CRESSET

Estate Planning for the Private Investor

November 2026

cressetcapital.com

Start With the Foundation: Core Planning

Importance of Estate Planning

By having a core estate plan in place, you can address various tax and non-tax concerns.

Non-Tax Considerations

- Ability for your assets to be managed in case of your incapacity.
- Avoid public disclosure of assets.
- Minimize the time and expense of court supervision of the distribution of your assets.
- Identify trusted individuals to act as guardian of minor children.
- Ensure that family members are provided for in the way you intend.
- Coordinate the transfer of estate assets and those that pass by beneficiary designations such as retirement accounts, life insurance policies, and pay-on-death accounts.

Tax Considerations

- Identify the most efficient way to transfer wealth and/or postpone the payment of estate tax.
- Utilize lifetime gifts to enhance the impact of wealth transfer techniques.
- Identify assets to most efficiently make charitable gifts.
- In certain instances, reduce or eliminate income tax associated with the sale of assets.

Will vs Revocable Trust: What's the Difference?

CRESSET.

An estate plan is generally created in one of two ways, either through a will, or through a revocable trust.

Will

- Takes effect at death.
- Controls property owned in the deceased person's name.
- Does not control assets with beneficiary designations (e.g., retirement accounts, life insurance).
- Must be approved by a court to be legally effective. This court process is called probate.
- No need to transfer title to assets during life.
- Lacks privacy as probate is a public record.

vs.

Revocable Trust

- Takes effect when executed.
- Controls property placed into the trust during life and at death.
- The person who creates the trust can change or revoke it.
- Does not require court approval or involvement to be legally effective. Avoids probate.
- Most assets are titled to the trust during life.
- More private than a will.

Generally, a Revocable Trust is preferred because of continuity of asset management, privacy, and protection that a trust can provide, however, this will depend upon the client's specific goals, circumstances, and balance sheet.

Typical Estate Plan Process

Execution

- An individual or married couple typically executes the following as part of a basic estate plan:
- Will(s)
- Revocable living trust(s)
- Durable power(s) of attorney for financial affairs
- Advance health care directive(s) or health care power(s) of attorney

