

DON'T WAIT TO DO YOUR ESTATE PLANNING

*PREPARED FOR: APARTMENT ASSOCIATION OF ORANGE COUNTY
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TODAY'S TOPICS

- (1) Current and Future Legislation – Impact on Your Estate Planning and Deeds**
- (2) Importance of Reviewing Your Fundamental Estate Plan**
- (3) How Best to Leave Assets to Your Loved Ones**
 - A. Consider Property Taxes and Other Business Continuity Issues
 - B. Outright versus In Trust
 - C. Trust Provisions Matter
 - D. Who the Trustee is Matters
 - E. Traditional Planning versus Modern Planning
- (4) Asset Protection – Simple versus Complex Methods**
- (5) A Quick Tid-Bit About Using AI**
- (6) Key Takeaways from Today's Presentation**

TOPIC I

CURRENT AND FUTURE LEGISLATION: IMPACT ON YOUR ESTATE PLANNING AND DEED TRANSFERS



FEDERAL GIFT/ESTATE/GST EXEMPTION

- **This is a tax on the transfer of your assets**
 - LIFETIME transfers – subject to GIFT TAXES
 - DEATH transfers – subject to ESTATE TAXES
 - Transfers MORE THAN ONE GENERATION – subject to GENERATION SKIPPING TRANSFER TAXES
- **Currently, the IRS gives you a cumulative exemption amount that allows you to transfer assets without paying gift or estate taxes so long as you don't transfer more than your available exemption amount.**
 - You must keep track of the gifts you make during your lifetime, as it reduces your cumulative exemption amount. This is done by filing Federal gift tax returns (Form 709).
- **The Exemption Amount changes from year to year:**
 - 2023 - \$12,920,000
 - 2024 - \$13,610,000
 - 2025 - \$13,990,000
 - 2026 - \$15,000,000 indexed for inflation
- **Current Annual Exclusion amount in 2026 is \$19,000, per donor, per donee.**

FEDERAL GIFT/ESTATE/GST EXEMPTION

How Does Someone Use Their Gift/Estate/GST Exemption?

Taxes are only paid to the IRS if gifts over and above the annual exclusion are greater than your remaining exemption amount. Any transfers above your remaining exemption amount are subject to tax (currently at 40%).

Example 1 – You give \$19,000 as a Christmas gift to your son.

This is covered by the annual exclusion and does not use any of your exemption.

Example 2 – You have not previously used your exemption. You gift \$25,000 as a Christmas gift to your son.

\$19,000 is covered by the annual exclusion, and the remaining \$6,000 uses your exemption. Since you have not made previous gifts and you have \$15,000,000 of exemption available, the use of \$6,000 exemption results in no tax owed to the IRS.

Example 3 – You have previously used \$15M of your exemption. You gift \$25,000 as a Christmas gift to your son.

\$19,000 is covered by the annual exclusion, and the remaining \$6,000 uses your exemption. Since you previously used \$15M of your exemption, you have NO exemption available. So, \$6,000 is subject to the 40% tax owed to the IRS.

FEDERAL GIFT/ESTATE/GST EXEMPTION

MARKETING – THE NEWS IS HIGHLIGHTING THIS \$15M EXEMPTION AS “PERMANENT”

WHAT DOES PERMENANT REALLY MEAN? WHAT DOES IT REFER TO? – Not subject to a Sunset!

HOWEVER – LAWS CAN ALWAYS CHANGE

FEDERAL GIFT/ESTATE/GST EXEMPTION

A recent proposal was entered in the Senate by Senator Van Hollen to change this exemption amount under the premise of taxing dynastic wealth to save social security.

BILL NAME – Strengthen Social Security by Taxing Dynastic Wealth

REDUCE the Estate Tax Exemption Amount to \$3,500,000

REDUCE the Gift Tax Exemption to \$1,000,000

RAISE the Gift and Estate Tax Rate to 45%

Think of the IMPACT. Today, if you wanted to gift a \$4M property to your son, it would be a simple transfer and not result in any gift tax owed to the IRS because of the \$15M exemption. If this Bill passes in the future (or something like it), then that same transfer would result in gift taxes paid to the IRS or a complicated estate planning strategy to try to avoid it.

