	(103,675)	-	-
Year 22	-	-	-	105,350	-	-	(105,350)	-	-
Year 23	-	-	-	107,286	-	-	(107,286)	-	-
Year 24	-	-	-	109,424	-	-	(109,424)	-	-
Year 25	-	-	-	111,721	-	-	(111,721)	-	-
Year 26	-	-	-	114,148	-	-	(114,148)	-	-
Year 27	-	-	-	116,686	-	-	(116,686)	-	-
Year 28	-	-	-	119,321	-	-	(119,321)	-	-
Year 29	-	-	-	122,044	-	-	(122,044)	-	-
Year 30	-	-	-	258,425	-	-	(258,425)	-	-

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	234,582	127,086	(127,086)	(234,582)	-	-
Year 2	-	-	-	-	127,086	(127,086)	-	-	-
Year 3	-	-	-	-	127,086	(127,086)	-	-	-
Year 4	-	-	-	-	127,086	(127,086)	-	-	-
Year 5	-	-	-	-	127,086	(127,086)	-	-	-
Year 6	-	-	-	-	127,086	(127,086)	-	-	-
Year 7	-	-	-	-	127,086	(127,086)	-	-	-
Year 8	-	-	-	-	127,086	(127,086)	-	-	-
Year 9	-	-	-	-	127,086	(127,086)	-	-	-
Year 10	-	-	-	-	127,086	(127,086)	-	-	-
Year 11	-	-	-	-	127,086	(127,086)	-	-	-
Year 12	-	-	-	-	127,086	(127,086)	-	-	-
Year 13	-	-	-	-	127,086	(127,086)	-	-	-
Year 14	-	-	-	-	127,086	(127,086)	-	-	-
Year 15	-	-	-	-	127,086	(127,086)	-	-	-
Year 16	-	-	-	-	127,086	(127,086)	-	-	-
Year 17	-	-	-	-	127,086	(127,086)	-	-	-
Year 18	-	-	-	-	127,086	(127,086)	-	-	-
Year 19	-	-	-	-	127,086	(127,086)	-	-	-
Year 20	-	-	-	-	2,127,086	(127,086)	-	(2,000,000)	-

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	127,086	127,086
Year 2	127,086	1,271	2,542	127,086	257,985
Year 3	257,985	2,580	5,160	127,086	392,810
Year 4	392,810	3,928	7,856	127,086	531,680
Year 5	531,680	5,317	10,634	127,086	674,717
Year 6	674,717	6,747	13,494	127,086	822,044
Year 7	822,044	8,220	16,441	127,086	973,792
Year 8	973,792	9,738	19,476	127,086	1,130,091
Year 9	1,130,091	11,301	22,602	127,086	1,291,080
Year 10	1,291,080	12,911	25,822	127,086	1,456,899
Year 11	1,456,899	14,569	29,138	127,086	1,627,692
Year 12	1,627,692	16,277	32,554	127,086	1,803,608
Year 13	1,803,608	18,036	36,072	127,086	1,984,803
Year 14	1,984,803	19,848	39,696	127,086	2,171,433
Year 15	2,171,433	21,714	43,429	127,086	2,363,662
Year 16	2,363,662	23,637	47,273	127,086	2,561,657
Year 17	2,561,657	25,617	51,233	127,086	2,765,593
Year 18	2,765,593	27,656	55,312	127,086	2,975,647
Year 19	2,975,647	29,756	59,513	127,086	3,192,002
Year 20	3,192,002	31,920	63,840	127,086	3,414,848
Year 21	3,414,848	34,148	68,297	-	3,517,294
Year 22	3,517,294	35,173	70,346	-	3,622,813
Year 23	3,622,813	36,228	72,456	-	3,731,497
Year 24	3,731,497	37,315	74,630	-	3,843,442
Year 25	3,843,442	38,434	76,869	-	3,958,745
Year 26	3,958,745	39,587	79,175	-	4,077,508
Year 27	4,077,508	40,775	81,550	-	4,199,833
Year 28	4,199,833	41,998	83,997	-	4,325,828
Year 29	4,325,828	43,258	86,517	-	4,455,603
Year 30	4,455,603	44,556	89,112	-	4,589,271

Schedule 14
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
3% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	3.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	1.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	2.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	2,000,000	127,086	(127,086)	2,000,000
Year 2	2,000,000	127,086	(127,086)	2,000,000
Year 3	2,000,000	127,086	(127,086)	2,000,000
Year 4	2,000,000	127,086	(127,086)	2,000,000
Year 5	2,000,000	127,086	(127,086)	2,000,000
Year 6	2,000,000	127,086	(127,086)	2,000,000
Year 7	2,000,000	127,086	(127,086)	2,000,000
Year 8	2,000,000	127,086	(127,086)	2,000,000
Year 9	2,000,000	127,086	(127,086)	2,000,000
Year 10	2,000,000	127,086	(127,086)	2,000,000
Year 11	2,000,000	127,086	(127,086)	2,000,000
Year 12	2,000,000	127,086	(127,086)	2,000,000
Year 13	2,000,000	127,086	(127,086)	2,000,000
Year 14	2,000,000	127,086	(127,086)	2,000,000
Year 15	2,000,000	127,086	(127,086)	2,000,000
Year 16	2,000,000	127,086	(127,086)	2,000,000
Year 17	2,000,000	127,086	(127,086)	2,000,000
Year 18	2,000,000	127,086	(127,086)	2,000,000
Year 19	2,000,000	127,086	(127,086)	2,000,000
Year 20	2,000,000	127,086	(2,127,086)	-

Schedule 15
ELDER FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Elder LP Discount	40.00%
Gross Proceeds	28,571,429

Future Values at the end of 30 Years of Annual Compounded Growth at 8%

	Elder Children's Future Values	Elder GST Trust Future Values	Charity	IRS - Income Taxes	IRS - Investment Opp. Costs	IRS - Estate Taxes	Totals
No Further Planning - No Discount Allowed	74,723,823	55,481,827	-	29,497,788	118,801,049	9,000,000	287,504,487
No Further Planning - Discount Allowed	84,904,303	55,481,827	-	33,691,823	108,026,533	5,400,000	287,504,487
CLAT Redemption - Discount Allowed - $3 Million to Family	46,374,710	92,379,335	56,500,420	30,013,402	60,886,619	1,350,000	287,504,487
CLAT Redemption - Discount Allowed - $10 Million to Family	74,166,232	65,866,823	12,555,671	32,874,812	97,540,948	4,500,000	287,504,487

NO FURTHER PLANNING - NO DISCOUNT ALLOWED		
Elder Children	74,723,823	25.99%
Elder GST Trust	55,481,827	19.30%
Charity	-	0.00%
IRS (income and estate taxes)	38,497,788	13.39%
IRS (investment opportunity costs)	118,801,049	41.32%
Total	287,504,487	100.00%
NO FURTHER PLANNING - DISCOUNT ALLOWED		
Elder Children	84,904,303	29.53%
Elder GST Trust	55,481,827	19.30%
Charity	-	0.00%
IRS (income and estate taxes)	39,091,823	13.60%
IRS (investment opportunity costs)	108,026,533	37.57%
Total	287,504,487	100.00%
CLAT REDEMPTION - DISCOUNT ALLOWED - $3 MILLION TO FAMILY		
Elder Children	46,374,710	16.13%
Elder GST Trust	92,379,335	32.13%
Charity	56,500,420	19.65%
IRS (income and estate taxes)	31,363,402	10.91%
IRS (investment opportunity costs)	60,886,619	21.18%
Total	287,504,487	100.00%
CLAT REDEMPTION - DISCOUNT ALLOWED - $10 MILLION TO FAMILY		
Elder Children	74,166,232	25.80%
Elder GST Trust	65,866,823	22.91%
Charity	12,555,671	4.37%
IRS (income and estate taxes)	37,374,812	13.00%
IRS (investment opportunity costs)	97,540,948	33.93%
Total	287,504,487	100.00%

Schedule 15
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	400,000	1,200,000	(201,980)	(9,000,000)	12,398,020
Year 2	12,398,020	247,960	743,881	(165,654)	-	13,224,208
Year 3	13,224,208	264,484	793,452	(186,936)	-	14,095,209
Year 4	14,095,209	281,904	845,713	(206,460)	-	15,016,365
Year 5	15,016,365	300,327	900,982	(225,034)	-	15,992,641
Year 6	15,992,641	319,853	959,558	(243,246)	-	17,028,806
Year 7	17,028,806	340,576	1,021,728	(261,531)	-	18,129,579
Year 8	18,129,579	362,592	1,087,775	(280,218)	-	19,299,728
Year 9	19,299,728	385,995	1,157,984	(299,561)	-	20,544,145
Year 10	20,544,145	410,883	1,232,649	(319,762)	-	21,867,915
Year 11	21,867,915	437,358	1,312,075	(340,991)	-	23,276,357
Year 12	23,276,357	465,527	1,396,581	(363,394)	-	24,775,071
Year 13	24,775,071	495,501	1,486,504	(387,104)	-	26,369,973
Year 14	26,369,973	527,399	1,582,198	(412,243)	-	28,067,328
Year 15	28,067,328	561,347	1,684,040	(438,933)	-	29,873,781
Year 16	29,873,781	597,476	1,792,427	(467,293)	-	31,796,391
Year 17	31,796,391	635,928	1,907,783	(497,444)	-	33,842,659
Year 18	33,842,659	676,853	2,030,560	(529,511)	-	36,020,561
Year 19	36,020,561	720,411	2,161,234	(563,626)	-	38,338,580
Year 20	38,338,580	766,772	2,300,315	(599,923)	-	40,805,743
Year 21	40,805,743	816,115	2,448,345	(638,549)	-	43,431,653
Year 22	43,431,653	868,633	2,605,899	(679,654)	-	46,226,532
Year 23	46,226,532	924,531	2,773,592	(723,400)	-	49,201,255
Year 24	49,201,255	984,025	2,952,075	(769,958)	-	52,367,397
Year 25	52,367,397	1,047,348	3,142,044	(819,510)	-	55,737,278
Year 26	55,737,278	1,114,746	3,344,237	(872,250)	-	59,324,011
Year 27	59,324,011	1,186,480	3,559,441	(928,382)	-	63,141,550
Year 28	63,141,550	1,262,831	3,788,493	(988,126)	-	67,204,748
Year 29	67,204,748	1,344,095	4,032,285	(1,051,713)	-	71,529,415
Year 30	71,529,415	1,430,588	4,291,765	(2,527,945)	-	74,723,823

Schedule 15
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	171,429	514,286	(86,563)	-	9,170,580
Year 2	9,170,580	183,412	550,235	(109,948)	-	9,794,279
Year 3	9,794,279	195,886	587,657	(129,592)	-	10,448,230
Year 4	10,448,230	208,965	626,894	(146,799)	-	11,137,289
Year 5	11,137,289	222,746	668,237	(162,503)	-	11,865,769
Year 6	11,865,769	237,315	711,946	(177,374)	-	12,637,656
Year 7	12,637,656	252,753	758,259	(191,903)	-	13,456,765
Year 8	13,456,765	269,135	807,406	(206,450)	-	14,326,857
Year 9	14,326,857	286,537	859,611	(221,286)	-	15,251,720
Year 10	15,251,720	305,034	915,103	(236,619)	-	16,235,238
Year 11	16,235,238	324,705	974,114	(252,618)	-	17,281,439
Year 12	17,281,439	345,629	1,036,886	(269,418)	-	18,394,536
Year 13	18,394,536	367,891	1,103,672	(287,140)	-	19,578,959
Year 14	19,578,959	391,579	1,174,738	(305,889)	-	20,839,387
Year 15	20,839,387	416,788	1,250,363	(325,764)	-	22,180,774
Year 16	22,180,774	443,615	1,330,846	(346,862)	-	23,608,374
Year 17	23,608,374	472,167	1,416,502	(369,278)	-	25,127,766
Year 18	25,127,766	502,555	1,507,666	(393,108)	-	26,744,878
Year 19	26,744,878	534,898	1,604,693	(418,453)	-	28,466,016
Year 20	28,466,016	569,320	1,707,961	(445,414)	-	30,297,884
Year 21	30,297,884	605,958	1,817,873	(474,100)	-	32,247,614
Year 22	32,247,614	644,952	1,934,857	(504,625)	-	34,322,798
Year 23	34,322,798	686,456	2,059,368	(537,110)	-	36,531,512
Year 24	36,531,512	730,630	2,191,891	(571,681)	-	38,882,352
Year 25	38,882,352	777,647	2,332,941	(608,475)	-	41,384,464
Year 26	41,384,464	827,689	2,483,068	(647,635)	-	44,047,586
Year 27	44,047,586	880,952	2,642,855	(689,314)	-	46,882,079
Year 28	46,882,079	937,642	2,812,925	(733,674)	-	49,898,972
Year 29	49,898,972	997,979	2,993,938	(780,887)	-	53,110,002
Year 30	53,110,002	1,062,200	3,186,600	(1,876,976)	-	55,481,827

Schedule 15
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	400,000	1,200,000	(2,127,980)	(5,400,000)	14,072,020
Year 2	14,072,020	281,440	844,321	(182,559)	-	15,015,222
Year 3	15,015,222	300,304	900,913	(208,409)	-	16,008,031
Year 4	16,008,031	320,161	960,482	(231,769)	-	17,056,904
Year 5	17,056,904	341,138	1,023,414	(253,704)	-	18,167,753
Year 6	18,167,753	363,355	1,090,065	(274,983)	-	19,346,191
Year 7	19,346,191	386,924	1,160,771	(296,172)	-	20,597,714
Year 8	20,597,714	411,954	1,235,863	(317,697)	-	21,927,834
Year 9	21,927,834	438,557	1,315,670	(339,880)	-	23,342,180
Year 10	23,342,180	466,844	1,400,531	(362,979)	-	24,846,576
Year 11	24,846,576	496,932	1,490,795	(387,203)	-	26,447,099
Year 12	26,447,099	528,942	1,586,826	(412,731)	-	28,150,136
Year 13	28,150,136	563,003	1,689,008	(439,721)	-	29,962,426
Year 14	29,962,426	599,249	1,797,746	(468,322)	-	31,891,098
Year 15	31,891,098	637,822	1,913,466	(498,673)	-	33,943,713
Year 16	33,943,713	678,874	2,036,623	(530,914)	-	36,128,296
Year 17	36,128,296	722,566	2,167,698	(565,186)	-	38,453,374
Year 18	38,453,374	769,067	2,307,202	(601,631)	-	40,928,013
Year 19	40,928,013	818,560	2,455,681	(640,400)	-	43,561,854
Year 20	43,561,854	871,237	2,613,711	(681,647)	-	46,365,155
Year 21	46,365,155	927,303	2,781,909	(725,538)	-	49,348,830
Year 22	49,348,830	986,977	2,960,930	(772,246)	-	52,524,491
Year 23	52,524,491	1,050,490	3,151,469	(821,953)	-	55,904,497
Year 24	55,904,497	1,118,090	3,354,270	(874,856)	-	59,502,001
Year 25	59,502,001	1,190,040	3,570,120	(931,160)	-	63,331,001
Year 26	63,331,001	1,266,620	3,799,860	(991,085)	-	67,406,396
Year 27	67,406,396	1,348,128	4,044,384	(1,054,865)	-	71,744,043
Year 28	71,744,043	1,434,881	4,304,643	(1,122,749)	-	76,360,818
Year 29	76,360,818	1,527,216	4,581,649	(1,195,000)	-	81,274,684
Year 30	81,274,684	1,625,494	4,876,481	(2,872,355)	-	84,904,303