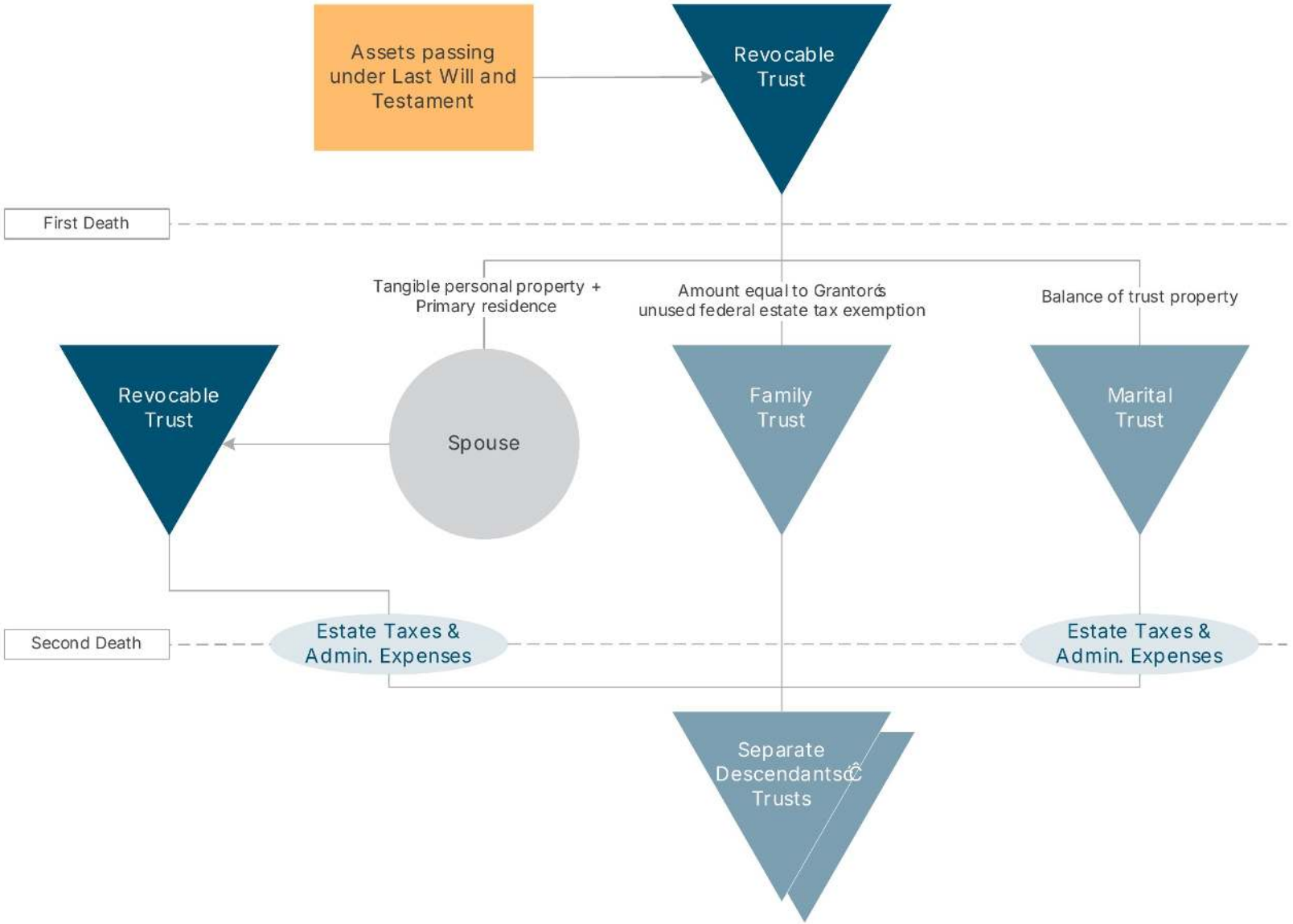
Funding

- After the basic plan is put into place, you will transfer assets to your respective revocable living trusts to avoid probate. Assets that may be transferred include:
- Real Property
- Investment Assets
- Bank Accounts
- Business Interests

Administration

- Your revocable trust often includes the following provisions:
- You receive all trust income and principal during your lifetime.
- You can change or cancel the trust at any time.
- You usually serve as your own trustee.
- If you become incapacitated, a successor trustee manages the trust.
- The successor trustee follows your instructions for your beneficiaries and assets.

Revocable Trust Illustration



Family Trust and Marital Trust

Family Trust (or Credit Shelter Trust)

- Created at the death of the first spouse in a married couple.
- Designed to preserve the first spouse's transfer tax exemption.
- Helps maximize the amount passed to the next generation free of transfer tax.
- Terms can vary, but the surviving spouse is often the primary beneficiary during their lifetime.
- These assets are, typically, not subject to estate tax at the second death.
- These assets do not receive a step-up in basis when the surviving spouse dies.

Marital Trust

- Assets exceeding the amount needed for the Credit Shelter Trust usually pass to the surviving spouse to avoid estate tax at the first death.
- This transfer can be made outright or through a Marital Trust.
- The terms of a Marital Trust are largely determined by U.S. tax rules.
- The Marital Trust must benefit only the surviving spouse during their lifetime.
- The surviving spouse must receive all trust income.
- Marital Trust assets are included in the surviving spouse's estate at death.
- These assets are subject to estate tax at the second death.
- The assets receive a step-up in basis when the surviving spouse dies.

This is a general overview of these structures. The creation of these trusts may or may not be included in your documents and the terms may be different.

Fiduciary Structure of Estate Plan

CRESSET.

Executor

The person who manages an estate by handling probate, gathering assets, paying final bills, and filing final tax returns. The Executor may or may not be the same person as your Successor Trustee. May also be called a Personal Representative.

Trustee

Responsible for managing and investing trust assets. The person who creates the trust (the Grantor) often serves as Trustee during life. If the Grantor becomes incapacitated or dies, a chosen Successor Trustee takes over. You may name one or more Successor Trustees or Co-Trustees.

Guardian for Minor Children

The person who will have physical custody of your minor children in the event of both parents' deaths. The Guardian may, but need not, be the same person as your Successor Trustee. A Guardian can also be a family member or friend.

Trust Protector

The person who helps ensure the trust continues to work as intended if laws or circumstances change after the Grantor's death. They may use specific powers granted in the trust to do this. The Trust Protector may be a trusted advisor, family friend, or someone later chosen by the beneficiaries.

Agent under Health Care Directive

The person who may make health care decisions on your behalf in the event you are unable to. This person may be a spouse, family member, or friend.

Agent under Financial Power of Attorney

The person who handles financial matters for you. This person may or may not be the same as your Successor Trustee. The agent's authority applies only to assets you own individually, not assets held in a revocable trust.

Considerations When Selecting Fiduciaries and Agents

- Capability and Judgment: Does the person have the experience, skill, maturity, and sound judgment needed to manage financial, legal, or personal matters responsibly?
- Availability and Commitment: Does the person have sufficient time, willingness, and capacity to serve in a fiduciary or decision-making role?
- Longevity and Reliability: Is the person likely to be alive, healthy, and available when their services may be needed?
- Emotional Objectivity: Can the person set aside personal emotions, opinions, or family dynamics to carry out your wishes as written?
- Decision-Making Under Pressure: Is the person able to make difficult financial or healthcare decisions and live with those decisions?
- Advocacy and Communication: Will the person ask questions, speak up on your behalf, and act as a strong advocate when necessary?
- Responsiveness: Is the person accessible and able to act quickly when timely decisions are required?
- Family Impact: How will family members or children respond to this person being named, and could the appointment create conflict?
- Appropriateness of Expertise: Are your assets or circumstances complex enough to justify appointing a professional fiduciary, such as a financial institution or accountant, instead of, or in addition to, an individual?

Transfer Taxes

Transfer Taxes

A transfer tax is a tax on the transfer of property from one person to another.

Estate Tax

A tax imposed on property transferred at death. In addition to the federal estate tax, some states have a state-level estate tax.

Current Gift and Estate Tax Exemption

$15 million per individual for 2026 ($30 million for married couples).

