

After the Tax-Bite, What's Left for You?

Sponsored by US Bank
October 27, 2010

Patrick J. Green,
Davis Wright Tremaine, LLP

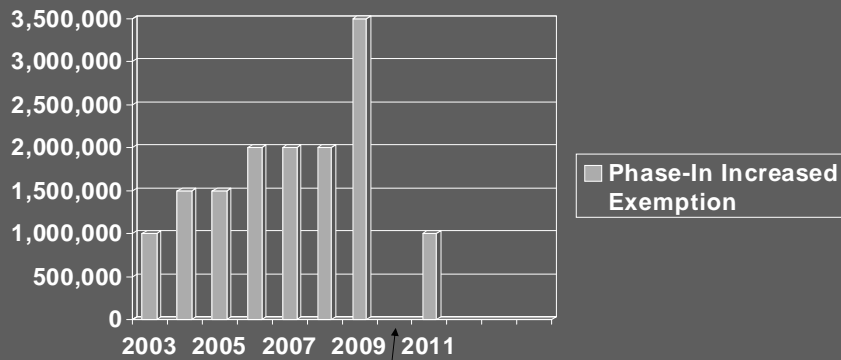
T. Randall Grove,
Landerholm, Memovich, Lansverk & Whitesides, P.S.

Copyright 2010 All rights reserved

Focus: Cost of Dying in Various Western States

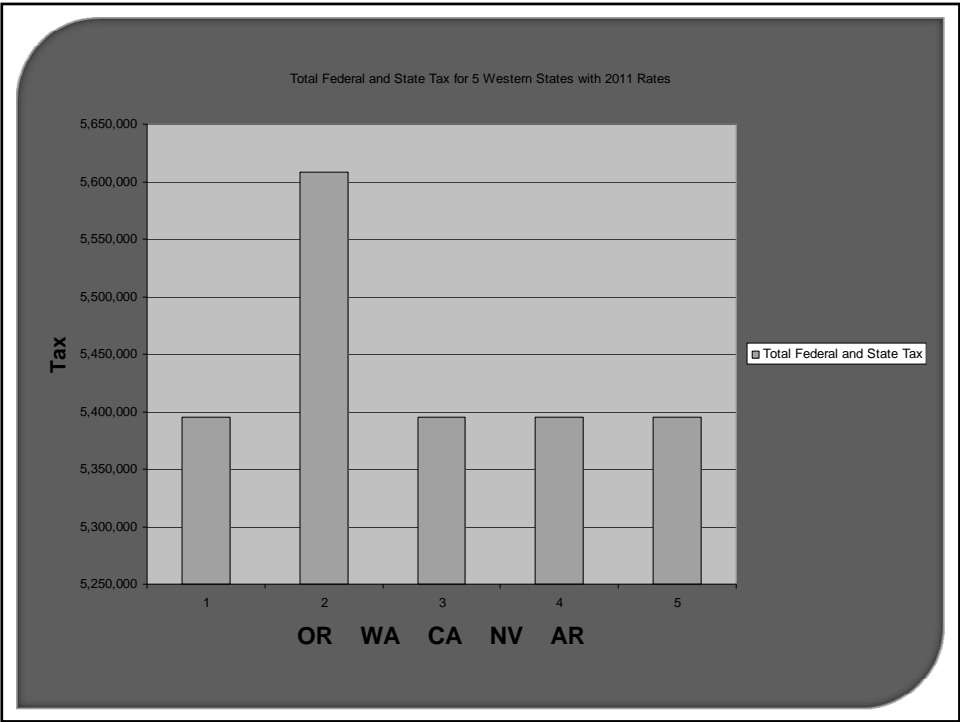
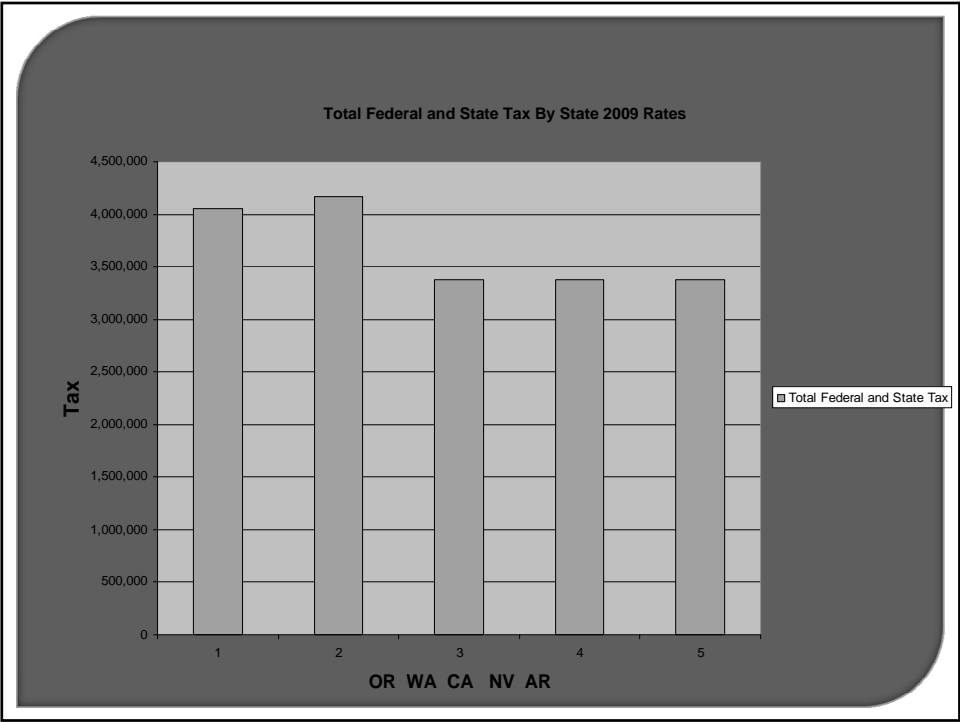
- ◉ Tax Cost
- ◉ Costs of Administration