Schedule 15
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	171,429	514,286	(86,563)	-	9,170,580
Year 2	9,170,580	183,412	550,235	(109,948)	-	9,794,279
Year 3	9,794,279	195,886	587,657	(129,592)	-	10,448,230
Year 4	10,448,230	208,965	626,894	(146,799)	-	11,137,289
Year 5	11,137,289	222,746	668,237	(162,503)	-	11,865,769
Year 6	11,865,769	237,315	711,946	(177,374)	-	12,637,656
Year 7	12,637,656	252,753	758,259	(191,903)	-	13,456,765
Year 8	13,456,765	269,135	807,406	(206,450)	-	14,326,857
Year 9	14,326,857	286,537	859,611	(221,286)	-	15,251,720
Year 10	15,251,720	305,034	915,103	(236,619)	-	16,235,238
Year 11	16,235,238	324,705	974,114	(252,618)	-	17,281,439
Year 12	17,281,439	345,629	1,036,886	(269,418)	-	18,394,536
Year 13	18,394,536	367,891	1,103,672	(287,140)	-	19,578,959
Year 14	19,578,959	391,579	1,174,738	(305,889)	-	20,839,387
Year 15	20,839,387	416,788	1,250,363	(325,764)	-	22,180,774
Year 16	22,180,774	443,615	1,330,846	(346,862)	-	23,608,374
Year 17	23,608,374	472,167	1,416,502	(369,278)	-	25,127,766
Year 18	25,127,766	502,555	1,507,666	(393,108)	-	26,744,878
Year 19	26,744,878	534,898	1,604,693	(418,453)	-	28,466,016
Year 20	28,466,016	569,320	1,707,961	(445,414)	-	30,297,884
Year 21	30,297,884	605,958	1,817,873	(474,100)	-	32,247,614
Year 22	32,247,614	644,952	1,934,857	(504,625)	-	34,322,798
Year 23	34,322,798	686,456	2,059,368	(537,110)	-	36,531,512
Year 24	36,531,512	730,630	2,191,891	(571,681)	-	38,882,352
Year 25	38,882,352	777,647	2,332,941	(608,475)	-	41,384,464
Year 26	41,384,464	827,689	2,483,068	(647,635)	-	44,047,586
Year 27	44,047,586	880,952	2,642,855	(689,314)	-	46,882,079
Year 28	46,882,079	937,642	2,812,925	(733,674)	-	49,898,972
Year 29	49,898,972	997,979	2,993,938	(780,887)	-	53,110,002
Year 30	53,110,002	1,062,200	3,186,600	(1,876,976)	-	55,481,827

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	571,429	1,714,286	(2,008,469)	(1,350,000)	(571,886)	26,926,788
Year 2	26,926,788	538,536	1,615,607	(130,219)	-	(571,886)	28,378,826
Year 3	28,378,826	567,577	1,702,730	(176,195)	-	(571,886)	29,901,051
Year 4	29,901,051	598,021	1,794,063	(219,626)	-	(571,886)	31,501,623
Year 5	31,501,623	630,032	1,890,097	(259,113)	-	(571,886)	33,190,754
Year 6	33,190,754	663,815	1,991,445	(295,735)	-	(571,886)	34,978,394
Year 7	34,978,394	699,568	2,098,704	(330,898)	-	(571,886)	36,873,881
Year 8	36,873,881	737,478	2,212,433	(365,632)	-	(571,886)	38,886,273
Year 9	38,886,273	777,725	2,333,176	(400,703)	-	(571,886)	41,024,586
Year 10	41,024,586	820,492	2,461,475	(436,691)	-	(571,886)	43,297,976
Year 11	43,297,976	865,960	2,597,879	(474,049)	-	(571,886)	45,715,879
Year 12	45,715,879	914,318	2,742,953	(513,145)	-	(571,886)	48,288,118
Year 13	48,288,118	965,762	2,897,287	(554,286)	-	(571,886)	51,024,996
Year 14	51,024,996	1,020,500	3,061,500	(597,742)	-	(571,886)	53,937,368
Year 15	53,937,368	1,078,747	3,236,242	(643,760)	-	(571,886)	57,036,711
Year 16	57,036,711	1,140,734	3,422,203	(692,574)	-	(571,886)	60,335,188
Year 17	60,335,188	1,206,704	3,620,111	(744,413)	-	(571,886)	63,845,703
Year 18	63,845,703	1,276,914	3,830,742	(799,506)	-	(571,886)	67,581,967
Year 19	67,581,967	1,351,639	4,054,918	(858,086)	-	(571,886)	71,558,553
Year 20	71,558,553	1,431,171	4,293,513	(920,394)	-	(9,571,886)	66,790,957
Year 21	66,790,957	1,335,819	4,007,457	(1,101,957)	-	-	71,032,276
Year 22	71,032,276	1,420,646	4,261,937	(1,151,631)	-	-	75,563,227
Year 23	75,563,227	1,511,265	4,533,794	(1,210,755)	-	-	80,397,531
Year 24	80,397,531	1,607,951	4,823,852	(1,278,095)	-	-	85,551,238
Year 25	85,551,238	1,711,025	5,133,074	(1,352,882)	-	-	91,042,454
Year 26	91,042,454	1,820,849	5,462,547	(1,434,678)	-	-	96,891,172
Year 27	96,891,172	1,937,823	5,813,470	(1,523,288)	-	-	103,119,178
Year 28	103,119,178	2,062,384	6,187,151	(1,618,692)	-	-	109,750,021
Year 29	109,750,021	2,195,000	6,585,001	(1,721,007)	-	-	116,809,015
Year 30	116,809,015	2,336,180	7,008,541	(4,136,387)	-	-	122,017,349

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	351,482	1,350,000	-	(351,482)	(1,350,000)	-
Year 2	-	-	-	31,630	-	-	(31,630)	-	-
Year 3	-	-	-	42,798	-	-	(42,798)	-	-
Year 4	-	-	-	53,347	-	-	(53,347)	-	-
Year 5	-	-	-	62,939	-	-	(62,939)	-	-
Year 6	-	-	-	71,834	-	-	(71,834)	-	-
Year 7	-	-	-	80,375	-	-	(80,375)	-	-
Year 8	-	-	-	88,812	-	-	(88,812)	-	-
Year 9	-	-	-	97,331	-	-	(97,331)	-	-
Year 10	-	-	-	106,072	-	-	(106,072)	-	-
Year 11	-	-	-	115,147	-	-	(115,147)	-	-
Year 12	-	-	-	124,643	-	-	(124,643)	-	-
Year 13	-	-	-	134,636	-	-	(134,636)	-	-
Year 14	-	-	-	145,191	-	-	(145,191)	-	-
Year 15	-	-	-	156,369	-	-	(156,369)	-	-
Year 16	-	-	-	168,226	-	-	(168,226)	-	-
Year 17	-	-	-	180,818	-	-	(180,818)	-	-
Year 18	-	-	-	194,200	-	-	(194,200)	-	-
Year 19	-	-	-	208,429	-	-	(208,429)	-	-
Year 20	-	-	-	223,564	-	9,000,000	(223,564)	-	9,000,000
Year 21	9,000,000	180,000	540,000	267,665	-	-	(358,556)	-	9,629,109
Year 22	9,629,109	192,582	577,747	279,731	-	-	(395,176)	-	10,283,993
Year 23	10,283,993	205,680	617,040	294,092	-	-	(430,164)	-	10,970,641
Year 24	10,970,641	219,413	658,238	310,449	-	-	(464,589)	-	11,694,153
Year 25	11,694,153	233,883	701,649	328,615	-	-	(499,243)	-	12,459,057
Year 26	12,459,057	249,181	747,543	348,483	-	-	(534,727)	-	13,269,539
Year 27	13,269,539	265,391	796,172	370,007	-	-	(571,505)	-	14,129,603
Year 28	14,129,603	282,592	847,776	393,180	-	-	(609,953)	-	15,043,199
Year 29	15,043,199	300,864	902,592	418,033	-	-	(650,383)	-	16,014,305
Year 30	16,014,305	320,286	960,858	1,004,728	-	-	(1,563,482)	-	16,736,696

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	602,541	-	-	(602,541)	-	-
Year 2	-	-	-	98,589	-	-	(98,589)	-	-
Year 3	-	-	-	133,397	-	-	(133,397)	-	-
Year 4	-	-	-	166,279	-	-	(166,279)	-	-
Year 5	-	-	-	196,175	-	-	(196,175)	-	-
Year 6	-	-	-	223,901	-	-	(223,901)	-	-
Year 7	-	-	-	250,523	-	-	(250,523)	-	-
Year 8	-	-	-	276,820	-	-	(276,820)	-	-
Year 9	-	-	-	303,372	-	-	(303,372)	-	-
Year 10	-	-	-	330,619	-	-	(330,619)	-	-
Year 11	-	-	-	358,903	-	-	(358,903)	-	-
Year 12	-	-	-	388,502	-	-	(388,502)	-	-
Year 13	-	-	-	419,650	-	-	(419,650)	-	-
Year 14	-	-	-	452,550	-	-	(452,550)	-	-
Year 15	-	-	-	487,391	-	-	(487,391)	-	-
Year 16	-	-	-	524,348	-	-	(524,348)	-	-
Year 17	-	-	-	563,595	-	-	(563,595)	-	-
Year 18	-	-	-	605,306	-	-	(605,306)	-	-
Year 19	-	-	-	649,657	-	-	(649,657)	-	-
Year 20	-	-	-	696,830	-	-	(696,830)	-	-
Year 21	-	-	-	834,292	-	-	(834,292)	-	-
Year 22	-	-	-	871,900	-	-	(871,900)	-	-
Year 23	-	-	-	916,663	-	-	(916,663)	-	-
Year 24	-	-	-	967,646	-	-	(967,646)	-	-
Year 25	-	-	-	1,024,267	-	-	(1,024,267)	-	-
Year 26	-	-	-	1,086,195	-	-	(1,086,195)	-	-
Year 27	-	-	-	1,153,281	-	-	(1,153,281)	-	-
Year 28	-	-	-	1,225,512	-	-	(1,225,512)	-	-
Year 29	-	-	-	1,302,975	-	-	(1,302,975)	-	-
Year 30	-	-	-	3,131,658	-	-	(3,131,658)	-	-

Schedule 15
ELDER FAMILY
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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	1,054,446	571,886	(571,886)	(1,054,446)	-	-
Year 2	-	-	-	-	571,886	(571,886)	-	-	-
Year 3	-	-	-	-	571,886	(571,886)	-	-	-
Year 4	-	-	-	-	571,886	(571,886)	-	-	-
Year 5	-	-	-	-	571,886	(571,886)	-	-	-
Year 6	-	-	-	-	571,886	(571,886)	-	-	-
Year 7	-	-	-	-	571,886	(571,886)	-	-	-
Year 8	-	-	-	-	571,886	(571,886)	-	-	-
Year 9	-	-	-	-	571,886	(571,886)	-	-	-
Year 10	-	-	-	-	571,886	(571,886)	-	-	-
Year 11	-	-	-	-	571,886	(571,886)	-	-	-
Year 12	-	-	-	-	571,886	(571,886)	-	-	-
Year 13	-	-	-	-	571,886	(571,886)	-	-	-
Year 14	-	-	-	-	571,886	(571,886)	-	-	-
Year 15	-	-	-	-	571,886	(571,886)	-	-	-
Year 16	-	-	-	-	571,886	(571,886)	-	-	-
Year 17	-	-	-	-	571,886	(571,886)	-	-	-
Year 18	-	-	-	-	571,886	(571,886)	-	-	-
Year 19	-	-	-	-	571,886	(571,886)	-	-	-
Year 20	-	-	-	-	9,571,886	(571,886)	-	(9,000,000)	-

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	571,886	571,886
Year 2	571,886	11,438	34,313	571,886	1,189,523
Year 3	1,189,523	23,790	71,371	571,886	1,856,571
Year 4	1,856,571	37,131	111,394	571,886	2,576,982
Year 5	2,576,982	51,540	154,619	571,886	3,355,027
Year 6	3,355,027	67,101	201,302	571,886	4,195,315
Year 7	4,195,315	83,906	251,719	571,886	5,102,826
Year 8	5,102,826	102,057	306,170	571,886	6,082,938
Year 9	6,082,938	121,659	364,976	571,886	7,141,460
Year 10	7,141,460	142,829	428,488	571,886	8,284,662
Year 11	8,284,662	165,693	497,080	571,886	9,519,321
Year 12	9,519,321	190,386	571,159	571,886	10,852,753
Year 13	10,852,753	217,055	651,165	571,886	12,292,859
Year 14	12,292,859	245,857	737,572	571,886	13,848,174
Year 15	13,848,174	276,963	830,890	571,886	15,527,914
Year 16	15,527,914	310,558	931,675	571,886	17,342,033
Year 17	17,342,033	346,841	1,040,522	571,886	19,301,282
Year 18	19,301,282	386,026	1,158,077	571,886	21,417,270
Year 19	21,417,270	428,345	1,285,036	571,886	23,702,538
Year 20	23,702,538	474,051	1,422,152	571,886	26,170,627
Year 21	26,170,627	523,413	1,570,238	-	28,264,277
Year 22	28,264,277	565,286	1,695,857	-	30,525,419
Year 23	30,525,419	610,508	1,831,525	-	32,967,453
Year 24	32,967,453	659,349	1,978,047	-	35,604,849
Year 25	35,604,849	712,097	2,136,291	-	38,453,237
Year 26	38,453,237	769,065	2,307,194	-	41,529,496
Year 27	41,529,496	830,590	2,491,770	-	44,851,855
Year 28	44,851,855	897,037	2,691,111	-	48,440,004
Year 29	48,440,004	968,800	2,906,400	-	52,315,204
Year 30	52,315,204	1,046,304	3,138,912	-	56,500,420

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Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	9,000,000	571,886	(571,886)	9,000,000
Year 2	9,000,000	571,886	(571,886)	9,000,000
Year 3	9,000,000	571,886	(571,886)	9,000,000
Year 4	9,000,000	571,886	(571,886)	9,000,000
Year 5	9,000,000	571,886	(571,886)	9,000,000
Year 6	9,000,000	571,886	(571,886)	9,000,000
Year 7	9,000,000	571,886	(571,886)	9,000,000
Year 8	9,000,000	571,886	(571,886)	9,000,000
Year 9	9,000,000	571,886	(571,886)	9,000,000
Year 10	9,000,000	571,886	(571,886)	9,000,000
Year 11	9,000,000	571,886	(571,886)	9,000,000
Year 12	9,000,000	571,886	(571,886)	9,000,000
Year 13	9,000,000	571,886	(571,886)	9,000,000
Year 14	9,000,000	571,886	(571,886)	9,000,000
Year 15	9,000,000	571,886	(571,886)	9,000,000
Year 16	9,000,000	571,886	(571,886)	9,000,000
Year 17	9,000,000	571,886	(571,886)	9,000,000
Year 18	9,000,000	571,886	(571,886)	9,000,000
Year 19	9,000,000	571,886	(571,886)	9,000,000
Year 20	9,000,000	571,886	(9,571,886)	-