Gift Tax

A tax imposed on property transferred during life.

Gift, Estate, and GST Tax Rate

40% on all property in excess of an individual's unused gift and estate tax exemption amount.

Generation Skipping Transfer Tax (GST)

A tax imposed on transfers of property to persons more than one generation removed from the transferor, as well as some trusts.

Opportunity for Advanced Planning

2026 Federal Gift and Estate Tax Exemptions

The federal estate and gift tax exemption is currently $15 million per individual (or $30M per married couple). Any assets gifted during your life or at your death in excess of that amount are subject to a 40% federal gift or estate tax, respectively.

There is an equal exemption of $15 million per individual to shelter gifts to individuals who are more than one generation younger than the donor. This "generation-skipping transfer" tax exemption can also be allocated to a multi-generational trust so that the assets will never be subject to the 40% tax that would otherwise apply as assets move to each succeeding generation. This exemption is also indexed for inflation and should move in line with the gift exemption above.

What Happens If the Law Changes?

The exemption amount in effect at the time of your death controls how much of your estate passes federal estate tax free, unless you have engaged in lifetime transfers that "locked-in" your use of the historically large exemption. Thus, many clients with significant assets are choosing to take advantage of the ability to shelter assets (as well as their future appreciation) while exemptions are high.

Other Ways to Give

Annual Exclusion Gifts

Each year, you may give up to $19,000 to as many individuals as you would like without reducing your available lifetime exemption (i.e., the $15 million discussed previously).

Direct Payments for Certain Expenses

In addition to making direct gifts to individuals each year, you may also pay any medical or tuition expenses directly to a provider on an individual's behalf without reducing your available lifetime exemption.

Tuition Expenses: This exclusion does not apply to amounts paid for books, supplies, housing expenses or other related expenses, other than direct tuition expenses. It does, however, apply to both full-time and part-time students.

Medical Expenses: Payments for the diagnosis, cure, mitigation, treatment or prevention of disease or for transportation primarily for and essential to medical care. This exclusion also applies to amounts paid for medical insurance on behalf of any individual and can cover qualified long-term care and long-term care insurance.

Advanced Planning Opportunities and the Alphabet Soup: GRATs, IDGTs, SLATs, SLANTs, and FLPs

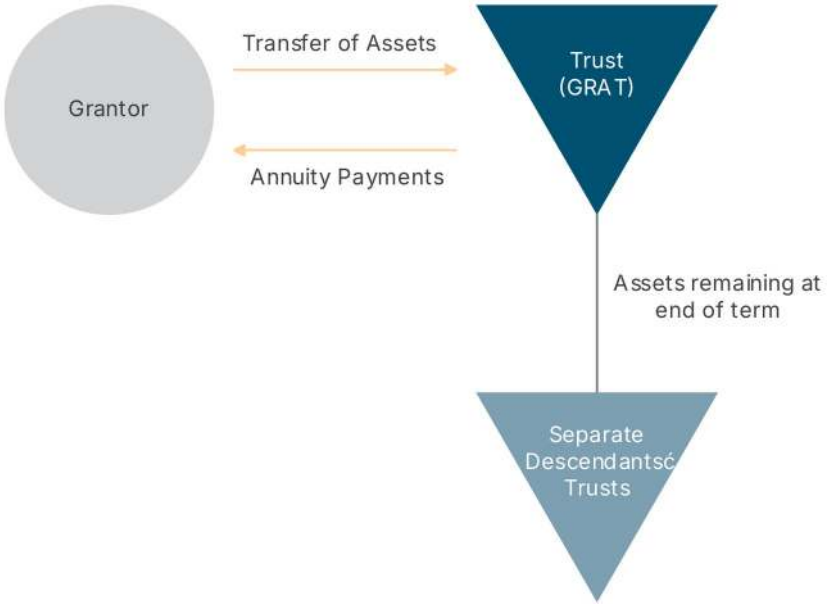
Grantor Retained Annuity Trust Overview

What Is a Grantor Retained Annuity Trust?

A GRAT is an irrevocable trust that is used to transfer the future appreciation of one or more assets to beneficiaries of the grantor's choice. The grantor retains the right to receive a stream of payments (an annuity) for a stated number of years, and the value remaining in the GRAT at the end of the annuity term is available to the beneficiaries, subject to the terms of the trust. When properly structured, the total value of the annuity payments should equal the value of the assets initially transferred to the GRAT, plus a small interest charge (the hurdle rate). If trust assets appreciate in excess of the hurdle rate, it is possible to transfer significant assets to the beneficiaries free of transfer tax.

Who Should Consider This Technique?