The Increasing/Decreasing Exemption



Unlimited in 2010 – one year only!

	Oregon	Washington	State: California	Nevada	Arizona			
2009 \$3.5MM Fed Exemption								
Gross Estate***	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
Deductions	\$0	\$0	\$0	\$0	\$0			
Tentative Taxable Estate	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
State Death Tax Deduction	\$1,226,800	\$1,440,000	\$0	\$0	\$0			
Taxable	\$9,773,200	\$9,560,000	\$11,000,000	\$11,000,000	\$11,000,000			
Adjusted Taxable Gifts	\$0	\$0	\$0	\$0	\$0			
Taxable Plus Gifts	\$9,773,200	\$9,560,000	\$11,000,000	\$11,000,000	\$11,000,000			
Tentative Tax	4,278,740	4,182,800	4,830,800	4,830,800	4,830,800			
Gift Tax Payable	0	0	0	0	0			
Gross Estate Tax	4,278,740	4,182,800	4,830,800	4,830,800	4,830,800			
Maximum Unified Credit	1,455,800	1,455,800	1,455,800	1,455,800	1,455,800			
Adjustments to Credit	0	0	0	0	0			
Allowable Credit	1,455,800	1,455,800	1,455,800	1,455,800	1,455,800			
Net Federal Estate Tax	2,822,940	2,727,000	3,375,000	3,375,000	3,375,000			
State Death Tax	1,226,800	1,440,000	0	0	0			
Total Federal and State Tax	4,049,740	4,167,000	3,375,000	3,375,000	3,375,000			
2011 \$1MM Fed Exemption								
Gross Estate***	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
Deductions	\$0	\$0	\$0	\$0	\$0			
Tentative Taxable Estate	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
State Death Tax Deduction	\$0	\$0	\$0	\$0	\$0			
Taxable	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
Adjusted Taxable Gifts	\$0	\$0	\$0	\$0	\$0			
Taxable Plus Gifts	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000	\$11,000,000			
Tentative Tax	5,740,800	5,740,800	5,740,800	5,740,800	5,740,800			
Gift Tax Payable	0	0	0	0	0			
Gross Estate Tax	5,740,800	5,740,800	5,740,800	5,740,800	5,740,800			
Maximum Unified Credit	345,800	345,800	345,800	345,800	345,800			
Adjustments to Credit	0	0	0	0	0			
Allowable Credit	345,800	345,800	345,800	345,800	345,800			
Initial Federal Estate Tax Calc.	5,395,000	5,395,000	5,395,000	5,395,000	5,395,000			
State Death Tax Credit	-1,226,800	-1,226,800	0	0	0			
Net Federal Estate Tax	4,168,200	4,168,200	5,395,000	5,395,000	5,395,000			
State Death Tax	1,226,800	1,440,000	0	0	0			
Total Federal and State Tax	5,395,000	5,608,200	5,395,000	5,395,000	5,395,000			
Cost to Probate								
Personal Representative	220,000	No statutory fees	111,000	221,150	No statutory fees			
Attorney Fees	No statutory fees	No statutory fees	111,000	118,000	No statutory fees			
Total			222,000	339,150				



