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2025 – What's the Big Deal?

Reconsider normal planning strategies

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2025

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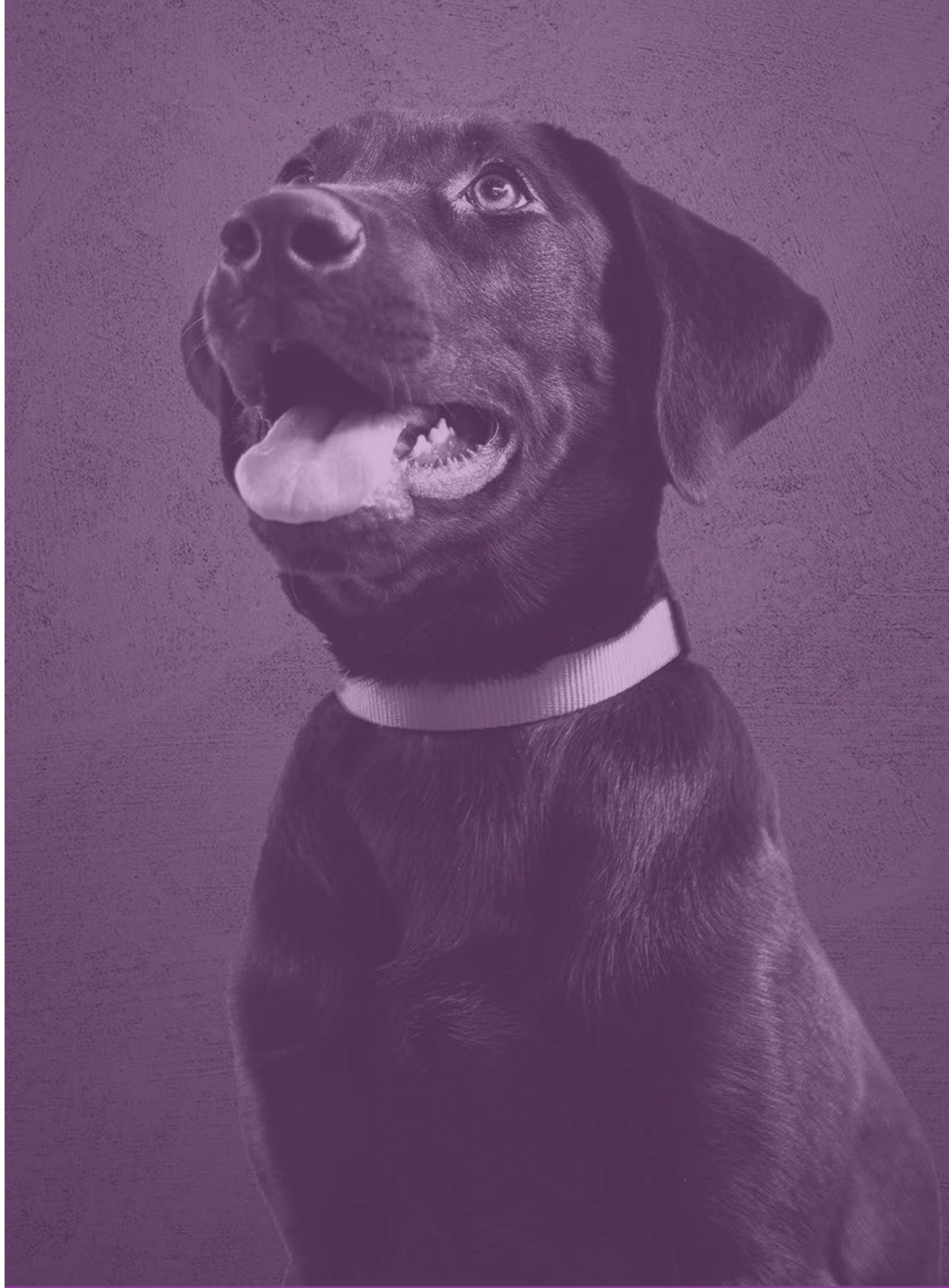


2025 – What's the big deal?

