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We will begin the webinar shortly...

Estate Planning Checkup:

A Window of Opportunity for Wealth Planning in 2012

Certified Public Accountants & Business Consultants



Presented by
Larry Powell & Mark Gaudet

Details for today's event

- Format of presentation
 - Attendees will be muted during presentation
 - How to ask a question via GoToWebinar?
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- CPE (Continuing Professional Education)
 - Three codes will be provided during the webinar for those interested in CPE
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Speakers and Moderator



Mark Gaudet serves as an advisor to corporate executives, high net worth families, and closely-held businesses and their owners. He assists clients with their income, estate and gift taxation planning, and compliance matters. Mark is a senior member of the Firm's Executive Assignment Group, which specializes in providing tax and financial planning services to executives of publicly-traded and privately-held companies.



Larry Powell has over 20 years experience working with complex, interrelated tax issues of closely held businesses and their owners. He has been designated by the firm as an Estate, Gift, and Trust tax specialist and frequently provides resources to attorneys in Estate and Gift Tax matters. Larry also consults with clients regarding wealth transfer from a financial, value and motivation perspective and works with wealth planning services including retirement planning and income tax planning.



Keri Grubbs handles e-Communications for Clark Schaefer Hackett. If you have any questions about this event email Keri at kgrubbs@csesco.com.

CPE Code No. 1 = CS131

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Today's Agenda

- Benefits of Estate Planning
- Current law – the clock is ticking
- Current Environment for Estate and Gift Tax Planning
- Common Estate and Gift Planning Techniques

Benefits of Estate Planning

- Benefits of Estate Planning – We will discuss the tax and non-tax benefits of estate planning and why it is important for individuals to develop an estate plan.

Benefits of Estate Planning

Tax Benefits:

- Gift/Estate Tax Savings
 - Removing appreciation and income from the estate
 - Removal of gift tax after 3 years
 - Tax inclusive nature of estate tax versus tax exclusive nature of gift tax.

Benefits of Estate Planning

- Assuming gift tax exemption already utilized, the option is to either pay gift tax or estate tax.
 - \$2,700,000 in assets before gift of \$2,000,000

	Gift	No Gift
Assets	2,700,000	2,700,000
Gift	(2,000,000)	0
Gift tax rate	<u>35%</u>	
Gift tax paid	(700,000)	
Remainder in estate	0	2,700,000
Estate tax rate		<u>35%</u>
Estate tax paid		<u>(945,000)</u>
Remainder to beneficiaries	2,000,000	1,755,000

Benefits of Estate Planning

- Gift/Estate Tax Savings (cont.)
 - Valuation discounts. Limited window due to Greenbook and proposals to restrict discounts in a family context.
 - Utilization of estate tax exemption(if portability is repealed)
- Income Tax Savings
 - Utilization of basis step up – death bed transfers
 - Income tax shifting to lower tax brackets of beneficiaries
 - Roth IRA conversion of IRD assets to pay income tax for beneficiaries

Benefits of Estate Planning

- Non-Tax Benefits:
 - Control of intended beneficiaries and timing.
 - Spendthrift issues need to be addressed
 - Asset protection strategy needs evaluated (divorce, creditors, etc)
 - Blended family issues need to be addressed
- Orderly transfer of assets to intended beneficiaries.

Benefits of Estate Planning

- Privacy is achieved if property is held in trust.
 - Having a trust document doesn't mean trust is funded. Ensure transfers have been made to the trust. Funding doesn't have to be an irrevocable transfer.
 - Remember celebrities wills and how public these can become.

Benefits of Estate Planning

- Property not held in trust, jointly titled, or beneficiary designated is subject to probate process. This can be more expensive, open to public inspection, and slower to disburse assets to beneficiaries.
 - Property held in other states may require probate proceeding in that state, as well as resident state. Multiple attorneys may need to be involved.

Benefits of Estate Planning

- POA's, Health care POA's, and Living Wills needed.
 - Someone needs to be designated to carry on your wishes in the event of incapacity.

Benefits of Estate Planning

- Review of beneficiary designations to ensure these are current wishes.
 - Nightmare scenarios of beneficiary designations not changed after divorce, etc.
- Guardianship of children ... do not let this stop the estate planning process.

CPE Code No. 2 = HA938

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Current Law – the clock is ticking

- We will discuss the evolution of the estate, gift and GSTT taxes from the enactment of the Bush tax cuts, the Obama administration's two year extension, and the repeal of the Bush tax cuts in 2013.