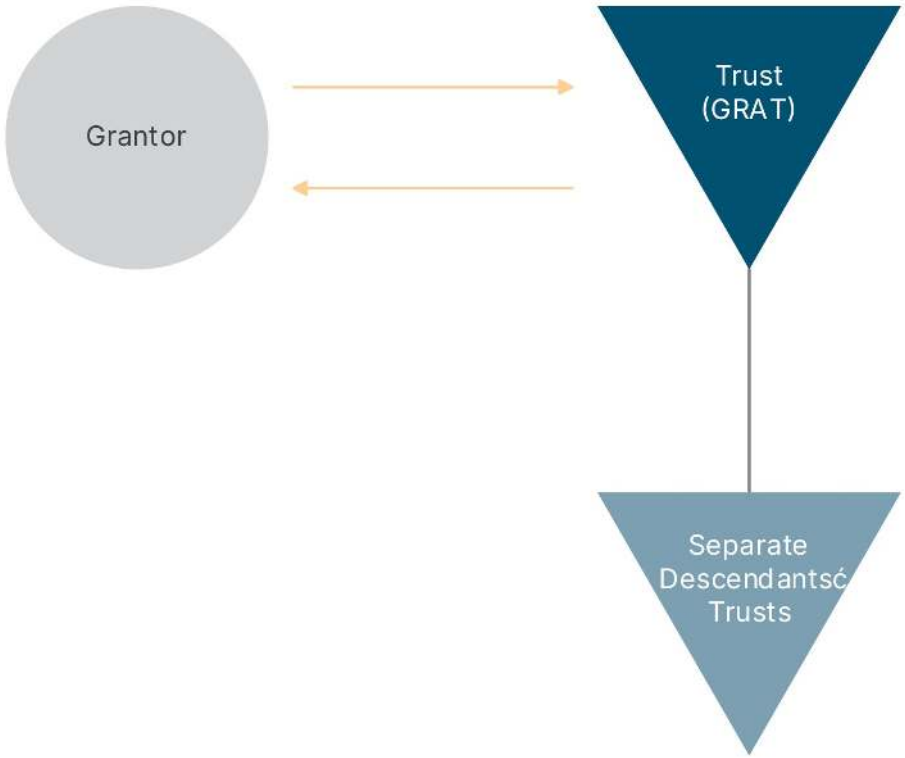
A GRAT is a particularly effective technique for (i) individuals who have already used their lifetime exemption, or (ii) individuals who want to transfer the future growth of one or more assets out of their taxable estates.



Beneficiary: Grantor.

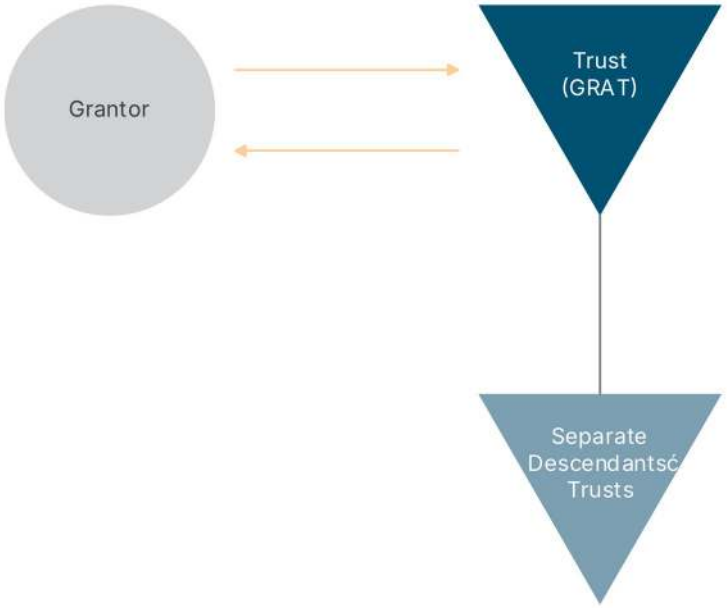
Beneficiaries: Separate equal trusts for each of your children after the annuity period; provisions for your children are customizable to reflect your wishes regarding appropriate access to assets.

Grantor Retained Annuity Trust Mechanics



Step 1	Step 2	Step 3
Transfer of assets to trust established for a fixed term of years.	Annual annuity payments made which total the value of property transferred plus an interest charge.	Assets remaining after the annuity period is distributed according to the terms of the GRAT (outright or in trust).

Grantor Retained Annuity Trust Illustration



Transfer of Assets: $10 million

Annuity Payments: $7.7 million

Tax-Free Transfer: $2.2 million

Assumptions:

- Value of Transfer: $10 million
- Discount on Transfer: 25%
- Initial Funding: $7.5 million (discounted value of entity)
- Growth: $2.5 million (assuming sale of entity during the term)
- Annuity Payment: $3.5 million year one, $4.2 million year two (20% increase)

Results

- Annuity Payments Received by Grantor: $7.7 million
- Tax-free Transfer to Remainder Beneficiary: $2.2 million

The information contained in these materials is for illustrative purposes only and not intended to provide professional, investment, legal, or tax advice and should not be relied upon in that regard.

Grantor Retained Annuity Trust Considerations

Advantages

- A transfer in trust may generate significant estate tax savings by sheltering future appreciation and leveraging valuation discounts.
- Effective at transferring future appreciation with minimal or no gift tax cost, particularly for a "zeroed-out" GRAT.
- Tax treatment is certain provided the requirements set out in IRS statutes and regulations are followed.

Disadvantages

- Trust must outperform the interest hurdle for assets to be left for beneficiaries.
- If the grantor dies prematurely, a portion of the trust may be included in the estate equal to the amount needed to fund the remaining annuity payments. This amount is calculated by dividing the annual annuity by the Section 7520 rate in effect on the date of death or the alternate valuation date.
- Out of pocket costs for legal, administrative and appraisal fees.