- Current exemption levels:
  - $13.99 million per individual
  - $27.98 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%

Roadmap

- Recommendations using Trusts for advanced planning
- Other ideas to consider this year
- What to consider if higher exemption amounts sunset and we still need to do planning

Tax-Efficient Strategies – Trusts in General

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

ILIT Strategies

- Typical Plan
  - Create ILIT
  - Fund with approximately the same amount as insurance premium
  - Use annual exclusion gifts as much as possible

- Consider now: Super-funding
  - Super-funding ILITS can help use up current exemption levels (i.e. pay premiums with annual exclusion + remaining lifetime exclusion amount)
  - Can still make annual exclusion gifts after 2025

- Remember: Sometimes it may make sense to purchasing life insurance policies instead of getting new ones
  - 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)

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 lifetime exclusion amount
- CAUTION: be careful of the Reciprocal Trust Doctrine
- Consider now: Consider just doing one SLAT and using one spouse's lifetime gifting ability instead of doing two SLATs
  - Most appropriate when the combined net worth is below approx. $30M.

IDGT Strategies with Closely Held Businesses

- Still great planning techniques, in general
- 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

Intentionally Defective Grantor Trust Strategies: Leveraging Gifts to Maximize Tax Planning Benefit

- Appreciation: Gifts of assets with the potential to appreciate significantly remove not only the value of the asset from the donor's estate, but future appreciation as well.

- Discounted values: Closely-held stock often has a discounted value when gifted. Discounts are for: (i) minority interests and (ii) lack of marketability.

- Real Estate: Take advantage of low real estate values to gift such assets now (but consider loss of step-up in basis for capital gains purposes).

Installment Sales to Defective Trusts – Still Relevant

- 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 equal to purchase price
  - Gift tax return?

- Consider now: Forgive note on 12/31/25???

Installment Sales to Defective Trusts

- Tax Effect:
  - As this transaction is a sale for the asset's fair market value, no gift is made on the trust's purchase of assets from the grantor. Essentially, this transaction is a loan from the grantor to the trust in which the trust invests the borrowed funds in order to repay the grantor.

Sales to Defective Trusts

- <u>Note Forgiveness</u>:
  - Grantor may forgive the note and complete the gift on or before December 31, 2025
  - Gift is not the transfer of the asset to the trust but instead, the note forgiveness
  - “Tax Reform Insurance”
  - Choice by 12/31/25:
    - Forgive only a portion?
    - Default on the note
    - Stay the course and repay the note?

Sale to IDGTs

Husband

Gross Estate = $25 million

Gift of $1,361,000 of cash or closely-held business stock

Sale of $12,249,000 of cash or closely-held business stock

Promissory Note for $12,249,000

Spousal Lifetime Access Trust (SLAT).

Funding: $13,610,000 (less debt) (net equity = $1,361,000)

Trustee : Wife and independent individual are co-trustee - or a corporate trustee or independent trustee serve as sole trustee.

Beneficiaries: Wife (primary), children and grandchildren (secondary).

Distributions: Income and principal for wife/children and grandchildren for health, education, maintenance, and support.

Wife could have a limited power of appointment allowing her to name husband as beneficiary upon her death.

Tax impact on Husband:

Reduces husband's estate tax exemption from $13.61 million to $12,249,000. No tax is owed on gift. Husband files federal gift tax return (Form 709).

Husband's receipt of note payments are income tax-free.

All appreciation on gifted/sold assets are outside of husband's taxable estate for federal estate tax purposes.

Dynasty Trusts for Children/Grands

Funding: Remainder of SLAT following wife's death.

Trustee: Children could serve as trustee.

Distributions: Income and principal for HEMS.

Termination Date: Trust could last for 360 years.

Other Considerations

- To Split or Not to Split?
  - Consider whether or to split gifts between spouse's or tap out one spouse's exemption amount.
  - Remember the impact that gift splitting has on annual exclusion gifts and way to mitigate this, if necessary
  - Note that gift splitting on 2024 returns looks a lot different!!!
- Filing 706 for Portability
  - Currently, we are leaning towards filing these if the decedent's and surviving spouse's combined estate is approaching $7M
  - Case by case analysis though!
  - If you do not file, consider noting in your file that you've discussed it with the client and they declined
- GST Planning
  - Look to see if there's an unequal balance GST exemption and remaining lifetime exclusion
  - Consider lifetime QTIP Trust and allocate remaining GST to that trust

When All Exemption is Lost: Consider GRATs

- 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)

When All Exemption is Lost: Charitable Edition

- Lifetime or testamentary gifts – outright to charity
- 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 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).