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	571,429	1,714,286	(2,168,728)	(4,500,000)	(127,086)	24,061,329
Year 2	24,061,329	481,227	1,443,680	(254,961)	-	(127,086)	25,604,188
Year 3	25,604,188	512,084	1,536,251	(301,867)	-	(127,086)	27,223,570
Year 4	27,223,570	544,471	1,633,414	(343,269)	-	(127,086)	28,931,100
Year 5	28,931,100	578,622	1,735,866	(381,322)	-	(127,086)	30,737,180
Year 6	30,737,180	614,744	1,844,231	(417,581)	-	(127,086)	32,651,488
Year 7	32,651,488	653,030	1,959,089	(453,179)	-	(127,086)	34,683,342
Year 8	34,683,342	693,667	2,081,001	(488,956)	-	(127,086)	36,841,968
Year 9	36,841,968	736,839	2,210,518	(525,545)	-	(127,086)	39,136,694
Year 10	39,136,694	782,734	2,348,202	(563,437)	-	(127,086)	41,577,107
Year 11	41,577,107	831,542	2,494,626	(603,026)	-	(127,086)	44,173,163
Year 12	44,173,163	883,463	2,650,390	(644,639)	-	(127,086)	46,935,291
Year 13	46,935,291	938,706	2,816,117	(688,560)	-	(127,086)	49,874,468
Year 14	49,874,468	997,489	2,992,468	(735,048)	-	(127,086)	53,002,292
Year 15	53,002,292	1,060,046	3,180,138	(784,343)	-	(127,086)	56,331,046
Year 16	56,331,046	1,126,621	3,379,863	(836,680)	-	(127,086)	59,873,764
Year 17	59,873,764	1,197,475	3,592,426	(892,294)	-	(127,086)	63,644,285
Year 18	63,644,285	1,272,886	3,818,657	(951,422)	-	(127,086)	67,657,319
Year 19	67,657,319	1,353,146	4,059,439	(1,014,310)	-	(127,086)	71,928,509
Year 20	71,928,509	1,438,570	4,315,711	(1,081,212)	-	(2,127,086)	74,474,491
Year 21	74,474,491	1,489,490	4,468,469	(1,178,013)	-	-	79,254,437
Year 22	79,254,437	1,585,089	4,755,266	(1,249,127)	-	-	84,345,665
Year 23	84,345,665	1,686,913	5,060,740	(1,326,199)	-	-	89,767,120
Year 24	89,767,120	1,795,342	5,386,027	(1,409,205)	-	-	95,539,284
Year 25	95,539,284	1,910,786	5,732,357	(1,498,240)	-	-	101,684,187
Year 26	101,684,187	2,033,684	6,101,051	(1,593,490)	-	-	108,225,433
Year 27	108,225,433	2,164,509	6,493,526	(1,695,211)	-	-	115,188,256
Year 28	115,188,256	2,303,765	6,911,295	(1,803,720)	-	-	122,599,596
Year 29	122,599,596	2,451,992	7,355,976	(1,919,382)	-	-	130,488,181
Year 30	130,488,181	2,609,764	7,829,291	(4,613,446)	-	-	136,313,789

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8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	1,265,092	4,500,000	-	(1,265,092)	(4,500,000)	-
Year 2	-	-	-	131,764	-	-	(131,764)	-	-
Year 3	-	-	-	156,005	-	-	(156,005)	-	-
Year 4	-	-	-	177,402	-	-	(177,402)	-	-
Year 5	-	-	-	197,067	-	-	(197,067)	-	-
Year 6	-	-	-	215,806	-	-	(215,806)	-	-
Year 7	-	-	-	234,203	-	-	(234,203)	-	-
Year 8	-	-	-	252,692	-	-	(252,692)	-	-
Year 9	-	-	-	271,602	-	-	(271,602)	-	-
Year 10	-	-	-	291,184	-	-	(291,184)	-	-
Year 11	-	-	-	311,644	-	-	(311,644)	-	-
Year 12	-	-	-	333,149	-	-	(333,149)	-	-
Year 13	-	-	-	355,848	-	-	(355,848)	-	-
Year 14	-	-	-	379,873	-	-	(379,873)	-	-
Year 15	-	-	-	405,348	-	-	(405,348)	-	-
Year 16	-	-	-	432,396	-	-	(432,396)	-	-
Year 17	-	-	-	461,138	-	-	(461,138)	-	-
Year 18	-	-	-	491,695	-	-	(491,695)	-	-
Year 19	-	-	-	524,195	-	-	(524,195)	-	-
Year 20	-	-	-	558,770	-	2,000,000	(558,770)	-	2,000,000
Year 21	2,000,000	40,000	120,000	608,797	-	-	(628,995)	-	2,139,802
Year 22	2,139,802	42,796	128,388	645,549	-	-	(671,203)	-	2,285,332
Year 23	2,285,332	45,707	137,120	685,379	-	-	(715,618)	-	2,437,920
Year 24	2,437,920	48,758	146,275	728,277	-	-	(762,530)	-	2,598,701
Year 25	2,598,701	51,974	155,922	774,290	-	-	(812,208)	-	2,768,680
Year 26	2,768,680	55,374	166,121	823,515	-	-	(864,903)	-	2,948,787
Year 27	2,948,787	58,976	176,927	876,085	-	-	(920,863)	-	3,139,912
Year 28	3,139,912	62,798	188,395	932,163	-	-	(980,334)	-	3,342,933
Year 29	3,342,933	66,859	200,576	991,937	-	-	(1,043,570)	-	3,558,735
Year 30	3,558,735	71,175	213,524	2,384,229	-	-	(2,508,397)	-	3,719,266

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	650,619	-	-	(650,619)	-	-
Year 2	-	-	-	123,197	-	-	(123,197)	-	-
Year 3	-	-	-	145,862	-	-	(145,862)	-	-
Year 4	-	-	-	165,868	-	-	(165,868)	-	-
Year 5	-	-	-	184,255	-	-	(184,255)	-	-
Year 6	-	-	-	201,775	-	-	(201,775)	-	-
Year 7	-	-	-	218,976	-	-	(218,976)	-	-
Year 8	-	-	-	236,263	-	-	(236,263)	-	-
Year 9	-	-	-	253,943	-	-	(253,943)	-	-
Year 10	-	-	-	272,253	-	-	(272,253)	-	-
Year 11	-	-	-	291,382	-	-	(291,382)	-	-
Year 12	-	-	-	311,490	-	-	(311,490)	-	-
Year 13	-	-	-	332,712	-	-	(332,712)	-	-
Year 14	-	-	-	355,175	-	-	(355,175)	-	-
Year 15	-	-	-	378,994	-	-	(378,994)	-	-
Year 16	-	-	-	404,284	-	-	(404,284)	-	-
Year 17	-	-	-	431,157	-	-	(431,157)	-	-
Year 18	-	-	-	459,727	-	-	(459,727)	-	-
Year 19	-	-	-	490,115	-	-	(490,115)	-	-
Year 20	-	-	-	522,442	-	-	(522,442)	-	-
Year 21	-	-	-	569,216	-	-	(569,216)	-	-
Year 22	-	-	-	603,578	-	-	(603,578)	-	-
Year 23	-	-	-	640,819	-	-	(640,819)	-	-
Year 24	-	-	-	680,928	-	-	(680,928)	-	-
Year 25	-	-	-	723,949	-	-	(723,949)	-	-
Year 26	-	-	-	769,974	-	-	(769,974)	-	-
Year 27	-	-	-	819,126	-	-	(819,126)	-	-
Year 28	-	-	-	871,558	-	-	(871,558)	-	-
Year 29	-	-	-	927,446	-	-	(927,446)	-	-
Year 30	-	-	-	2,229,217	-	-	(2,229,217)	-	-

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	253,018	127,086	(127,086)	(253,018)	-	-
Year 2	-	-	-	-	127,086	(127,086)	-	-	-
Year 3	-	-	-	-	127,086	(127,086)	-	-	-
Year 4	-	-	-	-	127,086	(127,086)	-	-	-
Year 5	-	-	-	-	127,086	(127,086)	-	-	-
Year 6	-	-	-	-	127,086	(127,086)	-	-	-
Year 7	-	-	-	-	127,086	(127,086)	-	-	-
Year 8	-	-	-	-	127,086	(127,086)	-	-	-
Year 9	-	-	-	-	127,086	(127,086)	-	-	-
Year 10	-	-	-	-	127,086	(127,086)	-	-	-
Year 11	-	-	-	-	127,086	(127,086)	-	-	-
Year 12	-	-	-	-	127,086	(127,086)	-	-	-
Year 13	-	-	-	-	127,086	(127,086)	-	-	-
Year 14	-	-	-	-	127,086	(127,086)	-	-	-
Year 15	-	-	-	-	127,086	(127,086)	-	-	-
Year 16	-	-	-	-	127,086	(127,086)	-	-	-
Year 17	-	-	-	-	127,086	(127,086)	-	-	-
Year 18	-	-	-	-	127,086	(127,086)	-	-	-
Year 19	-	-	-	-	127,086	(127,086)	-	-	-
Year 20	-	-	-	-	2,127,086	(127,086)	-	(2,000,000)	-

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

Assumptions:	
Total Rate of Return	8.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	127,086	127,086
Year 2	127,086	2,542	7,625	127,086	264,339
Year 3	264,339	5,287	15,860	127,086	412,572
Year 4	412,572	8,251	24,754	127,086	572,664
Year 5	572,664	11,453	34,360	127,086	745,563
Year 6	745,563	14,911	44,734	127,086	932,294
Year 7	932,294	18,646	55,938	127,086	1,133,963
Year 8	1,133,963	22,679	68,038	127,086	1,351,766
Year 9	1,351,766	27,035	81,106	127,086	1,586,994
Year 10	1,586,994	31,740	95,220	127,086	1,841,039
Year 11	1,841,039	36,821	110,462	127,086	2,115,408
Year 12	2,115,408	42,308	126,925	127,086	2,411,727
Year 13	2,411,727	48,235	144,704	127,086	2,731,751
Year 14	2,731,751	54,635	163,905	127,086	3,077,377
Year 15	3,077,377	61,548	184,643	127,086	3,450,654
Year 16	3,450,654	69,013	207,039	127,086	3,853,792
Year 17	3,853,792	77,076	231,228	127,086	4,289,181
Year 18	4,289,181	85,784	257,351	127,086	4,759,402
Year 19	4,759,402	95,188	285,564	127,086	5,267,240
Year 20	5,267,240	105,345	316,034	127,086	5,815,705
Year 21	5,815,705	116,314	348,942	-	6,280,961
Year 22	6,280,961	125,619	376,858	-	6,783,438
Year 23	6,783,438	135,669	407,006	-	7,326,113
Year 24	7,326,113	146,522	439,567	-	7,912,202
Year 25	7,912,202	158,244	474,732	-	8,545,179
Year 26	8,545,179	170,904	512,711	-	9,228,793
Year 27	9,228,793	184,576	553,728	-	9,967,096
Year 28	9,967,096	199,342	598,026	-	10,764,464
Year 29	10,764,464	215,289	645,868	-	11,625,621
Year 30	11,625,621	232,512	697,537	-	12,555,671

Schedule 15
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
8% RATE OF RETURN, 30 YEARS

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Assumptions:	
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Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	6.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	2,000,000	127,086	(127,086)	2,000,000
Year 2	2,000,000	127,086	(127,086)	2,000,000
Year 3	2,000,000	127,086	(127,086)	2,000,000
Year 4	2,000,000	127,086	(127,086)	2,000,000
Year 5	2,000,000	127,086	(127,086)	2,000,000
Year 6	2,000,000	127,086	(127,086)	2,000,000
Year 7	2,000,000	127,086	(127,086)	2,000,000
Year 8	2,000,000	127,086	(127,086)	2,000,000
Year 9	2,000,000	127,086	(127,086)	2,000,000
Year 10	2,000,000	127,086	(127,086)	2,000,000
Year 11	2,000,000	127,086	(127,086)	2,000,000
Year 12	2,000,000	127,086	(127,086)	2,000,000
Year 13	2,000,000	127,086	(127,086)	2,000,000
Year 14	2,000,000	127,086	(127,086)	2,000,000
Year 15	2,000,000	127,086	(127,086)	2,000,000
Year 16	2,000,000	127,086	(127,086)	2,000,000
Year 17	2,000,000	127,086	(127,086)	2,000,000
Year 18	2,000,000	127,086	(127,086)	2,000,000
Year 19	2,000,000	127,086	(127,086)	2,000,000
Year 20	2,000,000	127,086	(2,127,086)	-

Schedule 16
ELDER FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Elder LP Discount	40.00%
Gross Proceeds	28,571,429

Future Values at the end of 30 Years of Annual Compounded Growth at 10%

	Elder Children's Future Values	Elder GST Trust Future Values	Charity	IRS - Income Taxes	IRS - Investment Opp. Costs	IRS - Estate Taxes	Totals
No Further Planning - No Discount Allowed	123,192,353	90,396,643	-	48,656,063	227,309,299	9,000,000	498,554,358
No Further Planning - Discount Allowed	139,510,717	90,396,643	-	54,254,602	208,992,396	5,400,000	498,554,358
CLAT Redemption - Discount Allowed - $3 Million to Family	71,245,398	160,754,913	84,957,439	51,480,571	128,766,037	1,350,000	498,554,358
CLAT Redemption - Discount Allowed - $10 Million to Family	121,173,406	109,208,237	18,879,464	53,639,178	191,154,073	4,500,000	498,554,358

NO FURTHER PLANNING - NO DISCOUNT ALLOWED

Elder Children	123,192,353	24.71%
Elder GST Trust	90,396,643	18.13%
Charity	-	0.00%
IRS (income and estate taxes)	57,656,063	11.56%
IRS (investment opportunity costs)	227,309,299	45.59%
Total	498,554,358	100.00%

NO FURTHER PLANNING - DISCOUNT ALLOWED

Elder Children	139,510,717	27.98%
Elder GST Trust	90,396,643	18.13%
Charity	-	0.00%
IRS (income and estate taxes)	59,654,602	11.97%
IRS (investment opportunity costs)	208,992,396	41.92%
Total	498,554,358	100.00%

CLAT REDEMPTION - DISCOUNT ALLOWED - $3 MILLION TO FAMILY

Elder Children	71,245,398	14.29%
Elder GST Trust	160,754,913	32.24%
Charity	84,957,439	17.04%
IRS (income and estate taxes)	52,830,571	10.60%
IRS (investment opportunity costs)	128,766,037	25.83%
Total	498,554,358	100.00%

CLAT REDEMPTION - DISCOUNT ALLOWED - $10 MILLION TO FAMILY

Elder Children	121,173,406	24.30%
Elder GST Trust	109,208,237	21.90%
Charity	18,879,464	3.79%
IRS (income and estate taxes)	58,139,178	11.66%
IRS (investment opportunity costs)	191,154,073	38.34%
Total	498,554,358	100.00%

Schedule 16
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
10% RATE OF RETURN, 30 YEARS

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Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	400,000	1,600,000	(221,240)	(9,000,000)	12,778,760
Year 2	12,778,760	255,575	1,022,301	(195,287)	-	13,861,349
Year 3	13,861,349	277,227	1,108,908	(225,540)	-	15,021,944
Year 4	15,021,944	300,439	1,201,756	(254,093)	-	16,270,045
Year 5	16,270,045	325,401	1,301,604	(282,028)	-	17,615,021
Year 6	17,615,021	352,300	1,409,202	(310,162)	-	19,066,361
Year 7	19,066,361	381,327	1,525,309	(339,123)	-	20,633,874
Year 8	20,633,874	412,677	1,650,710	(369,410)	-	22,327,852
Year 9	22,327,852	446,557	1,786,228	(401,438)	-	24,159,199
Year 10	24,159,199	483,184	1,932,736	(435,567)	-	26,139,551
Year 11	26,139,551	522,791	2,091,164	(472,121)	-	28,281,385
Year 12	28,281,385	565,628	2,262,511	(511,407)	-	30,598,116
Year 13	30,598,116	611,962	2,447,849	(553,725)	-	33,104,202
Year 14	33,104,202	662,084	2,648,336	(599,378)	-	35,815,245
Year 15	35,815,245	716,305	2,865,220	(648,676)	-	38,748,094
Year 16	38,748,094	774,962	3,099,848	(701,945)	-	41,920,958
Year 17	41,920,958	838,419	3,353,677	(759,529)	-	45,353,525
Year 18	45,353,525	907,070	3,628,282	(821,796)	-	49,067,081
Year 19	49,067,081	981,342	3,925,366	(889,138)	-	53,084,651
Year 20	53,084,651	1,061,693	4,246,772	(961,978)	-	57,431,138
Year 21	57,431,138	1,148,623	4,594,491	(1,040,769)	-	62,133,483
Year 22	62,133,483	1,242,670	4,970,679	(1,126,004)	-	67,220,827
Year 23	67,220,827	1,344,417	5,377,666	(1,218,212)	-	72,724,698
Year 24	72,724,698	1,454,494	5,817,976	(1,317,965)	-	78,679,202
Year 25	78,679,202	1,573,584	6,294,336	(1,425,884)	-	85,121,239
Year 26	85,121,239	1,702,425	6,809,699	(1,542,636)	-	92,090,727
Year 27	92,090,727	1,841,815	7,367,258	(1,668,946)	-	99,630,854
Year 28	99,630,854	1,992,617	7,970,468	(1,805,597)	-	107,788,342
Year 29	107,788,342	2,155,767	8,623,067	(1,953,435)	-	116,613,741
Year 30	116,613,741	2,332,275	9,329,099	(5,082,762)	-	123,192,353