FEDERAL GIFT/ESTATE/GST EXEMPTION

BROAD TREND IN LEGISLATION

NYC – Mayor proposed lowering the NY state estate tax exemption to \$750,000

Washington – Recently passed a 30% wealth tax

Virginia – Recently increased its income tax rate to 10%

California – Billionaire Tax this year (is where it starts)

California – Used to have a state estate tax. If other states do it, CA might also?

**THESE HIGHLIGHT A SHIFT IN THE POLITICAL AND ECONOMIC LANDSCAPE,
REGARDLESS OF THEIR IMMEDIATE SUCCESS.**

ANTI-MONEY LAUNDERING REGULATIONS FOR RESIDENTIAL REAL ESTATE TRANSFERS

FINCEN

In August 2024, FinCEN issued the final rule requiring certain people involved in real estate closings and settlements to report information to FinCEN about certain real estate transfers.

It was scheduled to go into effect March 1, 2026, but is now delayed.

Keep an eye on their website for when reporting becomes required – <http://www.fincen.gov/rre>

ANTI-MONEY LAUNDERING REGULATIONS FOR RESIDENTIAL REAL ESTATE TRANSFERS

- **Transfers are reportable if they meet the following requirements:**

- Property is **residential** real property (property designed for occupancy by 1-4 families or residential land intended for that purpose).
- Transfer is non-financed (“financed” means both (i) loan is secured by a deed of trust and (ii) lender is a financial institution subject to an anti-money laundering program and Suspicious Activity Report obligations).
 - Includes gift transfers
- Property is transferred to a legal entity or trust.
- An exemption does not apply.

- **Transfer means:**

- Any transfer of an ownership interest in residential real property that is demonstrated through:
 - Deed
 - For an interest in a cooperative housing corporation, through:
 - Stock
 - Shares
 - Membership
 - Certificate
 - Other contractual agreement evidencing ownership

ANTI-MONEY LAUNDERING REGULATIONS FOR RESIDENTIAL REAL ESTATE TRANSFERS

- **Exemptions for Transfers Otherwise Subject to These Reporting Requirements:**

- Transfer of an easement.
- Transfer resulting from the death of an individual.
- Transfer incident to divorce or dissolution of a marriage or civil union.
- Transfer to a bankruptcy estate.
- Transfer supervised by a court in the United States.
- Transfer made **for no consideration** by an individual (alone or with their spouse) to a trust of which they and/or their spouse are the grantor.
- Transfer to an intermediary for purpose of like-kind exchange under IRC §1031.
- Transfer for which there is no reporting person.

ANTI-MONEY LAUNDERING REGULATIONS FOR RESIDENTIAL REAL ESTATE TRANSFERS

- **What is Included in the Report?**

- Information necessary to identify:
 - Themselves (the reporting person),
 - The residential real property being transferred,
 - The transferor,
 - Transferee entity or transferee trust,
 - Individuals representing the transferee entity or transferee trust in the transfer, and
 - Beneficial owners of the transferee entity or transferee trust, including:
 - Name, date of birth, residential address, citizenship, and taxpayer identification number.

ANTI-MONEY LAUNDERING REGULATIONS FOR RESIDENTIAL REAL ESTATE TRANSFERS

- **Timing and Record Keeping**

- Report must be filed by the last day of the month following the month in which the date of closing occurred or 30 calendar days after the date of closing, whichever is later.
- Reporting person must maintain certification by the transferee as to the identities of the beneficial owner of the transferee for 5 years.
- Reporting person must keep a copy of any designation agreement for 5 years.

- **PENALTIES - Negligent violations**

- Not more than \$1,394 per violation.
- Additional penalty of up to \$108,489 for a pattern of negligent activity.

- **PENALTIES - Willful violations**

- Not more than five years in prison.
- Criminal fine of not more than \$250,000, or both.
- Civil penalty of not more than the greater of:
 - The amount involved in the transaction (not to exceed \$278,937)
 - \$69,733.30

TOPIC 2

IMPORTANCE OF REVIEWING YOUR FUNDAMENTAL ESTATE PLAN

COMPONENTS OF THE FUNDAMENTAL ESTATE PLAN

- Revocable Living Trust
- Pour-Over Will
- Power of Attorney for Assets
- Advance Health Care Directive
- HIPAA Waiver

WHY SHOULD YOU HAVE AN ESTATE PLAN?

