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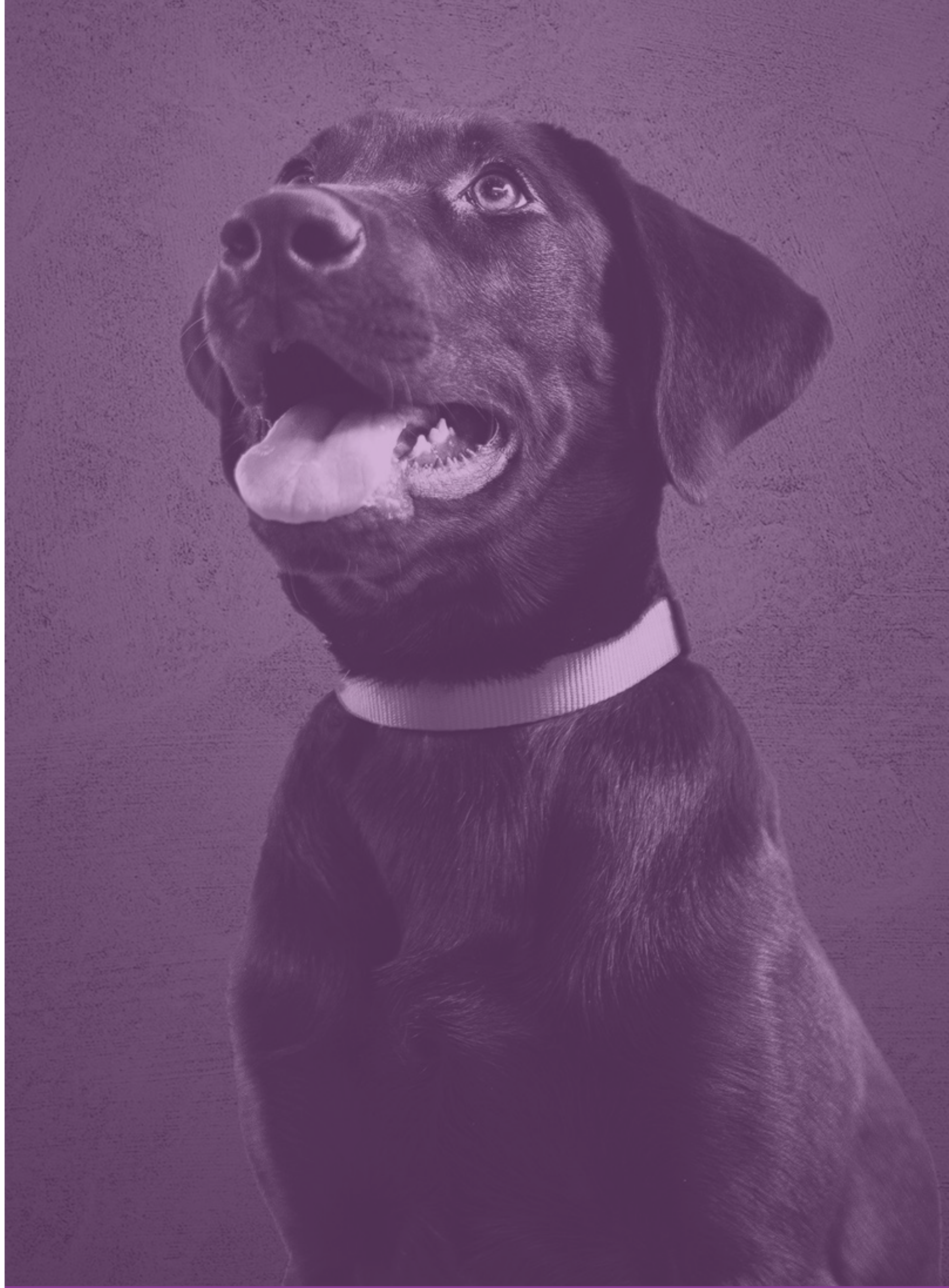
2025 – What's the Big Deal?



Shelton Swafford Chambers, CPA

2024

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2025 – What's the big deal?