Schedule 16
ELDER FAMILY
NO FURTHER PLANNING - NO DISCOUNT ALLOWED
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	171,429	685,714	(94,817)	-	9,333,755
Year 2	9,333,755	186,675	746,700	(126,362)	-	10,140,768
Year 3	10,140,768	202,815	811,261	(153,523)	-	11,001,322
Year 4	11,001,322	220,026	880,106	(177,982)	-	11,923,472
Year 5	11,923,472	238,469	953,878	(200,961)	-	12,914,858
Year 6	12,914,858	258,297	1,033,189	(223,359)	-	13,982,984
Year 7	13,982,984	279,660	1,118,639	(245,850)	-	15,135,432
Year 8	15,135,432	302,709	1,210,835	(268,951)	-	16,380,024
Year 9	16,380,024	327,600	1,310,402	(293,073)	-	17,724,954
Year 10	17,724,954	354,499	1,417,996	(318,555)	-	19,178,895
Year 11	19,178,895	383,578	1,534,312	(345,687)	-	20,751,097
Year 12	20,751,097	415,022	1,660,088	(374,734)	-	22,451,473
Year 13	22,451,473	449,029	1,796,118	(405,941)	-	24,290,679
Year 14	24,290,679	485,814	1,943,254	(439,550)	-	26,280,197
Year 15	26,280,197	525,604	2,102,416	(475,801)	-	28,432,415
Year 16	28,432,415	568,648	2,274,593	(514,944)	-	30,760,713
Year 17	30,760,713	615,214	2,460,857	(557,237)	-	33,279,547
Year 18	33,279,547	665,591	2,662,364	(602,955)	-	36,004,546
Year 19	36,004,546	720,091	2,880,364	(652,389)	-	38,952,611
Year 20	38,952,611	779,052	3,116,209	(705,851)	-	42,142,021
Year 21	42,142,021	842,840	3,371,362	(763,677)	-	45,592,546
Year 22	45,592,546	911,851	3,647,404	(826,228)	-	49,325,573
Year 23	49,325,573	986,511	3,946,046	(893,893)	-	53,364,237
Year 24	53,364,237	1,067,285	4,269,139	(967,094)	-	57,733,566
Year 25	57,733,566	1,154,671	4,618,685	(1,046,286)	-	62,460,637
Year 26	62,460,637	1,249,213	4,996,851	(1,131,958)	-	67,574,743
Year 27	67,574,743	1,351,495	5,405,979	(1,224,644)	-	73,107,574
Year 28	73,107,574	1,462,151	5,848,606	(1,324,917)	-	79,093,414
Year 29	79,093,414	1,581,868	6,327,473	(1,433,399)	-	85,569,357
Year 30	85,569,357	1,711,387	6,845,549	(3,729,649)	-	90,396,643

Schedule 16
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	20,000,000	400,000	1,600,000	(2,147,240)	(5,400,000)	14,452,760
Year 2	14,452,760	289,055	1,156,221	(213,804)	-	15,684,232
Year 3	15,684,232	313,685	1,254,739	(250,219)	-	17,002,436
Year 4	17,002,436	340,049	1,360,195	(284,076)	-	18,418,603
Year 5	18,418,603	368,372	1,473,488	(316,788)	-	19,943,675
Year 6	19,943,675	398,874	1,595,494	(349,410)	-	21,588,633
Year 7	21,588,633	431,773	1,727,091	(382,745)	-	23,364,751
Year 8	23,364,751	467,295	1,869,180	(417,424)	-	25,283,802
Year 9	25,283,802	505,676	2,022,704	(453,965)	-	27,358,217
Year 10	27,358,217	547,164	2,188,657	(492,804)	-	29,601,235
Year 11	29,601,235	592,025	2,368,099	(534,335)	-	32,027,023
Year 12	32,027,023	640,540	2,562,162	(578,920)	-	34,650,805
Year 13	34,650,805	693,016	2,772,064	(626,911)	-	37,488,975
Year 14	37,488,975	749,779	2,999,118	(678,658)	-	40,559,214
Year 15	40,559,214	811,184	3,244,737	(734,520)	-	43,880,616
Year 16	43,880,616	877,612	3,510,449	(794,869)	-	47,473,809
Year 17	47,473,809	949,476	3,797,905	(860,098)	-	51,361,092
Year 18	51,361,092	1,027,222	4,108,887	(930,625)	-	55,566,576
Year 19	55,566,576	1,111,332	4,445,326	(1,006,895)	-	60,116,338
Year 20	60,116,338	1,202,327	4,809,307	(1,089,389)	-	65,038,583
Year 21	65,038,583	1,300,772	5,203,087	(1,178,622)	-	70,363,819
Year 22	70,363,819	1,407,276	5,629,106	(1,275,150)	-	76,125,051
Year 23	76,125,051	1,522,501	6,090,004	(1,379,574)	-	82,357,982
Year 24	82,357,982	1,647,160	6,588,639	(1,492,543)	-	89,101,237
Year 25	89,101,237	1,782,025	7,128,099	(1,614,757)	-	96,396,603
Year 26	96,396,603	1,927,932	7,711,728	(1,746,975)	-	104,289,289
Year 27	104,289,289	2,085,786	8,343,143	(1,890,017)	-	112,828,200
Year 28	112,828,200	2,256,564	9,026,256	(2,044,770)	-	122,066,251
Year 29	122,066,251	2,441,325	9,765,300	(2,212,192)	-	132,060,684
Year 30	132,060,684	2,641,214	10,564,855	(5,756,036)	-	139,510,717

Schedule 16
ELDER FAMILY
NO FURTHER PLANNING - DISCOUNT ALLOWED
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Estate Tax Rate	45.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Income Taxes	Estate Taxes	End of Year
Year 1	8,571,429	171,429	685,714	(94,817)	-	9,333,755
Year 2	9,333,755	186,675	746,700	(126,362)	-	10,140,768
Year 3	10,140,768	202,815	811,261	(153,523)	-	11,001,322
Year 4	11,001,322	220,026	880,106	(177,982)	-	11,923,472
Year 5	11,923,472	238,469	953,878	(200,961)	-	12,914,858
Year 6	12,914,858	258,297	1,033,189	(223,359)	-	13,982,984
Year 7	13,982,984	279,660	1,118,639	(245,850)	-	15,135,432
Year 8	15,135,432	302,709	1,210,835	(268,951)	-	16,380,024
Year 9	16,380,024	327,600	1,310,402	(293,073)	-	17,724,954
Year 10	17,724,954	354,499	1,417,996	(318,555)	-	19,178,895
Year 11	19,178,895	383,578	1,534,312	(345,687)	-	20,751,097
Year 12	20,751,097	415,022	1,660,088	(374,734)	-	22,451,473
Year 13	22,451,473	449,029	1,796,118	(405,941)	-	24,290,679
Year 14	24,290,679	485,814	1,943,254	(439,550)	-	26,280,197
Year 15	26,280,197	525,604	2,102,416	(475,801)	-	28,432,415
Year 16	28,432,415	568,648	2,274,593	(514,944)	-	30,760,713
Year 17	30,760,713	615,214	2,460,857	(557,237)	-	33,279,547
Year 18	33,279,547	665,591	2,662,364	(602,955)	-	36,004,546
Year 19	36,004,546	720,091	2,880,364	(652,389)	-	38,952,611
Year 20	38,952,611	779,052	3,116,209	(705,851)	-	42,142,021
Year 21	42,142,021	842,840	3,371,362	(763,677)	-	45,592,546
Year 22	45,592,546	911,851	3,647,404	(826,228)	-	49,325,573
Year 23	49,325,573	986,511	3,946,046	(893,893)	-	53,364,237
Year 24	53,364,237	1,067,285	4,269,139	(967,094)	-	57,733,566
Year 25	57,733,566	1,154,671	4,618,685	(1,046,286)	-	62,460,637
Year 26	62,460,637	1,249,213	4,996,851	(1,131,958)	-	67,574,743
Year 27	67,574,743	1,351,495	5,405,979	(1,224,644)	-	73,107,574
Year 28	73,107,574	1,462,151	5,848,606	(1,324,917)	-	79,093,414
Year 29	79,093,414	1,581,868	6,327,473	(1,433,399)	-	85,569,357
Year 30	85,569,357	1,711,387	6,845,549	(3,729,649)	-	90,396,643

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	571,429	2,285,714	(2,035,984)	(1,350,000)	(571,886)	27,470,702
Year 2	27,470,702	549,414	2,197,656	(179,250)	-	(571,886)	29,466,636
Year 3	29,466,636	589,333	2,357,331	(247,795)	-	(571,886)	31,593,619
Year 4	31,593,619	631,872	2,527,489	(312,378)	-	(571,886)	33,868,717
Year 5	33,868,717	677,374	2,709,497	(372,018)	-	(571,886)	36,311,685
Year 6	36,311,685	726,234	2,904,935	(429,307)	-	(571,886)	38,941,660
Year 7	38,941,660	778,833	3,115,333	(486,173)	-	(571,886)	41,777,767
Year 8	41,777,767	835,555	3,342,221	(544,079)	-	(571,886)	44,839,579
Year 9	44,839,579	896,792	3,587,166	(604,169)	-	(571,886)	48,147,482
Year 10	48,147,482	962,950	3,851,799	(667,371)	-	(571,886)	51,722,973
Year 11	51,722,973	1,034,459	4,137,838	(734,469)	-	(571,886)	55,588,916
Year 12	55,588,916	1,111,778	4,447,113	(806,158)	-	(571,886)	59,769,763
Year 13	59,769,763	1,195,395	4,781,581	(883,077)	-	(571,886)	64,291,777
Year 14	64,291,777	1,285,836	5,143,342	(965,842)	-	(571,886)	69,183,227
Year 15	69,183,227	1,383,665	5,534,658	(1,055,064)	-	(571,886)	74,474,599
Year 16	74,474,599	1,489,492	5,957,968	(1,151,366)	-	(571,886)	80,198,807
Year 17	80,198,807	1,603,976	6,415,905	(1,255,392)	-	(571,886)	86,391,410
Year 18	86,391,410	1,727,828	6,911,313	(1,367,824)	-	(571,886)	93,090,841
Year 19	93,090,841	1,861,817	7,447,267	(1,489,381)	-	(571,886)	100,338,659
Year 20	100,338,659	2,006,773	8,027,093	(1,620,834)	-	(9,571,886)	99,179,805
Year 21	99,179,805	1,983,596	7,934,384	(1,869,617)	-	-	107,228,168
Year 22	107,228,168	2,144,563	8,578,253	(1,994,329)	-	-	115,956,656
Year 23	115,956,656	2,319,133	9,276,532	(2,137,562)	-	-	125,414,759
Year 24	125,414,759	2,508,295	10,033,181	(2,298,399)	-	-	135,657,837
Year 25	135,657,837	2,713,157	10,852,627	(2,476,558)	-	-	146,747,063
Year 26	146,747,063	2,934,941	11,739,765	(2,672,241)	-	-	158,749,528
Year 27	158,749,528	3,174,991	12,699,962	(2,886,024)	-	-	171,738,457
Year 28	171,738,457	3,434,769	13,739,077	(3,118,779)	-	-	185,793,524
Year 29	185,793,524	3,715,870	14,863,482	(3,371,629)	-	-	201,001,247
Year 30	201,001,247	4,020,025	16,080,100	(8,771,543)	-	-	212,329,829

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ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
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Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	356,297	1,350,000	-	(356,297)	(1,350,000)	-
Year 2	-	-	-	43,540	-	-	(43,540)	-	-
Year 3	-	-	-	60,189	-	-	(60,189)	-	-
Year 4	-	-	-	75,877	-	-	(75,877)	-	-
Year 5	-	-	-	90,363	-	-	(90,363)	-	-
Year 6	-	-	-	104,279	-	-	(104,279)	-	-
Year 7	-	-	-	118,091	-	-	(118,091)	-	-
Year 8	-	-	-	132,157	-	-	(132,157)	-	-
Year 9	-	-	-	146,753	-	-	(146,753)	-	-
Year 10	-	-	-	162,104	-	-	(162,104)	-	-
Year 11	-	-	-	178,403	-	-	(178,403)	-	-
Year 12	-	-	-	195,816	-	-	(195,816)	-	-
Year 13	-	-	-	214,499	-	-	(214,499)	-	-
Year 14	-	-	-	234,603	-	-	(234,603)	-	-
Year 15	-	-	-	256,275	-	-	(256,275)	-	-
Year 16	-	-	-	279,667	-	-	(279,667)	-	-
Year 17	-	-	-	304,935	-	-	(304,935)	-	-
Year 18	-	-	-	332,244	-	-	(332,244)	-	-
Year 19	-	-	-	361,771	-	-	(361,771)	-	-
Year 20	-	-	-	393,700	-	9,000,000	(393,700)	-	9,000,000
Year 21	9,000,000	180,000	720,000	454,130	-	-	(553,688)	-	9,800,442
Year 22	9,800,442	196,009	784,035	484,423	-	-	(617,103)	-	10,647,806
Year 23	10,647,806	212,956	851,825	519,214	-	-	(680,413)	-	11,551,388
Year 24	11,551,388	231,028	924,111	558,281	-	-	(745,162)	-	12,519,645
Year 25	12,519,645	250,393	1,001,572	601,556	-	-	(812,565)	-	13,560,600
Year 26	13,560,600	271,212	1,084,848	649,087	-	-	(883,615)	-	14,682,133
Year 27	14,682,133	293,643	1,174,571	701,015	-	-	(959,158)	-	15,892,203
Year 28	15,892,203	317,844	1,271,376	757,551	-	-	(1,039,950)	-	17,199,025
Year 29	17,199,025	343,981	1,375,922	818,969	-	-	(1,126,695)	-	18,611,201
Year 30	18,611,201	372,224	1,488,896	2,130,608	-	-	(2,932,446)	-	19,670,482

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	610,795	-	-	(610,795)	-	-
Year 2	-	-	-	135,710	-	-	(135,710)	-	-
Year 3	-	-	-	187,606	-	-	(187,606)	-	-
Year 4	-	-	-	236,501	-	-	(236,501)	-	-
Year 5	-	-	-	281,654	-	-	(281,654)	-	-
Year 6	-	-	-	325,029	-	-	(325,029)	-	-
Year 7	-	-	-	368,082	-	-	(368,082)	-	-
Year 8	-	-	-	411,922	-	-	(411,922)	-	-
Year 9	-	-	-	457,416	-	-	(457,416)	-	-
Year 10	-	-	-	505,266	-	-	(505,266)	-	-
Year 11	-	-	-	556,067	-	-	(556,067)	-	-
Year 12	-	-	-	610,342	-	-	(610,342)	-	-
Year 13	-	-	-	668,577	-	-	(668,577)	-	-
Year 14	-	-	-	731,239	-	-	(731,239)	-	-
Year 15	-	-	-	798,789	-	-	(798,789)	-	-
Year 16	-	-	-	871,699	-	-	(871,699)	-	-
Year 17	-	-	-	950,458	-	-	(950,458)	-	-
Year 18	-	-	-	1,035,579	-	-	(1,035,579)	-	-
Year 19	-	-	-	1,127,610	-	-	(1,127,610)	-	-
Year 20	-	-	-	1,227,133	-	-	(1,227,133)	-	-
Year 21	-	-	-	1,415,487	-	-	(1,415,487)	-	-
Year 22	-	-	-	1,509,907	-	-	(1,509,907)	-	-
Year 23	-	-	-	1,618,349	-	-	(1,618,349)	-	-
Year 24	-	-	-	1,740,118	-	-	(1,740,118)	-	-
Year 25	-	-	-	1,875,002	-	-	(1,875,002)	-	-
Year 26	-	-	-	2,023,154	-	-	(2,023,154)	-	-
Year 27	-	-	-	2,185,009	-	-	(2,185,009)	-	-
Year 28	-	-	-	2,361,227	-	-	(2,361,227)	-	-
Year 29	-	-	-	2,552,660	-	-	(2,552,660)	-	-
Year 30	-	-	-	6,640,935	-	-	(6,640,935)	-	-