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

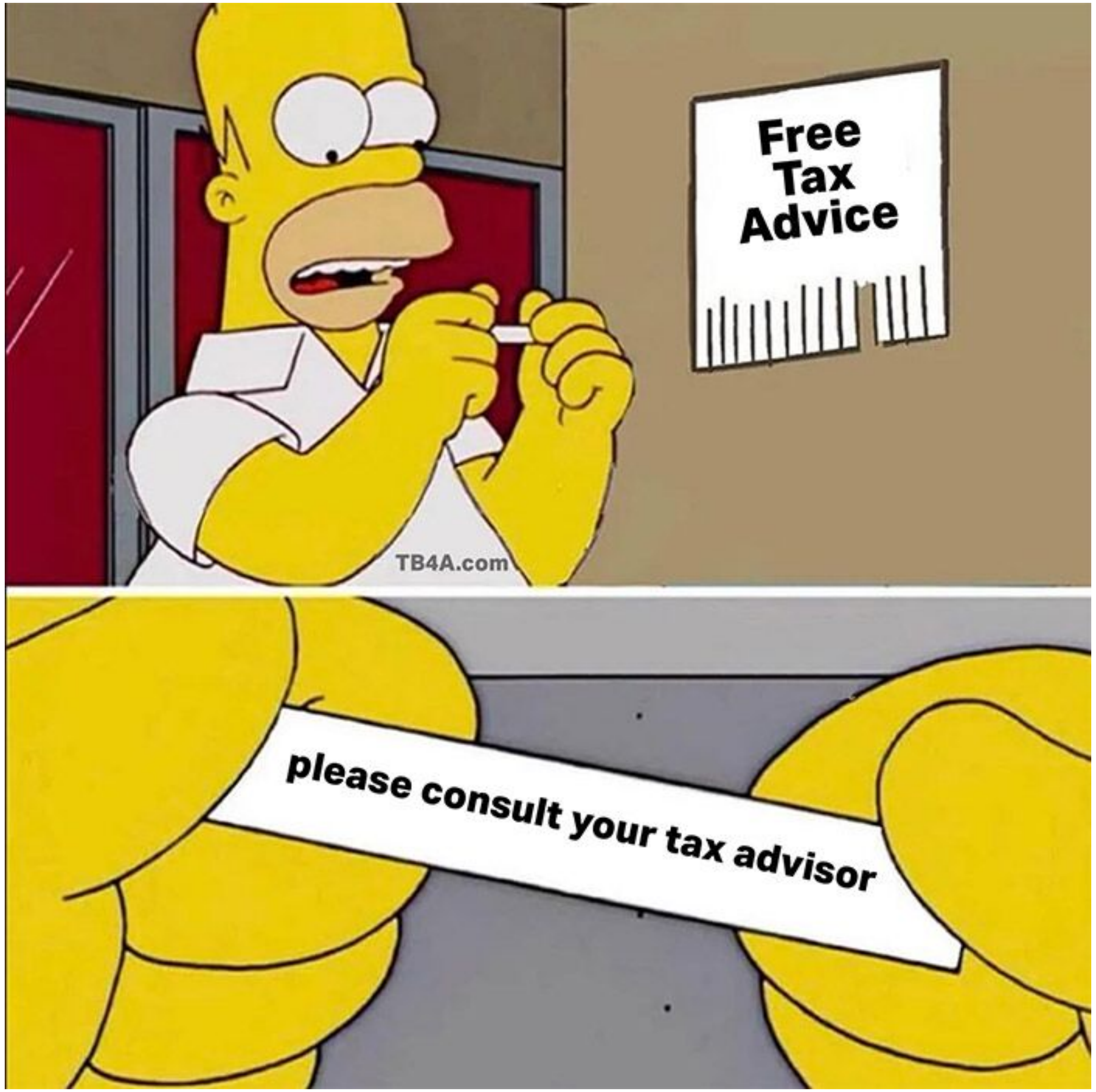
Charitable Remainder Trusts

- 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.

Donor Advised Fund

- Donor can take an immediate deduction (up to their charitable limitations) in the year gift is made, but still retain some 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.

Questions?



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I love helping my clients and their families reach their personal and professional goals, while simultaneously working to solidify their legacies that will ast for generations to come.

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