- Current exemption levels:
  - $13.61 million per individual
  - $27.22 million per couple

- Scheduled to "sunset" at the end of 2025 and revert to pre-Tax Cuts and Jobs Act levels (estimated around $7 million per individual)

- Federal estate tax will remain at 40%

Tax-Efficient Strategies – Trusts in General

- Spousal Lifetime Asset Trust (SLAT)
- Irrevocable Life Insurance Trust (ILIT)
- Intentionally Defect Grantor Trust (IDGT)
- Grantor Retained Annuity Trust (GRAT)

SLAT Strategies

- What is it? An inter vivos credit shelter trust
  - One spouse creates an irrevocable trust for the benefit of the other spouse
- Gifting to a SLAT: benefits the spouse while getting assets out of the estate
  - Gifts from the donor spouse do not qualify for the unlimited marital deduction for federal gift tax purposes → uses up a portion of the donor spouse's basic exclusion amount
- CAUTION: be careful of the Reciprocal Trust Doctrine

ILIT Strategies

- Super-funding – "use it or lose it"
  - Split-dollar agreements can add additionally flexibility
  - Super-funding ILITS can help use up current exemption levels (i.e. pay premiums with annual exclusion + more)

- Purchasing life insurance policies
  - Useful strategy to consolidate trusts
  - Another trust can execute a promissory note to purchase a life insurance policy from an ILIT (CAUTION: must be cautious with 2nd to die policies and purchases from a SLAT – consult a legal/tax professional)

IDGT Strategies

- Ideal structure for membership interests in closely held businesses or other highly appreciating assets
  - Why? Freezes value @ FMV at time of transfer (post-transfer appreciation is outside of the grantor's estate → no gift or estate taxes)
- Assets transferred to IDGT are out of the estate
  - Section 671-678: Grantor is the owner for income tax purposes
  - Grantor's income tax payment is not a further gift, but does further reduce value of Grantor's estate

Installment Sales to Defective Trusts

- Grantor sells assets to Grantor Trust in exchange for a promissory note
  - No gain recognition
  - Fixed gross estate inclusion (“estate freeze”)
  - Interest is tax-free

- How to structure (example):
  - Create IDGT and sell membership interest in closely held businesses (typically includes 10% “seed” money)
  - Promissory note between Trust and Grantor
  - Trust will repay the note from cash generated by business
  - Gift tax return?

GRAT Strategies

- Could be included in the grantor's gross estate upon death – so why use it?
  - If the §7520 rate in effect at the trust's creation is significantly lower than the growth and income over the term of the trust, a smaller portion will be brought back into the grantor's estate
    - So, this works especially well in a low interest environment
  - Need to be careful about GST
  - Grantor needs to also outlive the term of the trust
    - So, sometimes use rolling 2-year GRATs

- How it works:
  - Create a traditional zeroed-out GRAT
  - Pay out annuity to Grantor over term of the trust
  - At termination, assets remaining are distributed to beneficiaries (either in trust or outright)

Charitable Strategies

- Lifetime or testamentary gifts
- Charitable Lead Trusts
  - Charitable Lead Annuity Trusts (CLATs)
  - Charitable Lead Unitrusts (CLUTs)
- Charitable Remainder Trusts
  - Charitable Remainder Annuity Trusts (CRUTs)
  - Charitable Remainder Annuity Trusts (CRATs)
- Private Foundations
- Donor Advised Funds

Charitable Lead Trusts

- How it works:
  - Charity receives annual payments
  - Non-charitable beneficiaries receive the remainder at the end of a specific term
  - Donor makes gift of present value of remainder interest + assets are removed from estate (can be zeroed out)
  - Income Tax Implications
    - No deduction on formation – annual payments to charity are deductible by the trust
    - Deduction on formation – annual payments to charity are not deductible by the trust and income is taxable to grantor

- When it works:
  - Donor does not need cash flow from gifted asset
  - Donor wants to benefit charity now (during their lifetime)
  - Donor has an unusual income event
  - Not planning for GST

Charitable Remainder Trusts

- Opposite of Charitable Lead Trusts – trust pays non charitable beneficiary first, then the charity.
- This trust is "tax exempt".
  - Though, distributions are taxable to the beneficiary.
- Often used to shield a major gain recognition event, if structured properly and done early enough.
  - Be careful when a letter of intent is signed
- This can be very flexible – donor can be trustee.
- Does not work as well when interest rates are low.
- Be careful about moving real estate into a CRUT.

Charitable Giving

Charitable Contribution Limits (current):

- Public Charities (including donor advised funds):
  - 60% of AGI for cash donations.
  - 30% of AGI for appreciated property.
- Private Foundations:
  - 30% of AGI for cash donations.
  - 20% of AGI for appreciated property (limited to cost basis in property).

Donor Advised Fund

- Donor can take an immediate deduction (up to their charitable limitations) in the year gift is made, but still retain <u>some</u> control over where funds go.
- The best time for this is when someone wants to spread their gift.
  - Donor has unusually high income in a given year, needs an immediate deduction, but still wants to give their charities the same amount each year
  - Super funding charitable gifts for donors that would otherwise take standard deduction.
- Can also be funded at a Donor's death. Often used in this case to help encourage charitable giving by descendants.

"Any questions?"

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