FIRST – Avoidance of probate, which is the court supervised distribution of your assets.

Only works if you actually use your Living Trust correctly!

SECOND – Ensure your wishes, rather than the default rules of California, are followed.

Make sure you understand your estate plan and review it!



"While yes, your will is beautifully written, I'm afraid a few of the estate laws may have changed since 1942."

WHY HAVE AN ESTATE PLAN REVIEWED?

(1) CHECK TITLE

- Helps ensure your assets are properly titled in the name of your trust to avoid probate.

(2) TAX LAWS CHANGE

- Specifically, if you have not had your estate plan reviewed since 2012, I strongly recommend you have it looked at as tax laws are vastly different now than they were then.

(3) STATE OR LOCAL LAWS CHANGE

- Examples: no contest provisions, language to avoid California property tax reassessments, etc.

(4) FRIENDS AND FAMILY MEMBERS CHANGE

- As a result, you may need to revise one or more of your Beneficiaries, Trustees, Agents for your financial Power of Attorney or for your Advance Health Care Directive, and/or Guardians for your minor children.

(5) YOUR WISHES CHANGE

TOPIC 3

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES

WITHOUT AN ESTATE PLAN

We inherited Mom and Dad's house...

But now we have to REASSESS it at today's market value?!

Our property tax bill just DOUBLED!

PROPERTY TAX BILL
\$12,480
 (UP FROM \$6,240)

MARKET VALUE
\$2,000,000

NEW TAXABLE VALUE
\$2,000,000

FOR SALE

Without proper estate planning, inherited property is reassessed to current market value, which can mean **MUCH** higher property taxes.

WITH AN ESTATE PLAN

Thanks to Mom and Dad's estate plan and California's Proposition 19 rules, we keep their low property tax base!

PROPERTY TAX BILL
\$6,240
 (SAME AS BEFORE!)

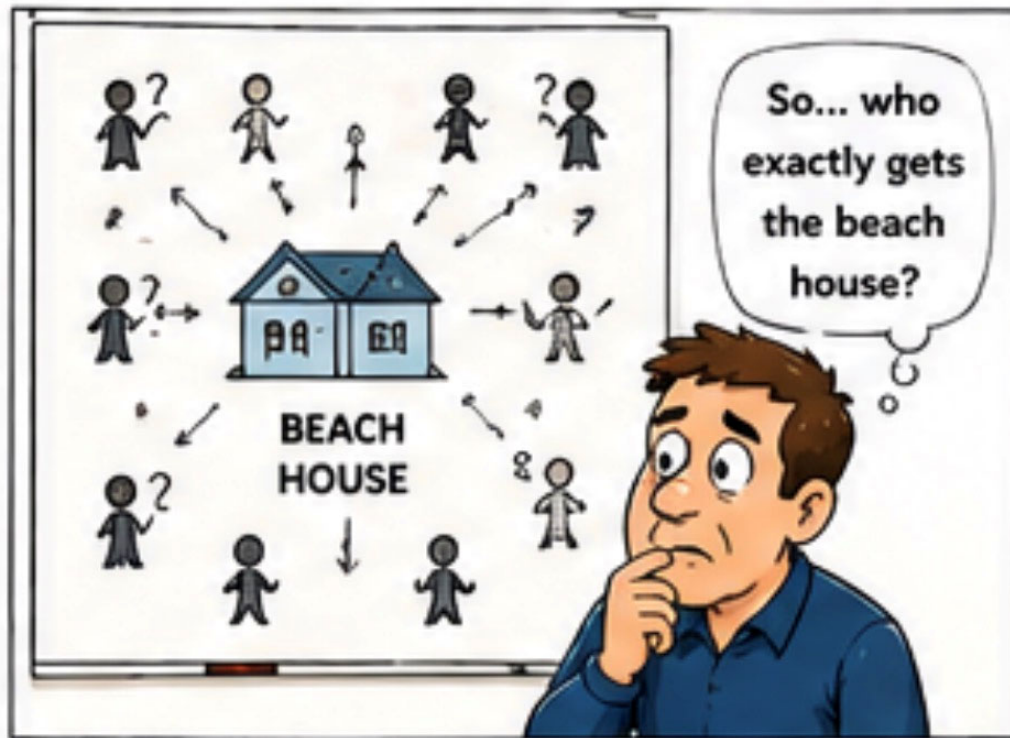
TRUST
 Primary Residence Transferred to Children
 (Prop 19 - Parent to Child Exclusion) ✓