Cost to Probate: Personal Representative & Attorney Fees

	<u>Oregon</u>	<u>Washington</u>	<u>California</u>	<u>Nevada</u>	<u>Arizona</u>
Personal Representative	220,000	No statutory fees	111,000	221,150	No statutory fees
Attorney Fees	No statutory fees	No statutory fees	<u>111,000</u>	<u>118,000</u>	No statutory fees
Total			222,000	339,150	

Efficiency in Estate Administration

- ◉ Wills and Powers of Attorney
- ◉ Living Trusts
- ◉ Other Alternatives

Will v. Living Trust

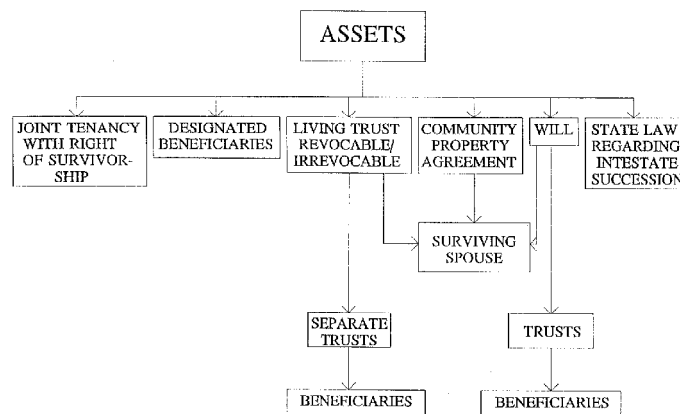
◎ Will

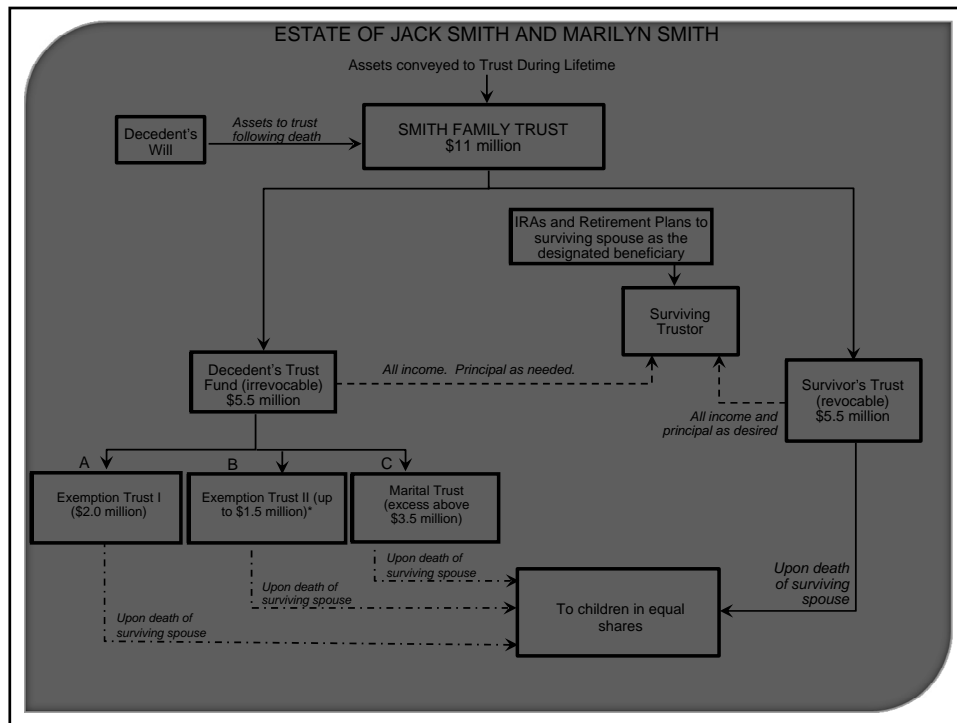
- Distribution Plan
- Activates at Death
- Probate
- Public Information
- Administration 4-12 months
- Tax Planning
- Less Expensive for Documents
- More Expensive for Administration