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $3 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	1,068,891	571,886	(571,886)	(1,068,891)	-	-
Year 2	-	-	-	-	571,886	(571,886)	-	-	-
Year 3	-	-	-	-	571,886	(571,886)	-	-	-
Year 4	-	-	-	-	571,886	(571,886)	-	-	-
Year 5	-	-	-	-	571,886	(571,886)	-	-	-
Year 6	-	-	-	-	571,886	(571,886)	-	-	-
Year 7	-	-	-	-	571,886	(571,886)	-	-	-
Year 8	-	-	-	-	571,886	(571,886)	-	-	-
Year 9	-	-	-	-	571,886	(571,886)	-	-	-
Year 10	-	-	-	-	571,886	(571,886)	-	-	-
Year 11	-	-	-	-	571,886	(571,886)	-	-	-
Year 12	-	-	-	-	571,886	(571,886)	-	-	-
Year 13	-	-	-	-	571,886	(571,886)	-	-	-
Year 14	-	-	-	-	571,886	(571,886)	-	-	-
Year 15	-	-	-	-	571,886	(571,886)	-	-	-
Year 16	-	-	-	-	571,886	(571,886)	-	-	-
Year 17	-	-	-	-	571,886	(571,886)	-	-	-
Year 18	-	-	-	-	571,886	(571,886)	-	-	-
Year 19	-	-	-	-	571,886	(571,886)	-	-	-
Year 20	-	-	-	-	9,571,886	(571,886)	-	(9,000,000)	-

Schedule 16
ELDER FAMILY
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10% RATE OF RETURN, 30 YEARS

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Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	571,886	571,886
Year 2	571,886	11,438	45,751	571,886	1,200,961
Year 3	1,200,961	24,019	96,077	571,886	1,892,943
Year 4	1,892,943	37,859	151,435	571,886	2,654,123
Year 5	2,654,123	53,082	212,330	571,886	3,491,421
Year 6	3,491,421	69,828	279,314	571,886	4,412,449
Year 7	4,412,449	88,249	352,996	571,886	5,425,580
Year 8	5,425,580	108,512	434,046	571,886	6,540,024
Year 9	6,540,024	130,800	523,202	571,886	7,765,913
Year 10	7,765,913	155,318	621,273	571,886	9,114,390
Year 11	9,114,390	182,288	729,151	571,886	10,597,715
Year 12	10,597,715	211,954	847,817	571,886	12,229,373
Year 13	12,229,373	244,587	978,350	571,886	14,024,196
Year 14	14,024,196	280,484	1,121,936	571,886	15,998,501
Year 15	15,998,501	319,970	1,279,880	571,886	18,170,237
Year 16	18,170,237	363,405	1,453,619	571,886	20,559,147
Year 17	20,559,147	411,183	1,644,732	571,886	23,186,948
Year 18	23,186,948	463,739	1,854,956	571,886	26,077,529
Year 19	26,077,529	521,551	2,086,202	571,886	29,257,168
Year 20	29,257,168	585,143	2,340,573	571,886	32,754,770
Year 21	32,754,770	655,095	2,620,382	-	36,030,247
Year 22	36,030,247	720,605	2,882,420	-	39,633,272
Year 23	39,633,272	792,665	3,170,662	-	43,596,599
Year 24	43,596,599	871,932	3,487,728	-	47,956,259
Year 25	47,956,259	959,125	3,836,501	-	52,751,885
Year 26	52,751,885	1,055,038	4,220,151	-	58,027,074
Year 27	58,027,074	1,160,541	4,642,166	-	63,829,781
Year 28	63,829,781	1,276,596	5,106,382	-	70,212,759
Year 29	70,212,759	1,404,255	5,617,021	-	77,234,035
Year 30	77,234,035	1,544,681	6,178,723	-	84,957,439

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Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	571,886
Elder Children's Ownership of Elder LP in Year 1	17.50%
CLAT Ownership of Elder LP in Year 1	52.50%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	9,000,000	571,886	(571,886)	9,000,000
Year 2	9,000,000	571,886	(571,886)	9,000,000
Year 3	9,000,000	571,886	(571,886)	9,000,000
Year 4	9,000,000	571,886	(571,886)	9,000,000
Year 5	9,000,000	571,886	(571,886)	9,000,000
Year 6	9,000,000	571,886	(571,886)	9,000,000
Year 7	9,000,000	571,886	(571,886)	9,000,000
Year 8	9,000,000	571,886	(571,886)	9,000,000
Year 9	9,000,000	571,886	(571,886)	9,000,000
Year 10	9,000,000	571,886	(571,886)	9,000,000
Year 11	9,000,000	571,886	(571,886)	9,000,000
Year 12	9,000,000	571,886	(571,886)	9,000,000
Year 13	9,000,000	571,886	(571,886)	9,000,000
Year 14	9,000,000	571,886	(571,886)	9,000,000
Year 15	9,000,000	571,886	(571,886)	9,000,000
Year 16	9,000,000	571,886	(571,886)	9,000,000
Year 17	9,000,000	571,886	(571,886)	9,000,000
Year 18	9,000,000	571,886	(571,886)	9,000,000
Year 19	9,000,000	571,886	(571,886)	9,000,000
Year 20	9,000,000	571,886	(9,571,886)	-

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Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder LP

	Beg. of Year	Income	Growth	Distribution - Income Taxes	Distribution - Estate Taxes	Note Payment to CLAT	End of Year
Year 1	28,571,429	571,429	2,285,714	(2,196,243)	(4,500,000)	(127,086)	24,605,243
Year 2	24,605,243	492,105	1,968,419	(303,409)	-	(127,086)	26,635,273
Year 3	26,635,273	532,705	2,130,822	(369,098)	-	(127,086)	28,802,616
Year 4	28,802,616	576,052	2,304,209	(428,811)	-	(127,086)	31,126,980
Year 5	31,126,980	622,540	2,490,158	(485,383)	-	(127,086)	33,627,209
Year 6	33,627,209	672,544	2,690,177	(540,910)	-	(127,086)	36,321,934
Year 7	36,321,934	726,439	2,905,755	(596,969)	-	(127,086)	39,230,072
Year 8	39,230,072	784,601	3,138,406	(654,781)	-	(127,086)	42,371,213
Year 9	42,371,213	847,424	3,389,697	(715,318)	-	(127,086)	45,765,930
Year 10	45,765,930	915,319	3,661,274	(779,394)	-	(127,086)	49,436,043
Year 11	49,436,043	988,721	3,954,883	(847,712)	-	(127,086)	53,404,849
Year 12	53,404,849	1,068,097	4,272,388	(920,915)	-	(127,086)	57,697,334
Year 13	57,697,334	1,153,947	4,615,787	(999,610)	-	(127,086)	62,340,371
Year 14	62,340,371	1,246,807	4,987,230	(1,084,393)	-	(127,086)	67,362,929
Year 15	67,362,929	1,347,259	5,389,034	(1,175,868)	-	(127,086)	72,796,268
Year 16	72,796,268	1,455,925	5,823,701	(1,274,655)	-	(127,086)	78,674,155
Year 17	78,674,155	1,573,483	6,293,932	(1,381,405)	-	(127,086)	85,033,079
Year 18	85,033,079	1,700,662	6,802,646	(1,496,806)	-	(127,086)	91,912,495
Year 19	91,912,495	1,838,250	7,353,000	(1,621,594)	-	(127,086)	99,355,064
Year 20	99,355,064	1,987,101	7,948,405	(1,756,555)	-	(2,127,086)	105,406,930
Year 21	105,406,930	2,108,139	8,432,554	(1,926,225)	-	-	114,021,398
Year 22	114,021,398	2,280,428	9,121,712	(2,077,673)	-	-	123,345,864
Year 23	123,345,864	2,466,917	9,867,669	(2,243,357)	-	-	133,437,093
Year 24	133,437,093	2,668,742	10,674,967	(2,423,905)	-	-	144,356,897
Year 25	144,356,897	2,887,138	11,548,552	(2,620,152)	-	-	156,172,435
Year 26	156,172,435	3,123,449	12,493,795	(2,833,117)	-	-	168,956,562
Year 27	168,956,562	3,379,131	13,516,525	(3,063,977)	-	-	182,788,241
Year 28	182,788,241	3,655,765	14,623,059	(3,314,064)	-	-	197,753,001
Year 29	197,753,001	3,955,060	15,820,240	(3,584,856)	-	-	213,943,445
Year 30	213,943,445	4,278,869	17,115,476	(9,327,365)	-	-	226,010,425

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CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder Children

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	1,281,142	4,500,000	-	(1,281,142)	(4,500,000)	-
Year 2	-	-	-	156,802	-	-	(156,802)	-	-
Year 3	-	-	-	190,750	-	-	(190,750)	-	-
Year 4	-	-	-	221,609	-	-	(221,609)	-	-
Year 5	-	-	-	250,846	-	-	(250,846)	-	-
Year 6	-	-	-	279,542	-	-	(279,542)	-	-
Year 7	-	-	-	308,514	-	-	(308,514)	-	-
Year 8	-	-	-	338,391	-	-	(338,391)	-	-
Year 9	-	-	-	369,676	-	-	(369,676)	-	-
Year 10	-	-	-	402,791	-	-	(402,791)	-	-
Year 11	-	-	-	438,098	-	-	(438,098)	-	-
Year 12	-	-	-	475,929	-	-	(475,929)	-	-
Year 13	-	-	-	516,598	-	-	(516,598)	-	-
Year 14	-	-	-	560,414	-	-	(560,414)	-	-
Year 15	-	-	-	607,688	-	-	(607,688)	-	-
Year 16	-	-	-	658,742	-	-	(658,742)	-	-
Year 17	-	-	-	713,910	-	-	(713,910)	-	-
Year 18	-	-	-	773,550	-	-	(773,550)	-	-
Year 19	-	-	-	838,040	-	-	(838,040)	-	-
Year 20	-	-	-	907,788	-	2,000,000	(907,788)	-	2,000,000
Year 21	2,000,000	40,000	160,000	995,473	-	-	(1,017,597)	-	2,177,876
Year 22	2,177,876	43,558	174,230	1,073,742	-	-	(1,103,226)	-	2,366,179
Year 23	2,366,179	47,324	189,294	1,159,367	-	-	(1,195,189)	-	2,566,975
Year 24	2,566,975	51,340	205,358	1,252,674	-	-	(1,294,203)	-	2,782,144
Year 25	2,782,144	55,643	222,571	1,354,095	-	-	(1,400,986)	-	3,013,467
Year 26	3,013,467	60,269	241,077	1,464,155	-	-	(1,516,272)	-	3,262,696
Year 27	3,262,696	65,254	261,016	1,583,463	-	-	(1,640,828)	-	3,531,601
Year 28	3,531,601	70,632	282,528	1,712,708	-	-	(1,775,463)	-	3,822,006
Year 29	3,822,006	76,440	305,760	1,852,654	-	-	(1,921,037)	-	4,135,823
Year 30	4,135,823	82,716	330,866	4,820,382	-	-	(4,998,569)	-	4,371,219

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Elder GST Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Distrib. from Elder LP - Estate Taxes	Distrib. From CLAT	Income Taxes	Estate Taxes	End of Year
Year 1	-	-	-	658,873	-	-	(658,873)	-	-
Year 2	-	-	-	146,607	-	-	(146,607)	-	-
Year 3	-	-	-	178,348	-	-	(178,348)	-	-
Year 4	-	-	-	207,201	-	-	(207,201)	-	-
Year 5	-	-	-	234,537	-	-	(234,537)	-	-
Year 6	-	-	-	261,368	-	-	(261,368)	-	-
Year 7	-	-	-	288,456	-	-	(288,456)	-	-
Year 8	-	-	-	316,390	-	-	(316,390)	-	-
Year 9	-	-	-	345,642	-	-	(345,642)	-	-
Year 10	-	-	-	376,603	-	-	(376,603)	-	-
Year 11	-	-	-	409,614	-	-	(409,614)	-	-
Year 12	-	-	-	444,986	-	-	(444,986)	-	-
Year 13	-	-	-	483,011	-	-	(483,011)	-	-
Year 14	-	-	-	523,979	-	-	(523,979)	-	-
Year 15	-	-	-	568,179	-	-	(568,179)	-	-
Year 16	-	-	-	615,913	-	-	(615,913)	-	-
Year 17	-	-	-	667,495	-	-	(667,495)	-	-
Year 18	-	-	-	723,257	-	-	(723,257)	-	-
Year 19	-	-	-	783,554	-	-	(783,554)	-	-
Year 20	-	-	-	848,767	-	-	(848,767)	-	-
Year 21	-	-	-	930,752	-	-	(930,752)	-	-
Year 22	-	-	-	1,003,932	-	-	(1,003,932)	-	-
Year 23	-	-	-	1,083,990	-	-	(1,083,990)	-	-
Year 24	-	-	-	1,171,231	-	-	(1,171,231)	-	-
Year 25	-	-	-	1,266,058	-	-	(1,266,058)	-	-
Year 26	-	-	-	1,368,962	-	-	(1,368,962)	-	-
Year 27	-	-	-	1,480,514	-	-	(1,480,514)	-	-
Year 28	-	-	-	1,601,356	-	-	(1,601,356)	-	-
Year 29	-	-	-	1,732,202	-	-	(1,732,202)	-	-
Year 30	-	-	-	4,506,983	-	-	(4,506,983)	-	-

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charitable Lead Annuity Trust

	Beg. of Year	Income	Growth	Distrib. from Elder LP - Income Taxes	Note Payment Received	Annuity Payment to Charity	Income Taxes	Distrib. To Elder Family Remaindermen	End of Year
Year 1	-	-	-	256,228	127,086	(127,086)	(256,228)	-	-
Year 2	-	-	-	-	127,086	(127,086)	-	-	-
Year 3	-	-	-	-	127,086	(127,086)	-	-	-
Year 4	-	-	-	-	127,086	(127,086)	-	-	-
Year 5	-	-	-	-	127,086	(127,086)	-	-	-
Year 6	-	-	-	-	127,086	(127,086)	-	-	-
Year 7	-	-	-	-	127,086	(127,086)	-	-	-
Year 8	-	-	-	-	127,086	(127,086)	-	-	-
Year 9	-	-	-	-	127,086	(127,086)	-	-	-
Year 10	-	-	-	-	127,086	(127,086)	-	-	-
Year 11	-	-	-	-	127,086	(127,086)	-	-	-
Year 12	-	-	-	-	127,086	(127,086)	-	-	-
Year 13	-	-	-	-	127,086	(127,086)	-	-	-
Year 14	-	-	-	-	127,086	(127,086)	-	-	-
Year 15	-	-	-	-	127,086	(127,086)	-	-	-
Year 16	-	-	-	-	127,086	(127,086)	-	-	-
Year 17	-	-	-	-	127,086	(127,086)	-	-	-
Year 18	-	-	-	-	127,086	(127,086)	-	-	-
Year 19	-	-	-	-	127,086	(127,086)	-	-	-
Year 20	-	-	-	-	2,127,086	(127,086)	-	(2,000,000)	-