- ✓ Kept our home
- ✓ Kept our memories
- ✓ Kept our tax base!

With a thoughtful estate plan, you can pass your home to your children and help them keep the same low property tax base.

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES
CONSIDER PROPERTY TAXES AND OTHER BUSINESS CONTINUITY ISSUES

- **A Common Problem** – How to transfer real estate (while alive or at death) - without triggering property taxes?
 - Transfers of Real Estate by Deed – Besides the interspousal exclusion, the only current (and limited) exclusion applies when a parent transfers his/her primary residence to a child who then uses that real estate as his/her primary residence.
- **Solutions for Avoiding Property Tax Reassessment – Be Proactive!**
 - (1) Use Joint Tenancy
 - (2)(A) Transfer Interests in an LLC or LP to a Trust for Others
 - Generally, an LLC/LP allows you to transfer no more than 50% of the LLC/LP without any property tax reassessment.
 - If the LLC/LP bought the real estate, then you can transfer collectively more than 50% so long as no one acquires more than 50%.
 - (2)(B) After You Transfer the Maximum of 50% of the LLC/LP to Others, Transfer Remaining Interest to a SLAT
 - Once you hit the limit of what can be transferred in an LLC/LP without property tax reassessment, transfer the remaining ownership in the LLC/LP to a SLAT for the benefit of your spouse.
 - Transfers to your spouse, or into a trust for the benefit of your spouse, are excluded from property tax reassessment.
 - (2)(C) By Using BOTH of these Strategies, You Can Remove 100% of the Real Estate From Your Estate Without Property Tax Reassessment



The Blended Family Problem

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES
CONSIDER PROPERTY TAXES AND OTHER BUSINESS CONTINUITY ISSUES

- **Who is Going to Manage the Business or the Real Estate?**
 - Is it family?
 - Is it the existing property management company?
 - Is it a new property management company?
- **When you pass away, is it best that all of your children own the business or real estate equally, or does it make more sense to avoid having them work together?**
 - This does not mean that you must give the asset 100% to one person. There are other ways.



The "Trust Issues" Joke

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES

OUTRIGHT VERSUS IN TRUST

- **BENEFITS OF LEAVING ASSETS OUTRIGHT**

- Simplicity in administration.
- No restrictions on how the assets are used.
- No controls on how the assets are invested or used.
- HOWEVER – no creditor protection, no divorce protection, and subject to transfer taxes AGAIN in the future.

- **BENEFITS OF LEAVING ASSETS IN TRUST**

- An Irrevocable Trust Can Protect Assets

- **From Grantor's Creditors** – they cannot reach these assets.
- **From the Beneficiary's Creditors** – they cannot reach these assets.
- **From the Beneficiary's Divorcing Spouse** – they cannot reach these asset.

- A Trust Can Remove the Assets From Everyone's Gross Estate

- Assets of the trusts are not includible in the Grantor's gross estate or the primary beneficiary's gross estate for estate tax purposes.
- Also, the assets of the trust are not subject to GST taxes.

- A Trust Allows YOU to Set Restrictions and Controls How the Assets are Used

- A Trust Allows YOU to Decide Who Should Control the Assets

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES

TRUST PROVISIONS MATTER

- **Mandatory Distributions – No Longer the Best Strategy**
 - For example, the net income of the trust must be distributed to the beneficiary annually.
- **Discretionary Distributions – Better Strategy to Protect the Assets**
 - Standard – distributions to the beneficiary for their health, education or living expenses (technically, support or maintenance).
 - Think Beyond the Beneficiary – Allow for distributions to Beneficiary and that Beneficiary’s descendants (like your grandchildren).
- **Incentive Provisions – To help incentivize behavior that you would have encouraged if you were still living:**
 - Graduate from College with a Degree, Become a licensed Doctor, etc., then receive \$X as an automatic distribution.
 - Attend a certain school, then receive \$X as an automatic distribution.
 - If you get married or have one or more children, then receive \$X as an automatic distribution.
 - Encourage being active and not a “trust fund baby” by including income-matching provisions for every \$1 earned by the beneficiary.
 - Family vacation incentive, but with the entire immediate family.
- **Define who is considered Family: Does a Beneficiary’s spouse count? What about a step-child?**