◎ Trust

- Distribution Plan
- Activates During Life
- No Probate
- Private
- Administration 4-12 months
- Tax Planning
- More Expensive for Documents
- Less Expensive for Administration

ALTERNATIVES FOR TRANSFERRING ASSETS





Seeking Shelter in a 'Tax Haven

◉ Domicile

- Subjective test – intent to be a permanent resident of tax haven state
- Objective test – various indicators
 - Voter registration
 - Income tax filings
 - Car license
 - Permanent address

Potential Changes to Tax Law

◉ Estate Tax

- Probable changes to exemptions and rates
- Timing of changes

◉ Gift Tax

- Current rate is 35%
- Increase in rates in 2011

◉ Generation Skipping Tax

- No GST for 2010 for outright gifts
- Uncertainty on GST for gifts to trusts

◉ Discounts may be eliminated or reduced

- Gifts of interests in family entities
- Proposal by administration and Pomeroy bill

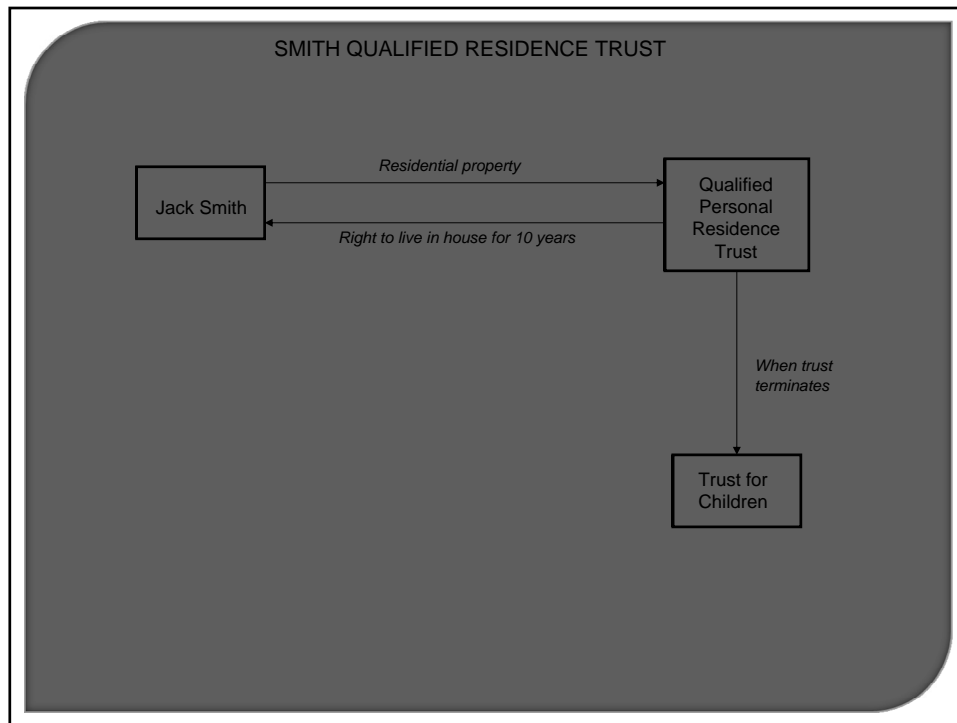
◉ GRATs will have a minimum 10 year term

Tax Strategies for Reducing Estate Taxes

- ◉ Maximize gifts
- ◉ Shift appreciation
- ◉ Qualify for charitable deduction

Qualified Personal Residence Trust

- ◉ 10 year QPRT
- ◉ Trust
 - Trustee: Jack and Marilyn
 - Beneficiaries:
 - During trust term of 10 years – Jack and Marilyn
 - After trust termination – Children
 - Taxes, insurance, maintenance paid by Jack and Marilyn during term
 - After 10 years, Jack and Marilyn may lease the house for continued use



QPRT Tax Calculations

◉ FMV	\$900,000
◉ Retained interest	<u>420,300</u>
◉ Gift: present value	579,700
◉ FMV in 10 years (4% growth)	\$1,332,220
◉ Death tax savings (50%) (if no gift had been made)	\$376,260