Grantor Retained Annuity Trust Tax Treatment

CRESSET.

Gift & Estate Tax

- Completed transfer for gift and estate tax purposes.
- Amount of taxable gift is determined by reducing the value of the transferred assets by the retained annuity interest, making it possible to "zero-out" the gift for transfer tax purposes.
- Grantor's death during the term of the trust results in inclusion of trust property in the gross estate.
- The includable amount will not exceed the fair market value of the trust.

Income Tax

- Transfer is ignored for income tax purposes.
- Annual annuity payments are not taxable to the Grantor.
- Tax on the trust's income is payable by the Grantor during the annuity term.

Generation-Skipping Transfer Tax

- Typically, an inefficient vehicle for generation skipping transfer tax planning.
- GST exemption cannot be applied at the time of the initial transfer.
- Appreciated assets may be sheltered from GST tax at the expiration of the GRAT term.

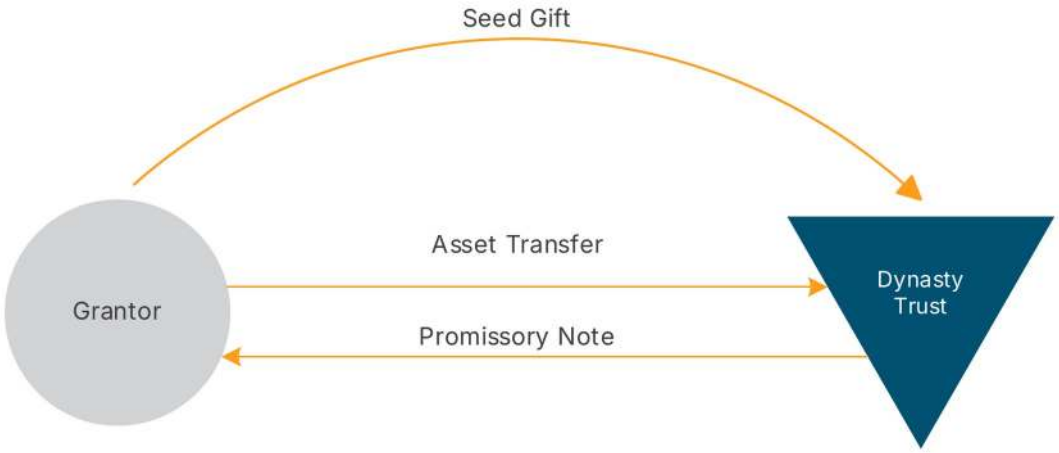
Sale to an Intentionally Defective Grantor Trust Overview

What Is a Sale to an Intentionally Defective Grantor Trust?

A sale to an intentionally defective grantor trust (IDGT) is an estate planning technique designed to transfer assets and their future appreciation out of the taxable estate in a tax-efficient manner. The strategy involves creating and funding an irrevocable dynasty trust and then selling additional assets to the trust in exchange for a promissory note. Because of a mismatch between income tax and transfer tax rules, the grantor is treated as the owner of the trust assets for income tax purposes but not for estate tax purposes. As a result, the sale and repayment of the promissory note do not trigger income tax, and the trust assets can grow free of income tax while the grantor continues to pay the tax on the trust's income.

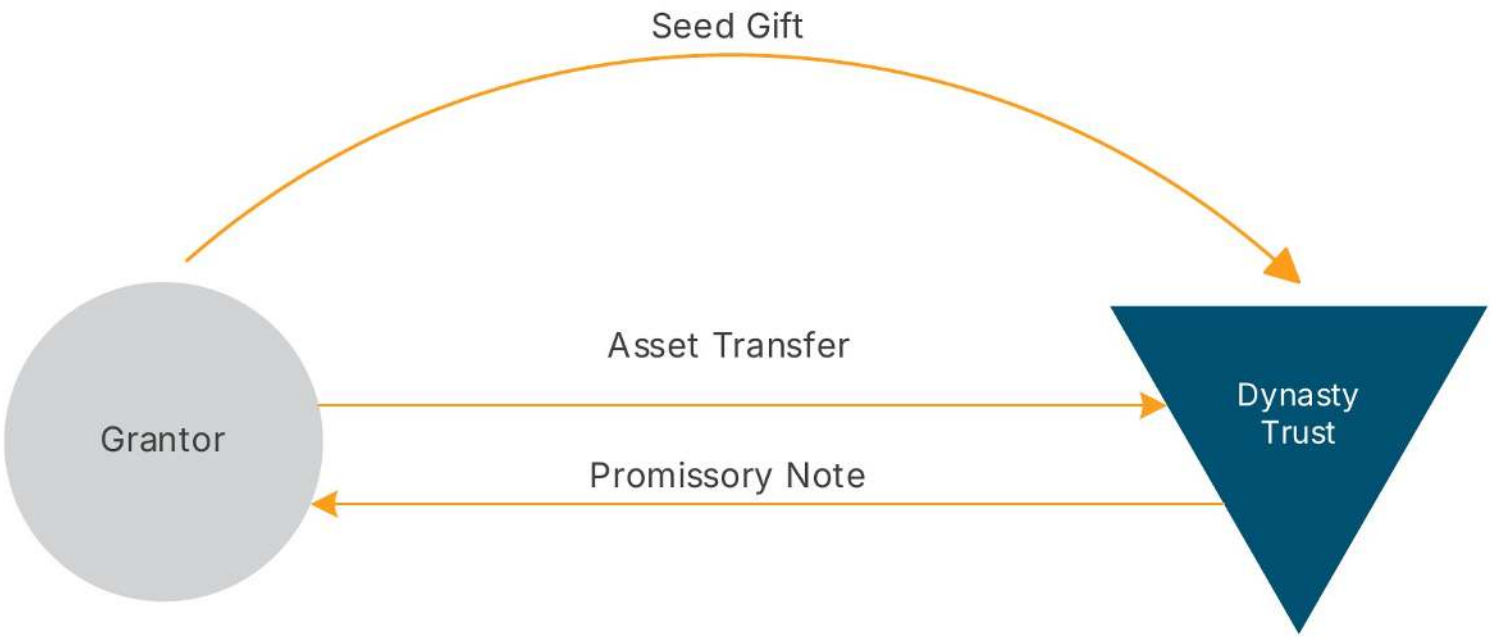
Who Should Consider This Technique?