The Trustee Burden

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES

WHO THE TRUSTEE IS MATTERS

- **Friends & Family** - Should your children be the successor trustees? What about a close friend?
- **Multiple** - Should they ALL be Co-Trustees, jointly?
- **Own Trustee** - Do you want to allow your beneficiaries to be the trustee of their own trust? At what age?
- **Common Alternative, Professional Fiduciary** - Instead of involving family, should you consider a licensed professional fiduciary?
- **Common Alternative, Corporate Trustee** - What about a Corporate Trustee?

HOW BEST TO LEAVE ASSETS TO YOUR LOVED ONES

TRADITIONAL PLANNING VERSUS MODERN PLANNING

TRADITIONAL PLANNING

Transfer to Others - have the client establish SEPARATE irrevocable gifting trusts for children and/or grandchildren, or others.

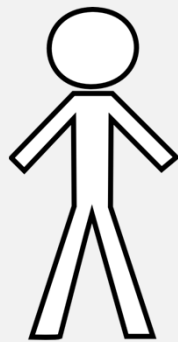
- However, most clients are only willing to give away so much to others.
- Everything is done as a GIFT.

MODERN PLANNING

Transfer to Spouse – once the client hits their limit of what they are willing to give away to others – utilize a Spousal Lifetime Access Trust or “SLAT”.

- This is only available if the client is married.
- SOMETIMES the transfer is done as a GIFT, other times it is done as a SALE.

TRADITIONAL PLANNING ESTABLISH CHILDREN'S TRUSTS



Grantor

Gifts Assets Up to \$15M

Child 1's Trust

Child 2's Trust

Child 3's Trust

The Trusts are established and funded by the Grantor using the Grantor's remaining gift and GST tax exemption.

- Some clients make gifts using **ONLY** their annual exclusion amount (\$19K in 2026).
- Other clients decide to use part or all of their \$15M gift tax exemption.

Under current law, the assets of these Trusts will be outside of the Grantor's gross estate and will not be included in any Beneficiary's gross estates.

TRADITIONAL PLANNING ESTABLISH CHILDREN'S TRUSTS

Child 1's Trust

Child 2's Trust

Child 3's Trust

Trust Beneficiary Distributions



Child 1
Child 2
Child 3

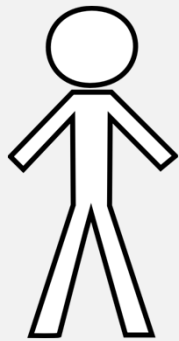
- The Trustee (can be the Grantor, Beneficiary, or someone else) can make distributions from a child's trust to that child or the child's descendants for their health, education, and living expenses.
- Additionally, a Special Trustee (cannot be the Grantor or a Beneficiary) can make distributions to the beneficiary at any time for any reason; or to charity to obtain an income tax deduction.
- The Trustee can also invest the assets of the trust as the Trustee sees fit.
- Provisions at a Child's Death:
 - *Default Rule* - the remaining balance of a deceased child's Trust is divided equally between that child's children and continues to be held in trust. If no children, the assets go to the deceased child's siblings.
 - *Optional Rewrite Power* – each child will have the power to rewrite how their Trust is distributed following their death. The exercise of this power can be revised at any time down the road, or even multiple times. This gives the child flexibility to deal with future facts and circumstances.