Estate and Gift Tax Rates

	Estate Tax	Gift Tax	Exemption Estate	Exemption Gift
2002	50%	50%	1,000,000	1,000,000
2003	49%	49%	1,000,000	1,000,000
2004	48%	48%	1,500,000	1,000,000
2005	47%	47%	1,500,000	1,000,000
2006	46%	46%	2,000,000	1,000,000
2007	45%	45%	2,000,000	1,000,000
2008	45%	45%	2,000,000	1,000,000
2009	45%	45%	3,500,000	1,000,000
2010	*	35%	*	1,000,000
2011	35%	35%	5,000,000	5,000,000
2012	35%	35%	5,120,000	5,120,000
2013	55%	55%	1,000,000	1,000,000

* Estate tax repealed for 2010
GST rate for 2010 – 0%

Current Environment for Estate and Gift Tax Planning

- We will discuss the impact of the current environment on estate and gift tax planning and why we believe now is the ideal time to transfer wealth to younger generations.

Current Environment for Estate and Gift Tax Planning

- Historically low interest rates
 - Current short term AFR is .19%
 - IRC 7520 rate for February 2012 is 1.4%
- Low valuations
- Historically low transfer tax rates
 - 35% rate through 2012 for gift/estate/GST

Current Environment for Estate and Gift Tax Planning

- Historically high exemptions.
 - \$5.12 million through 2012 for gift/estate/GST
 - Discussion of potential clawback

Current Environment for Estate and Gift Tax Planning

- Less restriction on gifting techniques (discounting, GRAT terms, etc)
 - Administration's Greenbook discusses 10 year minimum term on GRAT's
 - Treasury proposals on limiting valuation discounts for family transfers
- Uncertainty of the future (deficit concerns, Congressional discord, etc)

Common Estate and Gift Planning Techniques

- We will highlight 3 gift tax exclusion items
- We will have a detailed discussion on two popular wealth transfer techniques, Grantor Retained Annuity Trusts (GRAT) and Intentionally Defective Grantor Trusts (IDGT). We will discuss how these techniques can be powerful tools in transferring wealth at potentially low transfer tax costs.

Annual Exclusion Gifts

- Gift that qualifies for the \$13,000 per person annual exclusion from federal gift taxes.
- Gift must be a gift of a present interest. Donee must have immediate rights to the use, possession, and enjoyment of the property or income from the property in order to qualify as a present interest gift.
- No limitation on the number of donees.
- Married couples may combine their annual exclusion amounts and gift \$26,000 to each donee. With proper planning, may avoid gift tax return filing requirements.

Educational Exclusion

- Gift tax does not apply to an amount paid on behalf of an individual to a qualifying educational organization as tuition for the education or training of the individual.
- Payment must be made directly to the qualifying educational organization and it must be for tuition.
- No exclusion is available for amounts paid for books, supplies, room and board, or other similar expenses that are not direct tuition costs.

Medical Exclusion

- Gift tax does not apply to an amount paid on behalf of an individual to a person or institution that provided medical care for the individual.
- Payment must be made to the care provider.
- Medical care must meet the definition of medical care for income tax deduction purposes under IRC Section 213(d). Includes amounts paid for medical insurance on behalf of an individual.