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Charity

	Beg. of Year	Income	Growth	Annuity Payment Received	End of Year
Year 1	-	-	-	127,086	127,086
Year 2	127,086	2,542	10,167	127,086	266,881
Year 3	266,881	5,338	21,350	127,086	420,655
Year 4	420,655	8,413	33,652	127,086	589,806
Year 5	589,806	11,796	47,184	127,086	775,873
Year 6	775,873	15,517	62,070	127,086	980,546
Year 7	980,546	19,611	78,444	127,086	1,205,687
Year 8	1,205,687	24,114	96,455	127,086	1,453,341
Year 9	1,453,341	29,067	116,267	127,086	1,725,761
Year 10	1,725,761	34,515	138,061	127,086	2,025,424
Year 11	2,025,424	40,508	162,034	127,086	2,355,052
Year 12	2,355,052	47,101	188,404	127,086	2,717,643
Year 13	2,717,643	54,353	217,411	127,086	3,116,493
Year 14	3,116,493	62,330	249,319	127,086	3,555,229
Year 15	3,555,229	71,105	284,418	127,086	4,037,838
Year 16	4,037,838	80,757	323,027	127,086	4,568,707
Year 17	4,568,707	91,374	365,497	127,086	5,152,664
Year 18	5,152,664	103,053	412,213	127,086	5,795,017
Year 19	5,795,017	115,900	463,601	127,086	6,501,604
Year 20	6,501,604	130,032	520,128	127,086	7,278,851
Year 21	7,278,851	145,577	582,308	-	8,006,736
Year 22	8,006,736	160,135	640,539	-	8,807,409
Year 23	8,807,409	176,148	704,593	-	9,688,150
Year 24	9,688,150	193,763	775,052	-	10,656,965
Year 25	10,656,965	213,139	852,557	-	11,722,662
Year 26	11,722,662	234,453	937,813	-	12,894,928
Year 27	12,894,928	257,899	1,031,594	-	14,184,421
Year 28	14,184,421	283,688	1,134,754	-	15,602,863
Year 29	15,602,863	312,057	1,248,229	-	17,163,149
Year 30	17,163,149	343,263	1,373,052	-	18,879,464

Schedule 16
ELDER FAMILY
CLAT REDEMPTION - $10 MILLION TO FAMILY
10% RATE OF RETURN, 30 YEARS

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Assumptions:	
Total Rate of Return	10.00%
Rate of Return on Assets That Are Taxable at Ordinary Rate	2.00%
Rate of Return on Assets That Are Taxable at Capital Gains Rate	8.00%
Long-Term Capital Gain Tax Rate	16.05%
Ordinary Tax Rate	36.05%
Estate Tax Rate	45.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Interest Rate on CLAT Note	6.35%
CLAT Annuity Payment	127,086
Elder Children's Ownership of Elder LP in Year 1	58.33%
CLAT Ownership of Elder LP in Year 1	11.67%
Elder GST Trust's Ownership of Elder LP in Year 1	30.00%
Elder LP Discount	40.00%

Note Between Elder LP and CLAT

	Beg. Balance	Interest	Payment	End of Year Balance
Year 1	2,000,000	127,086	(127,086)	2,000,000
Year 2	2,000,000	127,086	(127,086)	2,000,000
Year 3	2,000,000	127,086	(127,086)	2,000,000
Year 4	2,000,000	127,086	(127,086)	2,000,000
Year 5	2,000,000	127,086	(127,086)	2,000,000
Year 6	2,000,000	127,086	(127,086)	2,000,000
Year 7	2,000,000	127,086	(127,086)	2,000,000
Year 8	2,000,000	127,086	(127,086)	2,000,000
Year 9	2,000,000	127,086	(127,086)	2,000,000
Year 10	2,000,000	127,086	(127,086)	2,000,000
Year 11	2,000,000	127,086	(127,086)	2,000,000
Year 12	2,000,000	127,086	(127,086)	2,000,000
Year 13	2,000,000	127,086	(127,086)	2,000,000
Year 14	2,000,000	127,086	(127,086)	2,000,000
Year 15	2,000,000	127,086	(127,086)	2,000,000
Year 16	2,000,000	127,086	(127,086)	2,000,000
Year 17	2,000,000	127,086	(127,086)	2,000,000
Year 18	2,000,000	127,086	(127,086)	2,000,000
Year 19	2,000,000	127,086	(127,086)	2,000,000
Year 20	2,000,000	127,086	(2,127,086)	-

Schedule 17
INSURANCE FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS - SURVIVING SPOUSE DIES END OF YEAR 30

NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY	Pre-Death	Post Death	Present Value (Discounted at 3%)	Percentage of Total
Ian & Inez Insurance	614,438,212	-	-	0.00%
Insurance Children	-	337,941,016	139,227,224	24.73%
Consumption - Direct Cost	95,150,831	95,150,831	39,200,883	6.96%
Consumption - Investment Opportunity Cost	266,196,369	266,196,369	109,669,379	19.48%
IRS - Income Tax	124,662,541	124,662,541	51,359,316	9.12%
IRS - Investment Opportunity Costs	266,122,930	266,122,930	109,639,123	19.47%
IRS - Estate Tax (at 45%)	-	276,497,195	113,913,183	20.23%
Total	$1,366,570,882	$1,366,570,882	563,009,109	100.00%

HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY	Pre-Death	Post Death	Present Value (Discounted at 3%)	Percentage of Total
Ian & Inez Insurance	13,100,010	-	-	0.00%
Insurance Children	-	7,205,005	2,968,367	0.53%
Insurance Children & Grandchildren	586,008,373	586,008,373	241,427,691	42.88%
Consumption - Direct Cost	95,150,831	95,150,831	39,200,883	6.96%
Consumption - Investment Opportunity Cost	266,196,369	266,196,369	109,669,379	19.48%
IRS - Income Tax	133,704,220	133,704,220	55,084,368	9.78%
IRS - Investment Opportunity Costs	258,888,064	258,888,064	106,658,455	18.94%
IRS - Estate Tax (at 45%)	-	5,895,004	2,428,664	0.43%
Investment Opportunity Cost/(Benefit) of Buying Life Insurance	13,523,015	13,523,015	5,571,303	0.99%
Total	$1,366,570,882	$1,366,570,882	563,009,109	100.00%

Schedule 17
INSURANCE FAMILY
ASSET PAGE

Family Limited Partnership	
Asset: Miscellaneous Assets	$100,000,000
Basis: Miscellaneous Assets	$100,000,000
Miscellaneous Assets:	
Asset: Cash	$3,000,000
Basis: Cash	$3,000,000
Total Assets*	**$103,000,000**
Total Basis	**$103,000,000**

* There is not any proposed planning for Ian & Inez Insurance's other assets

Schedule 17
INSURANCE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	2,000,000

Ian & Inez Insurance

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year
Year 1	103,000,000	2,060,000	7,210,000	(1,045,450)	(2,000,000)	109,224,550
Year 2	109,224,550	2,184,491	7,645,719	(1,335,744)	(2,060,000)	115,659,015
Year 3	115,659,015	2,313,180	8,096,131	(1,573,760)	(2,121,800)	122,372,767
Year 4	122,372,767	2,447,455	8,566,094	(1,776,986)	(2,185,454)	129,423,876
Year 5	129,423,876	2,588,478	9,059,671	(1,957,916)	(2,251,018)	136,863,091
Year 6	136,863,091	2,737,262	9,580,416	(2,125,525)	(2,318,548)	144,736,696
Year 7	144,736,696	2,894,734	10,131,569	(2,286,316)	(2,388,105)	153,088,579
Year 8	153,088,579	3,061,772	10,716,201	(2,445,060)	(2,459,748)	161,961,743
Year 9	161,961,743	3,239,235	11,337,322	(2,605,320)	(2,533,540)	171,399,440
Year 10	171,399,440	3,427,989	11,997,961	(2,769,816)	(2,609,546)	181,446,028
Year 11	181,446,028	3,628,921	12,701,222	(2,940,691)	(2,687,833)	192,147,647
Year 12	192,147,647	3,842,953	13,450,335	(3,119,697)	(2,768,468)	203,552,770
Year 13	203,552,770	4,071,055	14,248,694	(3,308,325)	(2,851,522)	215,712,673
Year 14	215,712,673	4,314,253	15,099,887	(3,507,902)	(2,937,067)	228,681,844
Year 15	228,681,844	4,573,637	16,007,729	(3,719,660)	(3,025,179)	242,518,370
Year 16	242,518,370	4,850,367	16,976,286	(3,944,783)	(3,115,935)	257,284,306
Year 17	257,284,306	5,145,686	18,009,901	(4,184,444)	(3,209,413)	273,046,037
Year 18	273,046,037	5,460,921	19,113,223	(4,439,835)	(3,305,695)	289,874,650
Year 19	289,874,650	5,797,493	20,291,226	(4,712,186)	(3,404,866)	307,846,316
Year 20	307,846,316	6,156,926	21,549,242	(5,002,785)	(3,507,012)	327,042,688
Year 21	327,042,688	6,540,854	22,892,988	(5,312,986)	(3,612,222)	347,551,322
Year 22	347,551,322	6,951,026	24,328,593	(5,644,227)	(3,720,589)	369,466,125
Year 23	369,466,125	7,389,322	25,862,629	(5,998,038)	(3,832,207)	392,887,831
Year 24	392,887,831	7,857,757	27,502,148	(6,376,054)	(3,947,173)	417,924,508
Year 25	417,924,508	8,358,490	29,254,716	(6,780,021)	(4,065,588)	444,692,104
Year 26	444,692,104	8,893,842	31,128,447	(7,211,810)	(4,187,556)	473,315,028
Year 27	473,315,028	9,466,301	33,132,052	(7,673,423)	(4,313,183)	503,926,775
Year 28	503,926,775	10,078,536	35,274,874	(8,167,009)	(4,442,578)	536,670,598
Year 29	536,670,598	10,733,412	37,566,942	(8,694,872)	(4,575,855)	571,700,224
Year 30	571,700,224	11,434,004	40,019,016	(4,001,902)	(4,713,131)	614,438,212

Schedule 17
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Consumption (increasing at 3% per year	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownership	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Insurance FLP

	Beginning of Year	Income	Growth	Growth Interest Distributions	Preferred Coupon Distribution	End of Year	Growth Interest Percentage Ownership of FLP by Ian & Inez Insurance at End of Year	Growth Interest Percentage Ownership of FLP by GST Trust at End of Year
Year 1	100,000,000	2,000,000	7,000,000	(3,265,000)	(3,150,000)	102,585,000	94.96%	5.04%
Year 2	102,585,000	2,051,700	7,180,950	(3,569,900)	(3,150,000)	105,097,750	89.69%	10.31%
Year 3	105,097,750	2,101,955	7,356,842	(3,811,991)	(3,150,000)	107,594,556	84.14%	15.86%
Year 4	107,594,556	2,151,891	7,531,619	(4,011,088)	(3,150,000)	110,116,978	1.00%	99.00%
Year 5	110,116,978	2,202,340	7,708,188	(4,181,253)	(3,150,000)	112,696,253	1.00%	99.00%
Year 6	112,696,253	2,253,925	7,888,738	(4,332,494)	(3,150,000)	115,356,421	1.00%	99.00%
Year 7	115,356,421	2,307,128	8,074,949	(4,471,956)	(3,150,000)	118,116,544	1.00%	99.00%
Year 8	118,116,544	2,362,331	8,268,158	(4,604,764)	(3,150,000)	120,992,269	1.00%	99.00%
Year 9	120,992,269	2,419,845	8,469,459	(4,734,626)	(3,150,000)	123,996,947	1.00%	99.00%
Year 10	123,996,947	2,479,939	8,679,786	(4,864,248)	(3,150,000)	127,142,425	1.00%	99.00%
Year 11	127,142,425	2,542,848	8,899,970	(4,995,637)	(3,150,000)	130,439,606	1.00%	99.00%
Year 12	130,439,606	2,608,792	9,130,772	(5,130,308)	(3,150,000)	133,898,863	1.00%	99.00%
Year 13	133,898,863	2,677,977	9,372,920	(5,269,435)	(3,150,000)	137,530,325	1.00%	99.00%
Year 14	137,530,325	2,750,606	9,627,123	(5,413,958)	(3,150,000)	141,344,096	1.00%	99.00%
Year 15	141,344,096	2,826,882	9,894,087	(5,564,654)	(3,150,000)	145,350,410	1.00%	99.00%
Year 16	145,350,410	2,907,008	10,174,529	(5,722,193)	(3,150,000)	149,559,753	1.00%	99.00%
Year 17	149,559,753	2,991,195	10,469,183	(5,887,175)	(3,150,000)	153,982,956	1.00%	99.00%
Year 18	153,982,956	3,079,659	10,778,807	(6,060,157)	(3,150,000)	158,631,265	1.00%	99.00%
Year 19	158,631,265	3,172,625	11,104,189	(6,241,673)	(3,150,000)	163,516,406	1.00%	99.00%
Year 20	163,516,406	3,270,328	11,446,148	(6,432,246)	(3,150,000)	168,650,636	1.00%	99.00%
Year 21	168,650,636	3,373,013	11,805,545	(6,632,402)	(3,150,000)	174,046,791	1.00%	99.00%
Year 22	174,046,791	3,480,936	12,183,275	(6,842,673)	(3,150,000)	179,718,329	1.00%	99.00%
Year 23	179,718,329	3,594,367	12,580,283	(7,063,609)	(3,150,000)	185,679,370	1.00%	99.00%
Year 24	185,679,370	3,713,587	12,997,556	(7,295,774)	(3,150,000)	191,944,740	1.00%	99.00%
Year 25	191,944,740	3,838,895	13,436,132	(7,539,759)	(3,150,000)	198,530,008	1.00%	99.00%
Year 26	198,530,008	3,970,600	13,897,101	(7,796,177)	(3,150,000)	205,451,532	1.00%	99.00%
Year 27	205,451,532	4,109,031	14,381,607	(8,065,672)	(3,150,000)	212,726,498	1.00%	99.00%
Year 28	212,726,498	4,254,530	14,890,855	(8,348,916)	(3,150,000)	220,372,967	1.00%	99.00%
Year 29	220,372,967	4,407,459	15,426,108	(8,646,617)	(3,150,000)	228,409,917	1.00%	99.00%
Year 30	228,409,917	4,568,198	15,988,694	(14,142,829)	(3,150,000)	231,673,981	1.00%	99.00%

Schedule 17
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Consumption (increasing at 3% per year	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownership	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Ian & Inez Insurance