MODERN ESTATE PLANNING

CREATE A SPOUSAL LIFETIME ACCESS TRUST (“SLAT”) FOR YOUR SPOUSE

- **Step 1 – Grantor 1 uses Grantor 1’s remaining gift tax exemption to establish and fund a SLAT for Grantor 2**
 - This is an irrevocable trust where Grantor 2 is the primary beneficiary. Due to California law issues, distributions from the SLAT cannot be made to Grantor 2 to satisfy Grantor 1’s legal obligation to support their spouse. However, distributions that go above and beyond Grantor 1’s obligation to support Grantor 2 can be made to Grantor 2. The distributions will be more expansive after Grantor 1’s death.
 - While the SLAT will have its own taxpayer identification number, all of the income taxes of the SLAT will be reported on Grantor 1’s income tax return as the Grantor of this SLAT is Grantor 1. By Grantor 1 paying the income taxes of this SLAT, Grantor 1 is making tax free gifts to the SLAT, which will inevitably help reduce Grantor 1’s overall taxable gross estate.
 - The assets owned by the SLAT will not be includible in Grantor 1’s or Grantor 2’s gross estate at their deaths under current law.
- **Step 2 – Grantor 2 uses Grantor 2’s remaining gift tax exemption to establish and fund a SLAT for Grantor 1**
 - This is an irrevocable trust where Grantor 1 is the primary beneficiary. Due to California law issues, distributions from the SLAT cannot be made to Grantor 1 to satisfy Grantor 2’s legal obligation to support their spouse. However, distributions that go above and beyond Grantor 2’s obligation to support Grantor 1 can be made to Grantor 1. The distributions will be more expansive after Grantor 2’s death.
 - While the SLAT will have its own taxpayer identification number, all of the income taxes of the SLAT will be reported on Grantor 2’s income tax return as the Grantor of this SLAT is Grantor 2. By Grantor 2 paying the income taxes of this SLAT, Grantor 2 is making tax free gifts to the SLAT which will inevitably help reduce Grantor 2’s overall taxable gross estate.
 - The assets owned by the SLAT will not be includible in Grantor 2’s or Grantor 1’s gross estate at their deaths under current law.

MODERN ESTATE PLANNING ESTABLISH SLATS



Gift Remaining Exemption

SLAT

Grantor 1's SLAT is established and funded by Grantor 2 using Grantor 2's remaining gift and GST tax exemption.
Grantor 2's SLAT is established and funded by Grantor 1 using Grantor 1's remaining gift and GST tax exemption.

In 2026, the current gift and GST tax exemption amount is at \$15,000,000 less anything that has been previously used.

Under current law, the assets in the SLATs will be outside Grantor 1's and Grantor 2's gross estates.

MODERN ESTATE PLANNING HOW THE SLAT IS ADMINISTERED

SLAT

Trust Beneficiary Distributions



Spouse
(and descendants)

- The Spouse (and descendants) can receive distributions as a beneficiary of the SLAT at the discretion of the Trustee for their health, education, and living expenses (but cannot satisfy the Grantor's obligation to support their spouse). The Grantor can be the Trustee, or the Grantor's spouse can be their own Trustee, so long as the powers are limited.
- Additionally, the Spouse (and descendants) can receive distributions as a beneficiary of the SLAT at the discretion of the Special Trustee for any reason. Neither the Grantor nor the Spouse can be the Special Trustee.
- Provisions at Spouse's Death
 - *Default Rule* – The remaining balance of the SLAT can be held in trust for the benefit of the Grantor's descendants, or in any other manner the Grantor wishes to set the default rule.
 - *Optional Rewrite Power* – the Spouse can have the power to rewrite how the SLAT is distributed following the Spouse's death. This power can be exercised at any time down the road, or even multiple times.
- Investment Decisions – Controlled by the Trustee.

MODERN ESTATE PLANNING

ADDITIONAL DETAILS REGARDING THE SLAT

- **The Grantor uses their gift tax exemption to establish and fund a SLAT for their Spouse.**
- **The SLAT is an intentionally defective grantor trust (“IDGT”).**
 - This means the SLAT will have its own taxpayer identification number, but all of the income taxes of the SLAT will be reported on the the Grantor’s income tax return. By the Grantor paying the income taxes of the SLAT, the Grantor will be making tax free gifts to the SLAT which will inevitably help reduce their overall taxable gross estates. This is an instance of the estate tax burn.
- **The SLAT is administered primarily for the Spouse’s benefit.**
 - The SLAT defines the primary beneficiary to be the Spouse (and children are secondary beneficiaries). Due to California law issues, distributions from the SLAT cannot be made to the Spouse to satisfy the Grantor’s legal obligation to support the Grantor’s Spouse. However, distributions that go above and beyond the Grantor’s obligation to support the Spouse can always be made. The distributions will be more expansive after the Grantor’s death.
- **Pursuant to current law, the assets owned by the SLAT (and the appreciation of those assets) will not be includible in the Grantor’s or Spouse’s gross estates at their deaths, or in the estates of their children.**