Individuals with taxable estates who wish to shift future asset growth to beneficiaries while retaining cash flow through note payments. It is most often considered by those who own appreciating assets, have sufficient liquidity to pay ongoing income taxes, and are comfortable making irrevocable transfers in exchange for long-term estate tax efficiency and multigenerational wealth planning.



Beneficiaries: Your children and their descendants; provisions for your children are customizable to reflect your wishes regarding appropriate access to assets. Your spouse may also be a beneficiary.

Sale to an Intentionally Defective Grantor Trust Mechanics



Step 1	Step 2	Step 3
Up-front gift to the trust equal to a percentage of the property sold (rule of thumb is 10% gift and 90% sale).	Sale of property in exchange for an interest-bearing promissory note (typically interest-only with a balloon principal payment at the end of the term).	Assets are held and distributed among the beneficiaries according to the terms of the trust.

Sale to Intentionally Defective Grantor Trust Illustration of Impact of a Single Irrevocable Trust

Assumptions

- Gift: $1 million of XYZ stock to trust (using $1 million of exemption).
- Sale: David sells $9.113 million of XYZ stock to a trust in exchange for a promissory note (this does not cause taxable gain). Note is repaid in year 10.
- Growth: Assets grow at 7.04% per year. This growth has been applied to retained XYZ stock and cash until further information is provided.
- Interest Rate on Note: 3.59% (March 2026 AFR).
- Taxes: David pays the income tax associated with any income earned by the trust [Note: Trust can include provision that allows the Trustee to reimburse David for the income taxes paid. The Trust can also loan assets to David and/or repay Note to provide liquidity.] David pays an estimated $10.5M in income taxes over 40 years (including tax on the XYZ stock when sold).

Estate Tax Savings

- The $138.8 million of assets in the trust in year 40 would be sheltered from estate tax. At the current 40% rate, this equates to a savings of approximately $55.5 million. This savings is doubled if each of David and Krystle create an irrevocable trust.