	Beginning of Year	Income	Growth	Growth Interest Distribution from Partnership	Note Payments - Preferred Ownership	Note Payments - Growth Interest	Payments for Purchase of Additional Growth Interest	Income Taxes	Consumption	End of Year
Year 1	-	-	-	3,265,000	556,200	-	2,193,800	(1,045,450)	(2,000,000)	2,969,550
Year 2	2,969,550	59,391	207,869	3,390,073	556,200	-	2,373,627	(1,331,684)	(2,060,000)	6,165,026
Year 3	6,165,026	123,301	431,552	3,419,159	556,200	-	2,586,632	(1,564,433)	(2,121,800)	9,595,636
Year 4	9,595,636	191,913	671,695	40,111	2,750,000	3,970,977	-	(1,761,365)	(2,185,454)	13,273,512
Year 5	13,273,512	265,470	929,146	41,813	2,750,000	4,139,441	-	(1,935,083)	(2,251,018)	17,213,281
Year 6	17,213,281	344,266	1,204,930	43,325	2,750,000	4,289,169	-	(2,094,627)	(2,318,548)	21,431,795
Year 7	21,431,795	428,636	1,500,226	44,720	2,750,000	4,427,236	-	(2,246,533)	(2,388,105)	25,947,975
Year 8	25,947,975	518,960	1,816,358	46,048	2,750,000	4,558,716	-	(2,395,576)	(2,459,748)	30,782,733
Year 9	30,782,733	615,655	2,154,791	47,346	2,750,000	4,687,279	-	(2,545,305)	(2,533,540)	35,958,960
Year 10	35,958,960	719,179	2,517,127	48,642	2,750,000	4,815,605	-	(2,698,412)	(2,609,546)	41,501,557
Year 11	41,501,557	830,031	2,905,109	49,956	2,750,000	4,945,680	-	(2,857,000)	(2,687,833)	47,437,501
Year 12	47,437,501	948,750	3,320,625	51,303	2,750,000	5,079,005	-	(3,022,771)	(2,768,468)	53,795,945
Year 13	53,795,945	1,075,919	3,765,716	52,694	2,750,000	5,216,741	-	(3,197,157)	(2,851,522)	60,608,337
Year 14	60,608,337	1,212,167	4,242,584	54,140	2,750,000	5,359,819	-	(3,381,421)	(2,937,067)	67,908,557
Year 15	67,908,557	1,358,171	4,753,599	55,647	227,085	5,509,008	-	(3,576,718)	(3,025,179)	73,210,169
Year 16	73,210,169	1,464,203	5,124,712	57,222	-	5,178,997	-	(3,784,152)	(3,115,935)	78,135,217
Year 17	78,135,217	1,562,704	5,469,465	58,872	-	-	-	(4,004,810)	(3,209,413)	78,012,035
Year 18	78,012,035	1,560,241	5,460,842	60,602	-	-	-	(4,239,788)	(3,305,695)	77,548,237
Year 19	77,548,237	1,550,965	5,428,377	62,417	-	-	-	(4,490,213)	(3,404,866)	76,694,915
Year 20	76,694,915	1,533,898	5,368,644	64,322	-	-	-	(4,757,262)	(3,507,012)	75,397,507
Year 21	75,397,507	1,507,950	5,277,825	66,324	-	-	-	(5,042,169)	(3,612,222)	73,595,215
Year 22	73,595,215	1,471,904	5,151,665	68,427	-	-	-	(5,346,245)	(3,720,589)	71,220,377
Year 23	71,220,377	1,424,408	4,985,426	70,636	-	-	-	(5,670,881)	(3,832,207)	68,197,759
Year 24	68,197,759	1,363,955	4,773,843	72,958	-	-	-	(6,017,564)	(3,947,173)	64,443,778
Year 25	64,443,778	1,288,876	4,511,064	75,398	-	-	-	(6,387,880)	(4,065,588)	59,865,647
Year 26	59,865,647	1,197,313	4,190,595	77,962	-	-	-	(6,783,529)	(4,187,556)	54,360,433
Year 27	54,360,433	1,087,209	3,805,230	80,657	-	-	-	(7,206,329)	(4,313,183)	47,814,017
Year 28	47,814,017	956,280	3,346,981	83,489	-	-	-	(7,658,232)	(4,442,578)	40,099,957
Year 29	40,099,957	801,999	2,806,997	86,466	-	-	-	(8,141,329)	(4,575,855)	31,078,236
Year 30	31,078,236	621,565	2,175,476	141,428	-	-	-	(18,520,304)	(4,713,131)	10,783,270

Schedule 17
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownership	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Insurance GST Grantor Trust

	Beginning of Year	Income	Growth	Growth Interest Distribution from Partnership	Preferred Coupon Distribution from Partnership	Annual Insurance Premium	Death Benefit Value of Insurance	Note Payments - Preferred Ownership	Note Payments - Growth Interest	Purchase of Additional Insurance FLP Growth Interest	Income Taxes	End of Year
Year 1	3,000,000	60,000	210,000	-	3,150,000	(400,000)	-	(556,200)	-	(2,193,800)	-	3,270,000
Year 2	3,270,000	65,400	228,900	179,827	3,150,000	(400,000)	-	(556,200)	-	(2,373,627)	-	3,564,300
Year 3	3,564,300	71,286	249,501	392,832	3,150,000	(400,000)	-	(556,200)	-	(2,586,632)	-	3,885,087
Year 4	3,885,087	77,702	271,956	3,970,977	3,150,000	(400,000)	-	(2,750,000)	(3,970,977)	-	-	4,234,745
Year 5	4,234,745	84,695	296,432	4,139,441	3,150,000	(400,000)	-	(2,750,000)	(4,139,441)	-	-	4,615,872
Year 6	4,615,872	92,317	323,111	4,289,169	3,150,000	(400,000)	-	(2,750,000)	(4,289,169)	-	-	5,031,300
Year 7	5,031,300	100,626	352,191	4,427,236	3,150,000	(400,000)	-	(2,750,000)	(4,427,236)	-	-	5,484,117
Year 8	5,484,117	109,682	383,888	4,558,716	3,150,000	(400,000)	-	(2,750,000)	(4,558,716)	-	-	5,977,688
Year 9	5,977,688	119,554	418,438	4,687,279	3,150,000	(400,000)	-	(2,750,000)	(4,687,279)	-	-	6,515,680
Year 10	6,515,680	130,314	456,098	4,815,605	3,150,000	(400,000)	-	(2,750,000)	(4,815,605)	-	-	7,102,091
Year 11	7,102,091	142,042	497,146	4,945,680	3,150,000	(400,000)	-	(2,750,000)	(4,945,680)	-	-	7,741,279
Year 12	7,741,279	154,826	541,890	5,079,005	3,150,000	(400,000)	-	(2,750,000)	(5,079,005)	-	-	8,437,994
Year 13	8,437,994	168,760	590,660	5,216,741	3,150,000	(400,000)	-	(2,750,000)	(5,216,741)	-	-	9,197,414
Year 14	9,197,414	183,948	643,819	5,359,819	3,150,000	(400,000)	-	(2,750,000)	(5,359,819)	-	-	10,025,181
Year 15	10,025,181	200,504	701,763	5,509,008	3,150,000	(400,000)	-	(227,085)	(5,509,008)	-	-	13,450,363
Year 16	13,450,363	269,007	941,525	5,664,971	3,150,000	(400,000)	-	-	(5,178,997)	-	-	17,896,869
Year 17	17,896,869	357,937	1,252,781	5,828,304	3,150,000	(400,000)	-	-	-	-	-	28,085,891
Year 18	28,085,891	561,718	1,966,012	5,999,556	3,150,000	(400,000)	-	-	-	-	-	39,363,177
Year 19	39,363,177	787,264	2,755,422	6,179,256	3,150,000	(400,000)	-	-	-	-	-	51,835,119
Year 20	51,835,119	1,036,702	3,628,458	6,367,924	3,150,000	(400,000)	-	-	-	-	-	65,618,204
Year 21	65,618,204	1,312,364	4,593,274	6,566,078	3,150,000	(400,000)	-	-	-	-	-	80,839,920
Year 22	80,839,920	1,616,798	5,658,794	6,774,247	3,150,000	(400,000)	-	-	-	-	-	97,639,759
Year 23	97,639,759	1,952,795	6,834,783	6,992,972	3,150,000	(400,000)	-	-	-	-	-	116,170,310
Year 24	116,170,310	2,323,406	8,131,922	7,222,816	3,150,000	(400,000)	-	-	-	-	-	136,598,454
Year 25	136,598,454	2,731,969	9,561,892	7,464,361	3,150,000	(400,000)	-	-	-	-	-	159,106,676
Year 26	159,106,676	3,182,134	11,137,467	7,718,215	3,150,000	(400,000)	-	-	-	-	-	183,894,492
Year 27	183,894,492	3,677,890	12,872,614	7,985,015	3,150,000	(400,000)	-	-	-	-	-	211,180,011
Year 28	211,180,011	4,223,600	14,782,601	8,265,427	3,150,000	(400,000)	-	-	-	-	-	241,201,639
Year 29	241,201,639	4,824,033	16,884,115	8,560,150	3,150,000	(400,000)	-	-	-	-	-	274,219,937
Year 30	274,219,937	5,484,399	19,195,396	14,001,401	3,150,000	(400,000)	41,000,000	-	-	-	-	356,651,132

Schedule 17
INSURANCE FAMILY
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Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownership	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Note Between Ian & Inez Insurance and Insurance GST Grantor Trust - Preferred Ownership

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	27,000,000	556,200	(556,200)	27,000,000
Year 2	27,000,000	556,200	(556,200)	27,000,000
Year 3	27,000,000	556,200	(556,200)	27,000,000
Year 4	27,000,000	556,200	(2,750,000)	24,806,200
Year 5	24,806,200	511,008	(2,750,000)	22,567,208
Year 6	22,567,208	464,884	(2,750,000)	20,282,092
Year 7	20,282,092	417,811	(2,750,000)	17,949,903
Year 8	17,949,903	369,768	(2,750,000)	15,569,671
Year 9	15,569,671	320,735	(2,750,000)	13,140,407
Year 10	13,140,407	270,692	(2,750,000)	10,661,099
Year 11	10,661,099	219,619	(2,750,000)	8,130,718
Year 12	8,130,718	167,493	(2,750,000)	5,548,210
Year 13	5,548,210	114,293	(2,750,000)	2,912,503
Year 14	2,912,503	59,998	(2,750,000)	222,501
Year 15	222,501	4,584	(227,085)	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-
Year 26	-	-	-	-
Year 27	-	-	-	-
Year 28	-	-	-	-
Year 29	-	-	-	-
Year 30	-	-	-	-

Schedule 17
INSURANCE FAMILY
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Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownership	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Note Between Ian & Inez Insurance and Insurance GST Grantor Trust - Growth Interest

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	-	-	-	-
Year 2	-	-	-	-
Year 3	-	-	-	-
Year 4	53,671,793	1,105,639	(3,970,977)	50,806,456
Year 5	50,806,456	1,046,613	(4,139,441)	47,713,628
Year 6	47,713,628	982,901	(4,289,169)	44,407,359
Year 7	44,407,359	914,792	(4,427,236)	40,894,915
Year 8	40,894,915	842,435	(4,558,716)	37,178,634
Year 9	37,178,634	765,880	(4,687,279)	33,257,234
Year 10	33,257,234	685,099	(4,815,605)	29,126,728
Year 11	29,126,728	600,011	(4,945,680)	24,781,058
Year 12	24,781,058	510,490	(5,079,005)	20,212,543
Year 13	20,212,543	416,378	(5,216,741)	15,412,180
Year 14	15,412,180	317,491	(5,359,819)	10,369,852
Year 15	10,369,852	213,619	(5,509,008)	5,074,464
Year 16	5,074,464	104,534	(5,178,997)	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-
Year 26	-	-	-	-
Year 27	-	-	-	-
Year 28	-	-	-	-
Year 29	-	-	-	-
Year 30	-	-	-	-

Schedule 18
INSURANCE FAMILY
HYPOTHETICAL INTEGRATED INCOME AND ESTATE TAX PLAN COMPARISONS - SURVIVING SPOUSE DIES END OF YEAR 10

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NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY	Future Value in 30 Years	Present Value (Discounted at 3%)	Percentage of Total
Insurance Children	417,679,967	172,078,616	30.56%
Consumption - Direct Cost	22,927,759	9,445,933	1.68%
Consumption - Investment Opportunity Cost	168,266,209	69,323,450	12.31%
IRS - Income Tax	94,874,217	39,086,921	6.94%
IRS - Investment Opportunity Costs	580,465,509	239,144,104	42.48%
IRS - Estate Tax (at 45%)	82,357,221	33,930,085	6.03%
Total	$1,366,570,882	563,009,109	100.00%
HYPOTHETICAL INTEGRATED INCOME & ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY			
Insurance Children	173,319,917	71,405,511	12.68%
Insurance Children & Grandchildren	572,273,337	235,769,038	41.88%
Consumption - Direct Cost	22,927,759	9,445,933	1.68%
Consumption - Investment Opportunity Cost	168,266,209	69,323,450	12.31%
IRS - Income Tax	159,136,543	65,562,149	11.64%
IRS - Investment Opportunity Costs	432,194,150	178,058,267	31.63%
IRS - Estate Tax (at 45%)	34,174,842	14,079,582	2.50%
Investment Opportunity Cost/(Benefit) of Buying Life Insurance	(195,721,874)	(80,634,821)	-14.32%
Total	$1,366,570,882	563,009,109	100.00%

Schedule 18
INSURANCE FAMILY
ASSET PAGE

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Family Limited Partnership	
Asset: Miscellaneous Assets	$100,000,000
Basis: Miscellaneous Assets	$100,000,000
Miscellaneous Assets:	
Asset: Cash	$3,000,000
Basis: Cash	$3,000,000
Total Assets*	**$103,000,000**
Total Basis	**$103,000,000**

* There is not any proposed planning for Ian & Inez Insurance's other assets

Schedule 18
INSURANCE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	2,000,000

Ian & Inez Insurance

	Beg. of Year	Income	Growth	Income Taxes	Consumption	End of Year	Estate Taxes (at 45%)	Bequest to Children
Year 1	103,000,000	2,060,000	7,210,000	(1,045,450)	(2,000,000)	109,224,550	-	-
Year 2	109,224,550	2,184,491	7,645,719	(1,335,744)	(2,060,000)	115,659,015	-	-
Year 3	115,659,015	2,313,180	8,096,131	(1,573,760)	(2,121,800)	122,372,767	-	-
Year 4	122,372,767	2,447,455	8,566,094	(1,776,986)	(2,185,454)	129,423,876	-	-
Year 5	129,423,876	2,588,478	9,059,671	(1,957,916)	(2,251,018)	136,863,091	-	-
Year 6	136,863,091	2,737,262	9,580,416	(2,125,525)	(2,318,548)	144,736,696	-	-
Year 7	144,736,696	2,894,734	10,131,569	(2,286,316)	(2,388,105)	153,088,579	-	-
Year 8	153,088,579	3,061,772	10,716,201	(2,445,060)	(2,459,748)	161,961,743	-	-
Year 9	161,961,743	3,239,235	11,337,322	(2,605,320)	(2,533,540)	171,399,440	-	-
Year 10	171,399,440	3,427,989	11,997,961	(1,199,796)	(2,609,546)	183,016,047	82,357,221	100,658,826
Year 11	-	-	-	-	-	-	-	-
Year 12	-	-	-	-	-	-	-	-
Year 13	-	-	-	-	-	-	-	-
Year 14	-	-	-	-	-	-	-	-
Year 15	-	-	-	-	-	-	-	-
Year 16	-	-	-	-	-	-	-	-
Year 17	-	-	-	-	-	-	-	-
Year 18	-	-	-	-	-	-	-	-
Year 19	-	-	-	-	-	-	-	-
Year 20	-	-	-	-	-	-	-	-
Year 21	-	-	-	-	-	-	-	-
Year 22	-	-	-	-	-	-	-	-
Year 23	-	-	-	-	-	-	-	-
Year 24	-	-	-	-	-	-	-	-
Year 25	-	-	-	-	-	-	-	-
Year 26	-	-	-	-	-	-	-	-
Year 27	-	-	-	-	-	-	-	-
Year 28	-	-	-	-	-	-	-	-
Year 29	-	-	-	-	-	-	-	-
Year 30	-	-	-	-	-	-	-	-

Schedule 18
INSURANCE FAMILY
NO FURTHER PLANNING; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (with 3% inflation adjustment each year)	2,000,000