MODERN ESTATE PLANNING SUMMARY OF SLAT BENEFITS

- The SLAT allows a Married Couple to utilize their current gift tax exemption to remove assets out of their estate, along with the future appreciation of those assets. The SLAT also keeps those assets out of the Primary Beneficiary's estate for estate tax purposes.
 - Allows the ability to move real estate out of your estate **without property tax reassessment.**
 - Allows Each Spouse to Control the SLAT of which the Spouse is the Beneficiary.
 - Most distributions (varies).
 - All Investments.
 - Optional ability to rewrite where the remaining assets of the SLAT go at the Spouse's death.
- While we know that you have a \$15M exemption amount for the year of 2026 (less any previously used exemption amount), we do not know how much longer that exemption amount will remain available.

MODERN ESTATE PLANNING DEALING WITH INCOME

- **TRADITIONAL PLANNING - You gift the asset, the real estate, or the business away for estate tax planning purposes... However, when you gift that asset, you are also gifting away its income.**
 - While gifting gets the future appreciation of the asset's value out of your estate, this leaves some people in a difficult spot as they were using that asset's income to support their lifestyle.
- **MODERN PLANNING – You can Use Gifting, but Can Also Consider SALES**
 - **Why sell to a Grantor Trust?** – No income tax recognition on the sale, or the payments on the note, if the trust is an IDGT.
 - **Terms of the Sale?** – Generally, you sell the real estate (or LLC) to a Trust, and the Trust gives you a promissory note.
 - The payments on the promissory note allow you to retain an income stream from the assets.
 - However, you also achieve getting the appreciation of the real estate out of your estate. This is maximized by taking discounts.

SO, WITH MODERN PLANNING, YOU CAN REMOVE THE ASSET FROM YOUR ESTATE BUT KEEP THE INCOME FOR A NUMBER OF YEARS, UNTIL THE PROMISSORY NOTE IS REPAYED (income tax-free)!

TOPIC 4

ASSET PROTECTION SIMPLE VERSUS COMPLEX METHODS

ASSET PROTECTION

SIMPLE PROTECTION



Insurance is Important

Whether it's car insurance, homeowner's insurance, renter's insurance, etc., insurance will always be your first line of defense against a creditor.

Make sure to have umbrella insurance!

ASSET PROTECTION **MORE COMPLEX PROTECTION**

GENERALLY - There is NO PROTECTION against creditors for real estate owned in (a) your own name or (b) in a revocable living trust.

This is why people buy the insurance we previously discussed.

HOWEVER – If you have that real estate owned by a legal entity (like an LLC or LP) then that legal entity should protect the real estate from your own personal liability (outside liability) and should protect your own personal assets from liability associated with the real estate (inside liability).

- Inside Liability Protection: if there is a slip and fall on the property owned by the entity, the creditor can only reach assets owned by the entity to satisfy the debt.
- Outside Liability Protection: if the business owner has a personal creditor (ex., a car accident), the entity may shield the entity's assets from being collected to satisfy the debt.

It is important to properly maintain and operate the legal entity to ensure the protection features work when they are needed to work and so the “corporate veil” isn’t pierced.

ASSET PROTECTION **MORE COMPLEX PROTECTION**

Is it risky to have multiple properties in one entity?