Grantor Retained Annuity Trust

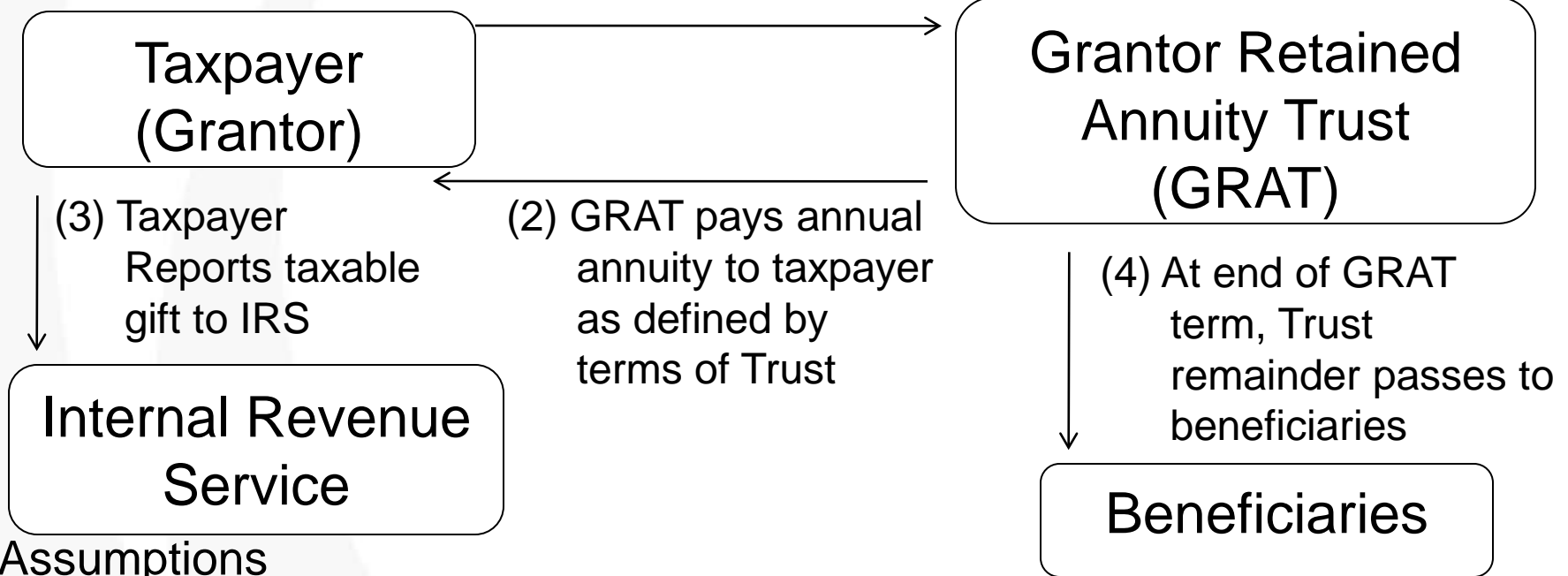
- A Grantor Retained Annuity Trust (GRAT) is an irrevocable trust in which a grantor transfers property for the benefit of one or more beneficiaries and retains an annuity interest for a term of years.
- Each year the GRAT will pay the Grantor a fixed annual annuity as defined by the terms of the Trust and IRC Section 7520 rate at time of funding. The annuity may be structured as either a fixed amount each year or an escalating payment each year (not to exceed 120 percent of previous years payment).

Grantor Retained Annuity Trust Cont'd

- At the end of the Trust term, any remaining property in the GRAT passes to the remainder beneficiaries with no further gift tax consequences.
- The amount of the taxable gift for transfer tax purposes is the Fair Market Value of the property transferred minus the value of the Grantor's retained annuity interest.
- GRAT may be structured so that the Grantor's Retained Annuity's Actuarial Value is almost equal to the value of the property transferred, therefore resulting in little gift tax consequences.

GRAT Example

(1) Gifts \$1.0 mm of XYZ Company stock to GRAT



Assumptions

- 5 year term
- IRC Section 7520 Rate = 1.4%
- Total return of stock = 6%
- Grantor transfers \$1.0mm of XYZ Company stock to GRAT in February 2012

GRAT Economics \Rightarrow Fixed Payout

Year	Beginning Principal	Annual Income	Annuity Payment	Remainder
1	1,000,000	60,000	208,477	851,523
2	851,523	51,091	208,477	694,137
3	694,137	41,648	208,477	527,308
4	527,308	31,639	208,477	350,470
5	<u>350,470</u>	<u>21,028</u>	<u>208,477</u>	<u>163,021</u>
Summary		<u>\$205,406</u>	<u>\$1,042,385</u>	<u>\$163,021</u>

Summary results

- Annuity paid to taxpayer over term of GRAT \Rightarrow \$1,042,385
- Projected remainder to Trust beneficiaries \Rightarrow \$ 163,021
- Taxable gift reported to IRS \Rightarrow \$ 1

GRAT Economics = Escalating Annuity Payout

Year	Beginning Principal	Annual Income	Annuity Payment	Remainder
1	1,000,000	60,000	140,780	919,220
2	919,220	55,153	168,935	805,438
3	805,438	48,326	202,723	651,041
4	651,041	39,062	243,267	446,836
5	<u>446,836</u>	<u>26,810</u>	<u>291,920</u>	<u>181,726</u>
Summary		<u>\$229,351</u>	<u>\$1,047,625</u>	<u>\$181,726</u>