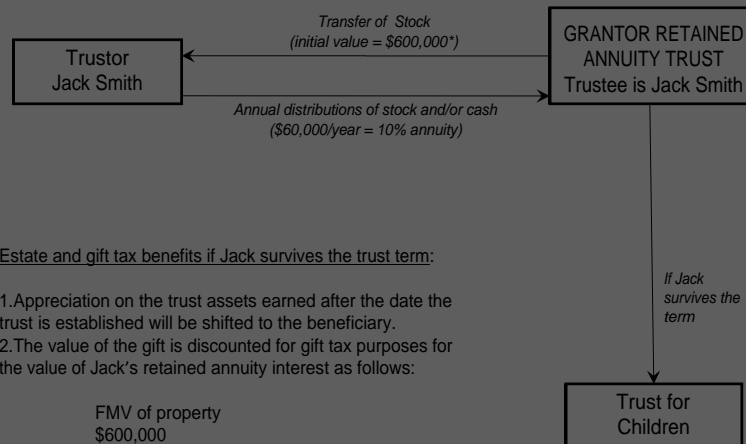
Gifts of Appreciated Property

- ◉ Charitable Deduction for full fair market value of property
- ◉ No tax to donor or charity on appreciation
- ◉ Possible retention of income interest for life

GRAT

- ◉ Grantor retains right to receive fixed amount payable not less frequently than annually
- ◉ Pass future appreciation in excess of fixed rate to beneficiaries tax free

SMITH GRANTOR RETAINED ANNUITY TRUST



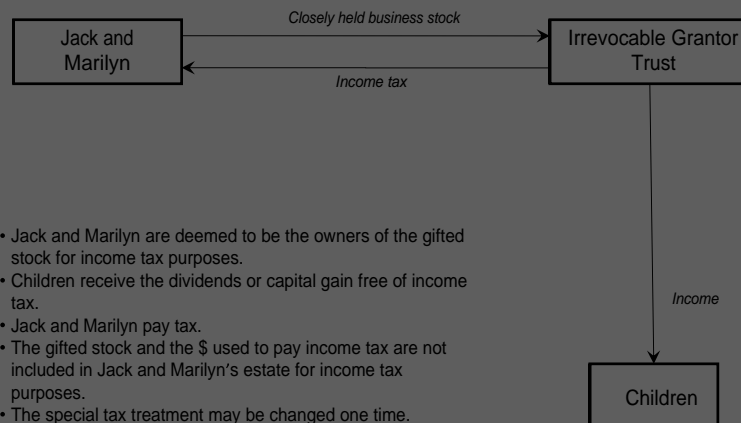
Estate and gift tax benefits if Jack survives the trust term:

1. Appreciation on the trust assets earned after the date the trust is established will be shifted to the beneficiary.
2. The value of the gift is discounted for gift tax purposes for the value of Jack's retained annuity interest as follows:

FMV of property
 \$600,000
 FMV of donor's retained annuity (10%)
 <489,018>
 Value for gift tax purposes
 \$110,982

*This may be a discounted value; depends on asset and circumstances

MAXIMIZE THE BENEFIT OF A GIFT "IRREVOCABLE GRANTOR TRUST"