- **ONE ENTITY** – Have one legal entity owning all of your real estate can be an issue for inside liability.
 - If one LLC owns multiple pieces of real estate and there is a slip and fall on one property, each piece of real estate owned by the entity may be used to satisfy the creditor's judgment.
 - This is better than having no legal entities, but the situation could be better.
- **MULTIPLE ENTITIES** - Having separate legal entities for each piece of real estate provides better protection for those assets.
 - If there is only one piece of real estate per LLC, a slip and fall on one property would not affect the property owned by another LLC.
 - With having each piece of real estate owned by a separate entity, they may all be connected by an additional managing entity, which manages the others.
 - Profits from each real estate-owning entity may be pushed up to the managing entity, thus helping to protect the rental income from the real-estate owning entity's potential creditors.

TOPIC 5

A QUICK TID-BIT ABOUT USING AI



A QUICK TID-BIT ABOUT USING AI

- IT'S EXCITING!
- IT'S SO EASY TO USE!!
- IT REMINDS ME THAT I ASK EXCELLENT QUESTIONS!!!
- I TRUST IT FOR ANSWERS – MAYBE I SHOULD START UPLOADING MY LEGAL DOCUMENTS INTO IT AND ASKING QUESTIONS?
- MAYBE I SHOULD ASK IT TO DRAFT AN AMENDMENT TO A LEASE AGREEMENT, OR PREPARE AN AMENDMENT TO MY TRUST?

A QUICK TID-BIT ABOUT USING AI

- REMEMBER HOW PLATFORMS LIKE CHATGPT AND CLAUDE WORK.
 - They use publicly available data, licensed data sets, and other data created by human trainers.
 - While a document that you upload is marketed as “not being publicly shared” it can still be used to “improve the model.”
- SO BE CAREFUL – Wipe all documents of identifying information prior to uploading.
- YOU CAN ALSO LOSE ATTORNEY-CLIENT PRIVILEGE BY UPLOADING DOCUMENTS.

A QUICK TID-BIT ABOUT USING AI

- **NO ACCOUNTABILITY** - WHO ARE YOU GOING TO HOLD ACCOUNTABLE IF AI IS WRONG? WRONG ANALYSIS, UNENFORCEABLE PROVISIONS, UNENFORCEABLE DOCUMENTS?
- **USE FOR RESEARCH** - USE AI FOR GENERAL RESEARCH, AS OPPOSED TO ACTUAL DOCUMENT CREATION OR DOCUMENT ANALYSIS.
- **DOUBLE CHECK EVERYTHING** - BUT REMEMBER, AI ANSWERS ARE ONLY AS GOOD AS THE QUESTIONS THAT ARE INPUT, AND AI HAS BEEN KNOWN TO HALLUCINATE/GIVE INCORRECT RESPONSES. IT'S A GOOD IDEA TO DOUBLE CHECK THE ANSWERS.

TOPIC 6

KEY TAKEAWAYS

KEY TAKE AWAYS

- **Legislative Update**
 - Current Exemption is at \$15M for 2026, with a \$19K annual exclusion. May not always be this amount.
 - Plan now as there is a trend for taxes to be more aggressive in the future.
- **It's Important to Review Your Fundamental Estate Plan**
 - Laws change; lives change. So, your estate plan likely needs to change, too!
- **How Best to Leave Assets to Your Loved Ones**
 - Leaving assets to your loved ones in trust can be structured to provide creditor protection, divorce protection, and to minimize taxes.
 - Consider what type of distribution rules fit your situation best.
 - Consider who should be the Trustee – Friends, Family, Private Fiduciary, Corporate Trustee
 - Consider the SLAT and how you can do estate planning for a spouse instead of giving the assets away to others.
 - The plan can be designed so you remove the assets from your estate, but you can retain the income stream!
- **Protect Your Assets Using Insurance and/or Legal Entities**
- **Be Cautious Using AI Tools**

THANK YOU FOR YOUR TIME
CONTACT ME TO DISCUSS FURTHER

REMEMBER TO CREATE YOUR BASIC ESTATE PLAN (AND HAVE IT PERIODICALLY REVIEWED). IF YOU WOULD LIKE TO SCHEDULE A MEETING TO CREATE AN ESTATE PLAN, REVIEW AN ESTATE PLAN, OR TO DISCUSS ADVANCED ESTATE PLANNING TECHNIQUES, **PLEASE CONTACT ME FOR A COMPLIMENTARY PHONE CALL OR ZOOM MEETING.**

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