Year	Beginning Principal	Additional Cash Proceeds to Trust	Growth	Note Payment to David/Krystle	David & Krystle's Tax Liability	Ending Principal
1	$ 10,113,000	$ 5,854,416	$ -	$ -	$ (2,961,956)	$ 15,967,416
2	$ 15,967,416		$ 1,124,106	$ (286,615)	$ (63,849)	$ 16,804,907
3	$ 16,804,907		$ 1,183,065	$ (286,615)	$ (67,198)	$ 17,701,357
4	$ 17,701,357		$ 1,246,176	$ (286,615)	$ (70,783)	$ 18,660,917
5	$ 18,660,917		$ 1,313,729	$ (286,615)	$ (74,620)	$ 19,688,031
6	$ 19,688,031		$ 1,386,037	$ (286,615)	$ (78,727)	$ 20,787,453
7	$ 20,787,453		$ 1,463,437	$ (286,615)	$ (83,123)	$ 21,964,275
8	$ 21,964,275		$ 1,546,285	$ (286,615)	$ (87,829)	$ 23,223,945
9	$ 23,223,945		$ 1,634,966	$ (286,615)	$ (92,866)	$ 24,572,295
10	$ 24,572,295		$ 1,729,890	$ (8,270,323)	$ (98,258)	$ 18,031,862
11	$ 18,031,862		$ 1,269,443		$ (72,104)	$ 19,301,305
12	$ 19,301,305		$ 1,358,812		$ (77,181)	$ 20,660,117
13	$ 20,660,117		$ 1,454,472		$ (82,614)	$ 22,114,589
14	$ 22,114,589		$ 1,556,867		$ (88,430)	$ 23,671,456
15	$ 23,671,456		$ 1,666,470		$ (94,656)	$ 25,337,926
16	$ 25,337,926		$ 1,783,790		$ (101,319)	$ 27,121,716
17	$ 27,121,716		$ 1,909,369		$ (108,452)	$ 29,031,085
18	$ 29,031,085		$ 2,043,788		$ (116,087)	$ 31,074,874
19	$ 31,074,874		$ 2,187,671		$ (124,260)	$ 33,262,545
20	$ 33,262,545		$ 2,341,683		$ (133,008)	$ 35,604,228
21	$ 35,604,228		$ 2,506,538		$ (142,371)	$ 38,110,766
22	$ 38,110,766		$ 2,682,998		$ (152,394)	$ 40,793,763
23	$ 40,793,763		$ 2,871,881		$ (163,123)	$ 43,665,644
24	$ 43,665,644		$ 3,074,061		$ (174,607)	$ 46,739,706
25	$ 46,739,706		$ 3,290,475		$ (186,899)	$ 50,030,181
26	$ 50,030,181		$ 3,522,125		$ (200,057)	$ 53,552,306
27	$ 53,552,306		$ 3,770,082		$ (214,141)	$ 57,322,388
28	$ 57,322,388		$ 4,035,496		$ (229,216)	$ 61,357,884
29	$ 61,357,884		$ 4,319,595		$ (245,353)	$ 65,677,479
30	$ 65,677,479		$ 4,623,695		$ (262,626)	$ 70,301,174
31	$ 70,301,174		$ 4,949,203		$ (281,115)	$ 75,250,377
32	$ 75,250,377		$ 5,297,627		$ (300,905)	$ 80,548,003
33	$ 80,548,003		$ 5,670,579		$ (322,089)	$ 86,218,582
34	$ 86,218,582		$ 6,069,788		$ (344,764)	$ 92,288,371
35	$ 92,288,371		$ 6,497,101		$ (369,035)	$ 98,785,472
36	$ 98,785,472		$ 6,954,497		$ (395,015)	$ 105,739,969
37	$ 105,739,969		$ 7,444,094		$ (422,825)	$ 113,184,063
38	$ 113,184,063		$ 7,968,158		$ (452,591)	$ 121,152,221
39	$ 121,152,221		$ 8,529,116		$ (484,454)	$ 129,681,337
40	$ 129,681,337		$ 9,129,566		$ (518,559)	$ 138,810,904

Sale to an Intentionally Defective Grantor Trust Considerations

Advantages

- Can produce significant estate tax savings by removing asset appreciation from the taxable estate, which includes only the face value of the promissory note.
- Valuation discounts and leverage allow substantially more assets to be transferred than would be possible using the lifetime gift exemption alone.
- Promissory notes may be structured with interest-only payments and a balloon principal payment, making debt service easier to manage.
- More assets are able to grow inside the trust for the benefit of beneficiaries.
- Short- and mid-term note interest rates (generally nine years or less) are often lower than the rates used for grantor retained annuity trusts, which are tied to the Section 7520 rate.

Disadvantages

- Trust assets do not receive a step-up in basis at the Grantor's death.
- Unsettled tax issues may create risk, including potential capital gains recognition if the Grantor dies prematurely.
- The sale may be recharacterized as a taxable gift if the trust is not adequately funded.
- Trust assets must outperform the note's interest rate for the strategy to benefit beneficiaries.
- Out of pocket costs for legal, administrative and appraisal fees.

Sale to an Intentionally Defective Grantor Trust Tax Treatment

CRESSET.

Gift & Estate Tax

- Transfers to the trust are treated as completed transfers for gift and estate tax purposes, removing the property from the grantor's estate. Only the outstanding balance of the promissory note is included in the grantor's estate.

Income Tax

- Transfers to the trust are disregarded for income tax purposes, and subsequent sales to the trust do not trigger taxable events. In addition, annual interest payments made by the trust to the grantor are not subject to income tax.

Generation-Skipping Transfer Tax

- Dynasty trusts are a powerful tool for generation-skipping transfer tax planning, allowing GST exemption to be applied to the initial seed gift so that both the transferred assets and all future appreciation may be fully shielded from GST tax.

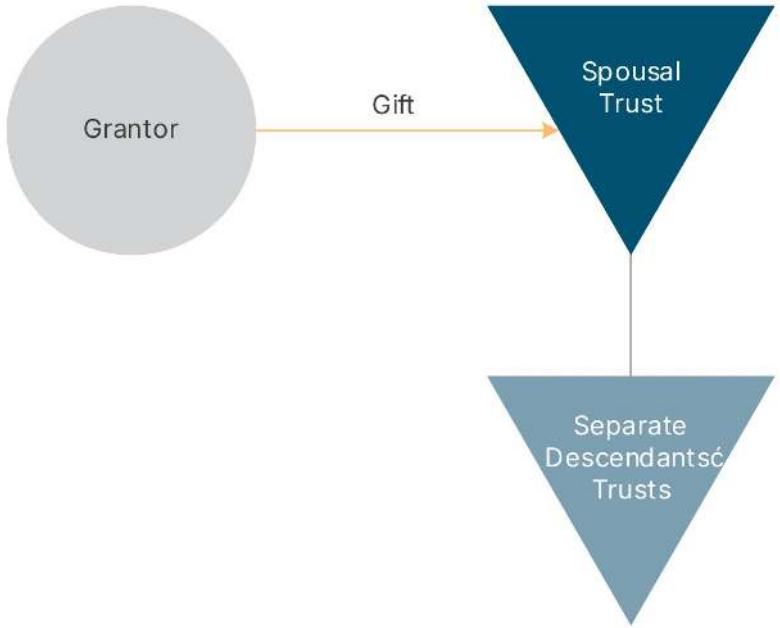
Spousal Lifetime Access Trust Overview

What Is a Spousal Lifetime Access Trust?