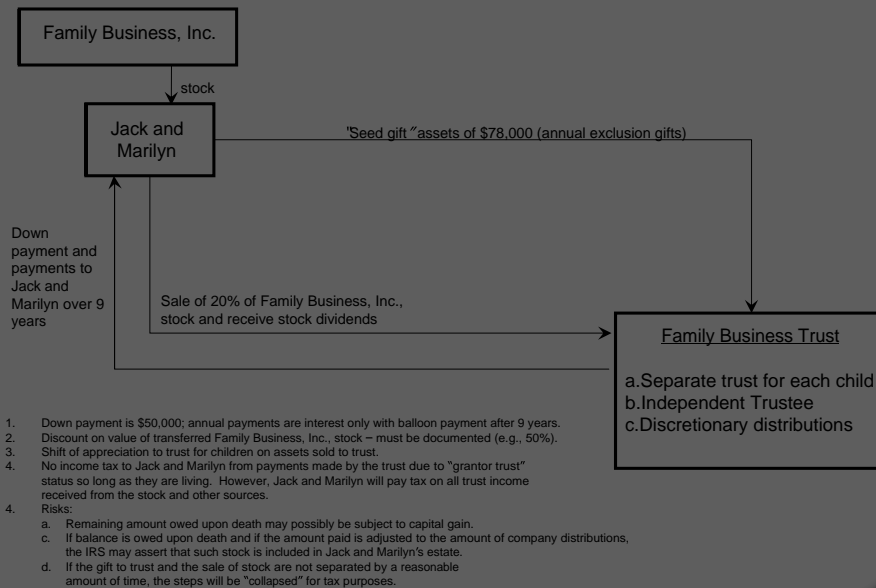


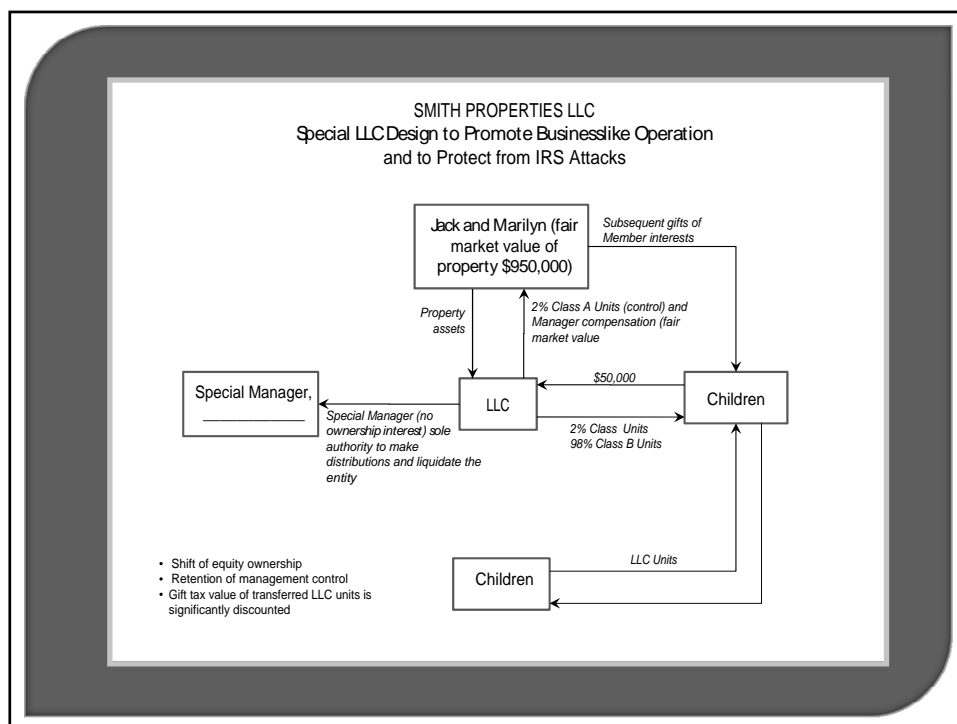
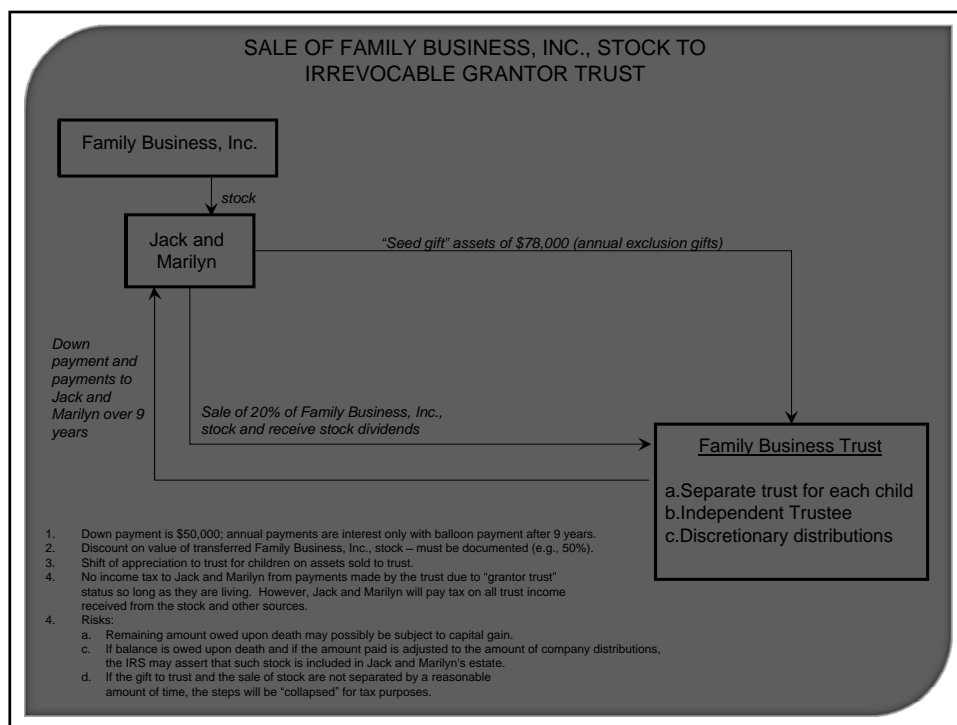
- Jack and Marilyn are deemed to be the owners of the gifted stock for income tax purposes.
- Children receive the dividends or capital gain free of income tax.
- Jack and Marilyn pay tax.
- The gifted stock and the \$ used to pay income tax are not included in Jack and Marilyn's estate for income tax purposes.
- The special tax treatment may be changed one time.