Insurance Children

	Beg. of Year	Income	Growth	Income Taxes	Bequest Received	End of Year
Year 1	-	-	-	-	-	-
Year 2	-	-	-	-	-	-
Year 3	-	-	-	-	-	-
Year 4	-	-	-	-	-	-
Year 5	-	-	-	-	-	-
Year 6	-	-	-	-	-	-
Year 7	-	-	-	-	-	-
Year 8	-	-	-	-	-	-
Year 9	-	-	-	-	-	-
Year 10	-	-	-	-	100,658,826	100,658,826
Year 11	100,658,826	2,013,177	7,046,118	(1,021,687)	-	108,696,433
Year 12	108,696,433	2,173,929	7,608,750	(1,325,222)	-	117,153,891
Year 13	117,153,891	2,343,078	8,200,772	(1,584,155)	-	126,113,586
Year 14	126,113,586	2,522,272	8,827,951	(1,814,907)	-	135,648,902
Year 15	135,648,902	2,712,978	9,495,423	(2,029,315)	-	145,827,989
Year 16	145,827,989	2,916,560	10,207,959	(2,235,995)	-	156,716,513
Year 17	156,716,513	3,134,330	10,970,156	(2,441,312)	-	168,379,687
Year 18	168,379,687	3,367,594	11,786,578	(2,650,061)	-	180,883,798
Year 19	180,883,798	3,617,676	12,661,866	(2,865,953)	-	194,297,387
Year 20	194,297,387	3,885,948	13,600,817	(3,091,955)	-	208,692,197
Year 21	208,692,197	4,173,844	14,608,454	(3,330,537)	-	224,143,958
Year 22	224,143,958	4,482,879	15,690,077	(3,583,845)	-	240,733,068
Year 23	240,733,068	4,814,661	16,851,315	(3,853,827)	-	258,545,218
Year 24	258,545,218	5,170,904	18,098,165	(4,142,321)	-	277,671,966
Year 25	277,671,966	5,553,439	19,437,038	(4,451,123)	-	298,211,320
Year 26	298,211,320	5,964,226	20,874,792	(4,782,039)	-	320,268,300
Year 27	320,268,300	6,405,366	22,418,781	(5,136,915)	-	343,955,532
Year 28	343,955,532	6,879,111	24,076,887	(5,517,674)	-	369,393,856
Year 29	369,393,856	7,387,877	25,857,570	(5,926,338)	-	396,712,965
Year 30	396,712,965	7,934,259	27,769,908	(14,737,165)	-	417,679,967

Schedule 18
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownershi	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Insurance FLP

	Beginning of Year	Income	Growth	Growth Interest Distributions	Preferred Coupon Distribution	End of Year	Growth Interest Percentage Ownership of FLP by Ian & Inez Insurance at End of Year	Growth Interest Percentage Ownership of FLP by GST Trust at End of Year
Year 1	100,000,000	2,000,000	7,000,000	(2,515,000)	(3,150,000)	103,335,000	95.01%	4.99%
Year 2	103,335,000	2,066,700	7,233,450	(2,819,375)	(3,150,000)	106,665,775	89.94%	10.06%
Year 3	106,665,775	2,133,315	7,466,604	(3,064,848)	(3,150,000)	110,050,847	84.73%	15.27%
Year 4	110,050,847	2,201,017	7,703,559	(3,270,519)	(3,150,000)	113,534,903	1.00%	99.00%
Year 5	113,534,903	2,270,698	7,947,443	(3,449,983)	(3,150,000)	117,153,061	1.00%	99.00%
Year 6	117,153,061	2,343,061	8,200,714	(3,612,950)	(3,150,000)	120,933,886	1.00%	99.00%
Year 7	120,933,886	2,418,678	8,465,372	(3,766,395)	(3,150,000)	124,901,541	1.00%	99.00%
Year 8	124,901,541	2,498,031	8,743,108	(3,915,369)	(3,150,000)	129,077,311	1.00%	99.00%
Year 9	129,077,311	2,581,546	9,035,412	(4,063,569)	(3,150,000)	133,480,700	1.00%	99.00%
Year 10	133,480,700	2,669,614	9,343,649	(7,193,814)	(3,150,000)	135,150,149	1.00%	99.00%

Schedule 18
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownershi	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Ian & Inez Insurance

	Beginning of Year	Income	Growth	Growth Interest Distribution from Partnership	Note Payments - Preferred Ownership	Note Payments - Growth Interest	Payments for Purchase of Additional Growth Interest	Income Taxes	Consumption	End of Year	Estate Taxes (at 45%)	Cash Bequest to Children
Year 1	-	-	-	2,515,000	556,200	-	2,193,800	(1,045,450)	(2,000,000)	2,219,550	-	-
Year 2	2,219,550	44,391	155,369	2,678,807	556,200	-	2,334,368	(1,331,684)	(2,060,000)	4,597,001	-	-
Year 3	4,597,001	91,940	321,790	2,756,507	556,200	-	2,502,141	(1,564,433)	(2,121,800)	7,139,345	-	-
Year 4	7,139,345	142,787	499,754	32,705	2,750,000	3,237,814	-	(1,761,365)	(2,185,454)	9,855,587	-	-
Year 5	9,855,587	197,112	689,891	34,500	2,750,000	3,415,484	-	(1,935,083)	(2,251,018)	12,756,473	-	-
Year 6	12,756,473	255,129	892,953	36,130	2,750,000	3,576,821	-	(2,094,627)	(2,318,548)	15,854,330	-	-
Year 7	15,854,330	317,087	1,109,803	37,664	2,750,000	3,728,731	-	(2,246,533)	(2,388,105)	19,162,978	-	-
Year 8	19,162,978	383,260	1,341,408	39,154	2,750,000	3,876,215	-	(2,395,576)	(2,459,748)	22,697,691	-	-
Year 9	22,697,691	453,954	1,588,838	40,636	2,750,000	4,022,933	-	(2,545,305)	(2,533,540)	26,475,207	-	-
Year 10	26,475,207	529,504	1,853,265	71,938	13,411,099	40,340,343	-	(5,479,219)	(2,609,546)	74,592,591	34,174,842	40,417,749

Schedule 18
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

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Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownershi	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Insurance GST Grantor Trust

	Beginning of Year	Income	Growth	Growth Interest Distribution from Partnership	Preferred Coupon Distribution from Partnership	Annual Insurance Premium	Death Benefit Value of Insurance	Note Payments - Preferred Ownership	Note Payments - Growth Interest	Purchase of Additional Insurance FLP Growth Interest	Income Taxes	End of Year
Year 1	3,000,000	60,000	210,000	-	3,150,000	(400,000)	-	(556,200)	-	(2,193,800)	-	3,270,000
Year 2	3,270,000	65,400	228,900	140,568	3,150,000	(400,000)	-	(556,200)	-	(2,334,368)	-	3,564,300
Year 3	3,564,300	71,286	249,501	308,341	3,150,000	(400,000)	-	(556,200)	-	(2,502,141)	-	3,885,087
Year 4	3,885,087	77,702	271,956	3,237,814	3,150,000	(400,000)	-	(2,750,000)	(3,237,814)	-	-	4,234,745
Year 5	4,234,745	84,695	296,432	3,415,484	3,150,000	(400,000)	-	(2,750,000)	(3,415,484)	-	-	4,615,872
Year 6	4,615,872	92,317	323,111	3,576,821	3,150,000	(400,000)	-	(2,750,000)	(3,576,821)	-	-	5,031,300
Year 7	5,031,300	100,626	352,191	3,728,731	3,150,000	(400,000)	-	(2,750,000)	(3,728,731)	-	-	5,484,117
Year 8	5,484,117	109,682	383,888	3,876,215	3,150,000	(400,000)	-	(2,750,000)	(3,876,215)	-	-	5,977,688
Year 9	5,977,688	119,554	418,438	4,022,933	3,150,000	(400,000)	-	(2,750,000)	(4,022,933)	-	-	6,515,680
Year 10	6,515,680	130,314	456,098	7,121,876	3,150,000	(400,000)	41,000,000	(13,411,099)	(40,340,343)	-	-	4,222,525
Year 11	138,021,173	2,760,423	9,661,482	-	-	-	-	-	-	-	(1,440,590)	149,002,489
Year 12	149,002,489	2,980,050	10,430,174	-	-	-	-	-	-	-	(1,844,484)	160,568,228
Year 13	160,568,228	3,211,365	11,239,776	-	-	-	-	-	-	-	(2,190,794)	172,828,574
Year 14	172,828,574	3,456,571	12,098,000	-	-	-	-	-	-	-	(2,500,982)	185,882,164
Year 15	185,882,164	3,717,643	13,011,751	-	-	-	-	-	-	-	(2,790,531)	199,821,028
Year 16	199,821,028	3,996,421	13,987,472	-	-	-	-	-	-	-	(3,070,733)	214,734,187
Year 17	214,734,187	4,294,684	15,031,393	-	-	-	-	-	-	-	(3,349,942)	230,710,322
Year 18	230,710,322	4,614,206	16,149,723	-	-	-	-	-	-	-	(3,634,472)	247,839,780
Year 19	247,839,780	4,956,796	17,348,785	-	-	-	-	-	-	-	(3,929,223)	266,216,137
Year 20	266,216,137	5,324,323	18,635,130	-	-	-	-	-	-	-	(4,238,135)	285,937,454
Year 21	285,937,454	5,718,749	20,015,622	-	-	-	-	-	-	-	(4,564,501)	307,107,324
Year 22	307,107,324	6,142,146	21,497,513	-	-	-	-	-	-	-	(4,911,196)	329,835,787
Year 23	329,835,787	6,596,716	23,088,505	-	-	-	-	-	-	-	(5,280,845)	354,240,163
Year 24	354,240,163	7,084,803	24,796,811	-	-	-	-	-	-	-	(5,675,934)	380,445,844
Year 25	380,445,844	7,608,917	26,631,209	-	-	-	-	-	-	-	(6,098,902)	408,587,068
Year 26	408,587,068	8,171,741	28,601,095	-	-	-	-	-	-	-	(6,552,206)	438,807,699
Year 27	438,807,699	8,776,154	30,716,539	-	-	-	-	-	-	-	(7,038,365)	471,262,026
Year 28	471,262,026	9,425,241	32,988,342	-	-	-	-	-	-	-	(7,560,008)	506,115,601
Year 29	506,115,601	10,122,312	35,428,092	-	-	-	-	-	-	-	(8,119,895)	543,546,110
Year 30	543,546,110	10,870,922	38,048,228	-	-	-	-	-	-	-	(20,191,923)	572,273,337

Schedule 18
INSURANCE FAMILY
HYPOTHETICAL TECHNIQUE: INTEGRATED ESTATE TAX PLAN WITH A PARTNERSHIP; BEQUEATHS ESTATE TO FAMILY

Assumptions:	
Ian & Inez Insurance	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Long-Term Capital Gain Tax Rate	15.00%
Ordinary Tax Rate	35.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
Rate of Return Taxed at Ordinary Rates	2.00%
Rate of Return Taxed at Capital Gains Rates	7.00%
Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownershi	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Insurance Children

	Beginning of Year	Income	Growth	Income Taxes	Bequest Received - Cash	End of Year
Year 1	-	-	-	-	-	-
Year 2	-	-	-	-	-	-
Year 3	-	-	-	-	-	-
Year 4	-	-	-	-	-	-
Year 5	-	-	-	-	-	-
Year 6	-	-	-	-	-	-
Year 7	-	-	-	-	-	-
Year 8	-	-	-	-	-	-
Year 9	-	-	-	-	-	-
Year 10	-	-	-	-	40,417,749	40,417,749
Year 11	41,769,251	835,385	2,923,848	(423,958)	-	45,104,526
Year 12	45,104,526	902,091	3,157,317	(549,912)	-	48,614,021
Year 13	48,614,021	972,280	3,402,981	(657,359)	-	52,331,924
Year 14	52,331,924	1,046,638	3,663,235	(753,111)	-	56,288,686
Year 15	56,288,686	1,125,774	3,940,208	(842,082)	-	60,512,586
Year 16	60,512,586	1,210,252	4,235,881	(927,845)	-	65,030,873
Year 17	65,030,873	1,300,617	4,552,161	(1,013,043)	-	69,870,608
Year 18	69,870,608	1,397,412	4,890,943	(1,099,666)	-	75,059,297
Year 19	75,059,297	1,501,186	5,254,151	(1,189,252)	-	80,625,382
Year 20	80,625,382	1,612,508	5,643,777	(1,283,033)	-	86,598,633
Year 21	86,598,633	1,731,973	6,061,904	(1,382,035)	-	93,010,475
Year 22	93,010,475	1,860,209	6,510,733	(1,487,148)	-	99,894,270
Year 23	99,894,270	1,997,885	6,992,599	(1,599,179)	-	107,285,575
Year 24	107,285,575	2,145,712	7,509,990	(1,718,892)	-	115,222,385
Year 25	115,222,385	2,304,448	8,065,567	(1,847,032)	-	123,745,368
Year 26	123,745,368	2,474,907	8,662,176	(1,984,348)	-	132,898,102
Year 27	132,898,102	2,657,962	9,302,867	(2,131,607)	-	142,727,324
Year 28	142,727,324	2,854,546	9,990,913	(2,289,607)	-	153,283,177
Year 29	153,283,177	3,065,664	10,729,822	(2,459,185)	-	164,619,478
Year 30	164,619,478	3,292,390	11,523,363	(6,115,314)	-	173,319,917

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Consumption (increasing at 3% per year)	2,000,000
Intra-Family Note Interest Percentage	2.06%
7520 Rate	2.40%
Annual Insurance Premium	400,000
Death Benefit Value of Insurance	41,000,000

FLP	
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Turnover Rate (% of Capital Gains Recognized/Year)	30.00%
Ian & Inez Insurance's Initial Growth Interest Percentage Ownershi	100.00%
GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Note Between Ian & Inez Insurance and Insurance GST Grantor Trust - Preferred Ownership

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	27,000,000	556,200	(556,200)	27,000,000
Year 2	27,000,000	556,200	(556,200)	27,000,000
Year 3	27,000,000	556,200	(556,200)	27,000,000
Year 4	27,000,000	556,200	(2,750,000)	24,806,200
Year 5	24,806,200	511,008	(2,750,000)	22,567,208
Year 6	22,567,208	464,884	(2,750,000)	20,282,092
Year 7	20,282,092	417,811	(2,750,000)	17,949,903
Year 8	17,949,903	369,768	(2,750,000)	15,569,671
Year 9	15,569,671	320,735	(2,750,000)	13,140,407
Year 10	13,140,407	270,692	(13,411,099)	-
Year 11	-	-	-	-
Year 12	-	-	-	-
Year 13	-	-	-	-
Year 14	-	-	-	-
Year 15	-	-	-	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-
Year 26	-	-	-	-
Year 27	-	-	-	-
Year 28	-	-	-	-
Year 29	-	-	-	-
Year 30	-	-	-	-

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GST Grantor Trust's Preferred Ownership in Insurance FLP	30,000,000
Interest Percentage on Preferred Ownership	10.50%
Insurance FLP Valuation Discount	40.00%

Note Between Ian & Inez Insurance and Insurance GST Grantor Trust - Growth Interest

	Beginning of Year	Interest	Note Payment	End of Year
Year 1	-	-	-	-
Year 2	-	-	-	-
Year 3	-	-	-	-
Year 4	55,287,310	1,138,919	(3,237,814)	53,188,415
Year 5	53,188,415	1,095,681	(3,415,484)	50,868,613
Year 6	50,868,613	1,047,893	(3,576,821)	48,339,685
Year 7	48,339,685	995,798	(3,728,731)	45,606,751
Year 8	45,606,751	939,499	(3,876,215)	42,670,035
Year 9	42,670,035	879,003	(4,022,933)	39,526,105
Year 10	39,526,105	814,238	(40,340,343)	-
Year 11	-	-	-	-
Year 12	-	-	-	-
Year 13	-	-	-	-
Year 14	-	-	-	-
Year 15	-	-	-	-
Year 16	-	-	-	-
Year 17	-	-	-	-
Year 18	-	-	-	-
Year 19	-	-	-	-
Year 20	-	-	-	-
Year 21	-	-	-	-
Year 22	-	-	-	-
Year 23	-	-	-	-
Year 24	-	-	-	-
Year 25	-	-	-	-
Year 26	-	-	-	-
Year 27	-	-	-	-
Year 28	-	-	-	-
Year 29	-	-	-	-
Year 30	-	-	-	-