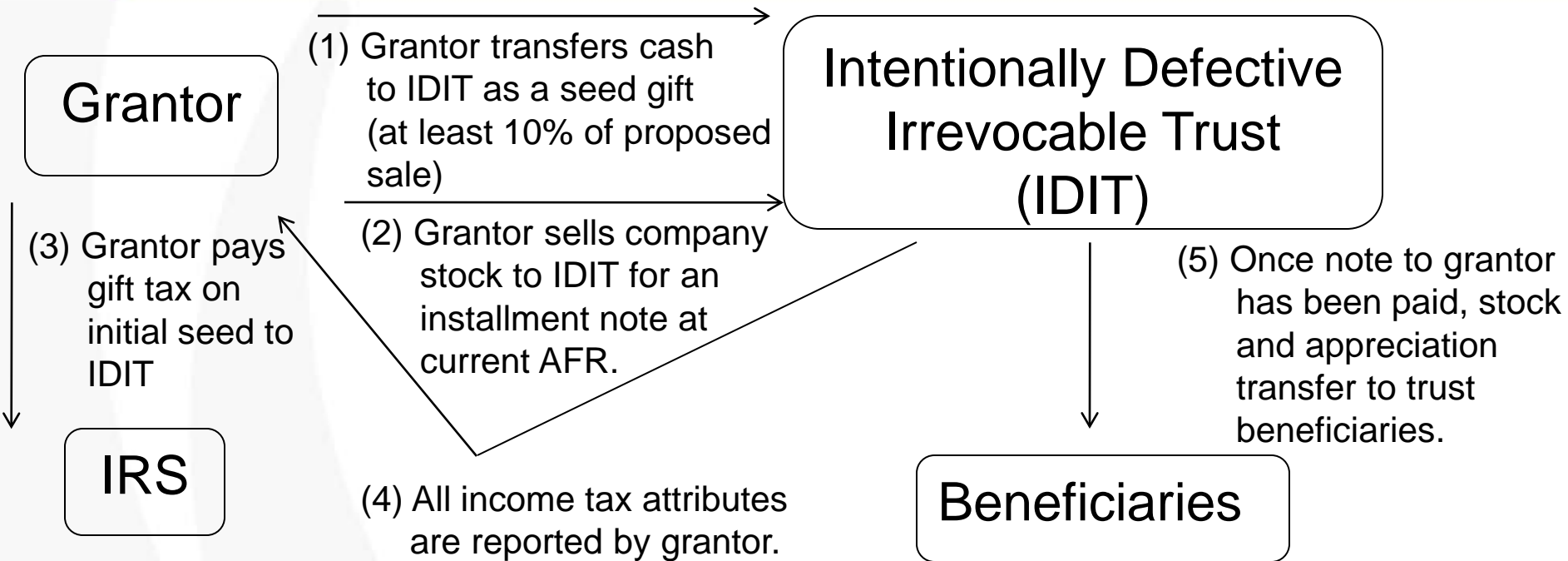
Summary results

- Annuity paid to taxpayer over term of GRAT => \$1,047,625
- Projected remainder to Trust beneficiaries => \$ 181,726
- Taxable gift reported to IRS => \$ 1

Intentionally Defective Irrevocable Trust (IDIT)

- Intentionally Defective Irrevocable Trust is an Irrevocable Trust that is not included in the grantor's gross estate and transfers of property to trust are completed gifts for gift tax purposes. However, income from the trust is taxable to the grantor.
- IDITs are a powerful estate planning technique that reduces a grantor's taxable estate through asset transfers and payment of trust tax liability by grantor.
- Grantor establishes an IDIT and then sells assets to the trust for an installment note. The installment note pays the lowest amount of interest based on the Applicable Federal Rate (AFR).
- Any appreciation of the trust assets above the AFR is transferred to the trust beneficiaries without any additional transfer taxes.

IDIT Example



Note

- Grantor will pay gift tax upon initial funding of IDIT.
- Interest income on note payable from IDIT not taxable to grantor as a result of Grantor Trust.
- Note payable from IDIT may be structured as balloon note.
- Company stock and appreciation pass to beneficiaries with no additional gift tax consequences.

Summary

- Additional thoughts from Mark Gaudet and Larry Powell.

CPE Code No. 3 = OH325

Please make note of this is you are interested in CPE for this webinar.

Questions

- Follow up survey will be emailed to you, we would truly appreciate your feedback.
- Please send questions, comments or ideas for future topics to Keri Grubbs at kgrubbs@cshco.com.

Contact Information & Thank you!

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