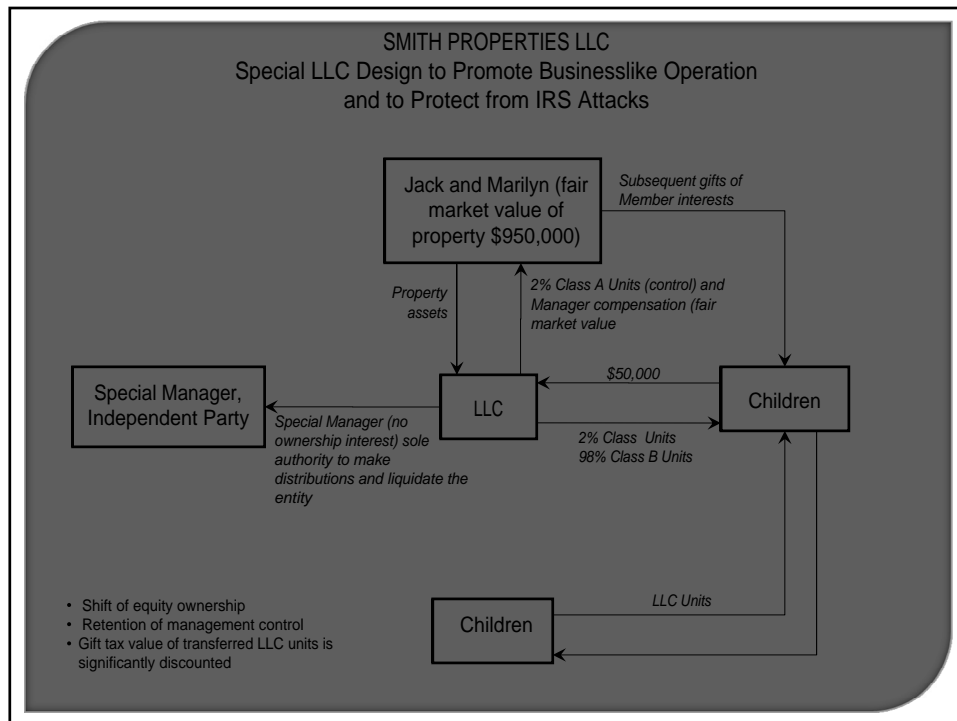
Tax Savings for Irrevocable Grantor trusts

\$1,000,000	⊙ Sales price
x \$100,000	⊙ Basis
\$ 900,000	⊙ Capital gain
x 24%	⊙ State & Federal CG rate
\$216,000	⊙ Tax to pay by parents
x 50%	⊙ Estate tax rate
\$108,000	⊙ Savings in estate tax

SALE OF FAMILY BUSINESS, INC., STOCK TO IRREVOCABLE GRANTOR TRUST







Charitable Gift Planning

- ◉ Lifetime vs. Testamentary Gifts
- ◉ Gifts of appreciated property
- ◉ Gifts of retirement & IRA accounts
- ◉ Outright gifts vs. gifts in trust (lifetime or remainder interests)

Illustration: Appreciated Property Gift

- ◎ Jack and Marilyn own stock with a fair market value of \$350,000 with a basis of \$100,000.
 - If they were to sell the stock, they would pay capital gains tax at 25% in the amount of \$62,500.
 - The death tax on the \$287,500 left in their combined estate would be approximately \$172,500.
 - Of the \$350,000 worth of stock, only \$115,000 would remain to pass on to the next generation!

Illustration (cont'd)

- ◎ By donating the stock to charity, Jack and Marilyn can:
 - Remove \$350,000 from their taxable estate
 - For a lifetime transfer, receive a current income tax deduction and avoid paying capital gains tax
 - Benefit their favorite charity
- ◎ Charity Benefits:
 - Receive full advantage of entire fair market value, since charity does not pay tax on subsequent sale of stock.

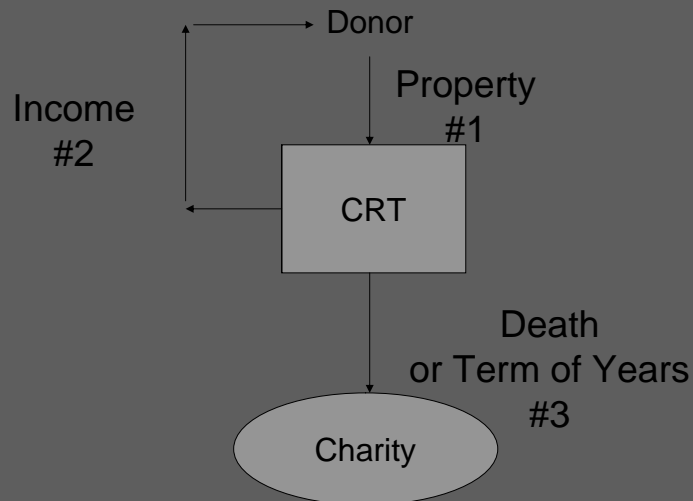
Charitable Gifts for Income and/or Tax Reduction

- ◉ Charitable Remainder Trust
- ◉ Charitable Lead Trust
- ◉ Charitable Gift Annuities

Charitable Remainder Trust

- ◉ Provides fixed annuity payments or “unitrust” payments to grantor(s) for life or for term of years. Leaves remainder to charity.
- ◉ Advantages:
 - Reduces taxable estate by transferring assets and future appreciation to charity
 - Provides for lifetime income needs of grantor(s)
 - Entitles grantor(s) to current charitable deduction

Charitable Remainder Trust

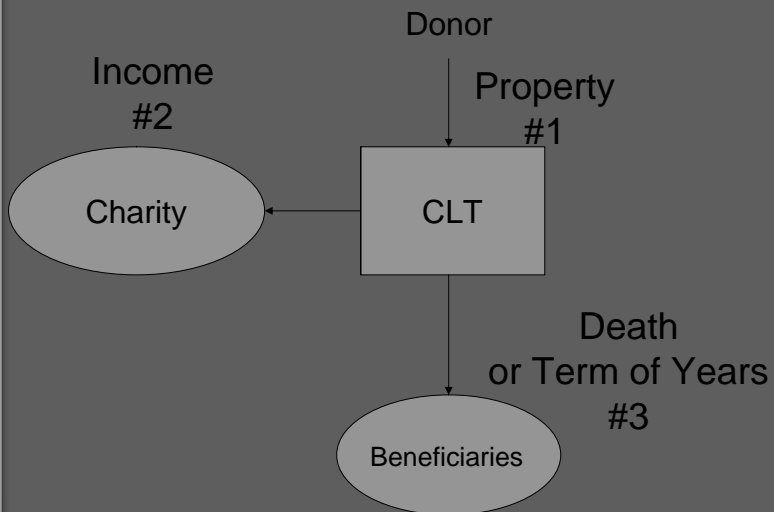


Copyright Patrick J. Cro

Charitable Lead Trust

- ◉ Gift to Charity is fixed annuity or “unitrust” Payment. Remainder goes to designated beneficiaries (such as children)
- ◉ Advantages:
 - Provides current income tax deduction, reduces taxable estate by limiting or eliminating appreciation
 - Benefits designated beneficiaries with remainder interest

Charitable Lead Trust



Copyright Patrick J. Cro