A spousal lifetime access trust, or a SLAT, is an irrevocable trust formed by one spouse (the grantor-spouse) for the benefit of the other (the beneficiary-spouse). When properly crafted, the SLAT removes the transferred property from the estates of both spouses, while still giving the beneficiary-spouse access to the assets if they are needed. The SLAT can be a very effective estate planning technique, particularly with today's high federal estate and generation-skipping transfer (GST) tax exemptions.

Who Should Consider This Technique?

A married couple who may wish to use their lifetime exemptions (currently $15 million per individual), but who may be uncomfortable with a transfer of assets to which they will lose all future access.



Beneficiaries: Spouse and descendants.

Beneficiaries: Separate equal trusts for each of your children after both parents have passed away; provisions for your children are customizable to reflect your wishes regarding appropriate access to assets.

Spousal Lifetime Access Trust Considerations

Advantages

- Ability to use lifetime estate and GST exemptions to transfer assets and appreciation out of the grantor-spouse's estate while retaining some access to the income or assets of the trust.
- Provide a source of funding for other family members, if desired, either through a current right to receive or borrowing from the trust.
- A transfer in trust may generate significant estate tax savings by sheltering future appreciation and leveraging valuation discounts.
- The structure allows continued access to transferred assets through the beneficiary-spouse if family needs arise.

Disadvantages

- The grantor-spouse does not have direct access to the assets that are irrevocably transferred to the trust and the transfer cannot be unwound.
- In the event of a divorce, the beneficiary-spouse may retain access to the assets transferred unless otherwise stated in the trust agreement.
- Legal, administrative and appraisal fees associated with establishing and administering an irrevocable trust.
- The property transferred by the grantor-spouse must be separate property.

SLAT vs. SLANT

A spousal lifetime access non-grantor trust (SLANT) is a SLAT with a few distinctions.

SLAT (Grantor Trust)	SLANT (Non-Grantor Trust)
• Ignored for income tax purposes • Grantor is treated as owning underlying assets for income tax purposes only. • Income, deductions, capital gains/losses are reported on the Grantor's individual income tax return. • No need for adverse party to approve to beneficiary-spouse.	• Trust is treated as a separate taxable entity. • Grantor is deemed to have transferred assets for income tax purposes such that the trust will pay the associated income tax. • Separate tax return is filed on behalf of the trust. • to beneficiary-spouse must be approved by an adverse party.

Spousal Lifetime Access Non-Grantor Trust For California Residents

- A Spousal Lifetime Access Non-Grantor Trust (SLANT) created and funded by a California resident may not be subject to California income taxes.
- When created and funded prior to a liquidity event, this generally saves 13.3% in taxes at the time of sale and on an on-going basis for gains inside the trust.
- There should be adequate time between the funding and the liquidity event. The California Franchise Tax Board may assert the Assignment of Income Doctrine and impose California income tax on the liquidity event if creation and funding of the SLANT is too close to the liquidity event.
- If a distribution is made to a California resident beneficiary, including the beneficiary-spouse, the distribution will be subject to Federal and California income taxation to the extent of distributable net income (DNI) for that tax year.
- When the trust distributes undistributed net income from prior years, including that accumulated from the year of the original liquidity event, there will be no federal income tax (as that tax was already collected in the year it was realized) but California will assert a throwback tax.
- Use of a SLANT will delay California income tax on a liquidity event to the time in which a distribution is made to a California resident or avoid California income tax if the beneficiaries are, or become, non-California residents before receiving .

Spousal Lifetime Access Non-Grantor Trust Considerations for California Residents

Advantages

- Delays California income tax, which allows larger post-tax liquidity to be invested and compound. May completely avoid California income tax if the client or other beneficiaries are, or become, non-California residents before taking.
- The client's spouse is a beneficiary of the trust, which provides access to the funds should this be required in the future.
- This trust structure is not subject to the California "anti-ING" legislation because it is a completed gift and the "I" in ING refers specifically to incomplete gift structures.
- Structure qualifies as an additional taxpayer for QSBS purposes.

Disadvantages

- Structure is more efficient for income taxes but less efficient for gift/estate taxes.
- An adverse party (i.e., a beneficiary under the trust) must approve all to the beneficiary-spouse, which means a child or other family member may be required to be involved and privy to the client's spending.
- The property transferred by the grantor-spouse must be separate property.
- Legal, administrative and appraisal fees associated with establishing and administering an irrevocable trust. A separate annual income tax return (Form 1041) is required.
- Record maintenance for purposes of distributable net income and throwback tax calculations.

Family Limited Partnerships

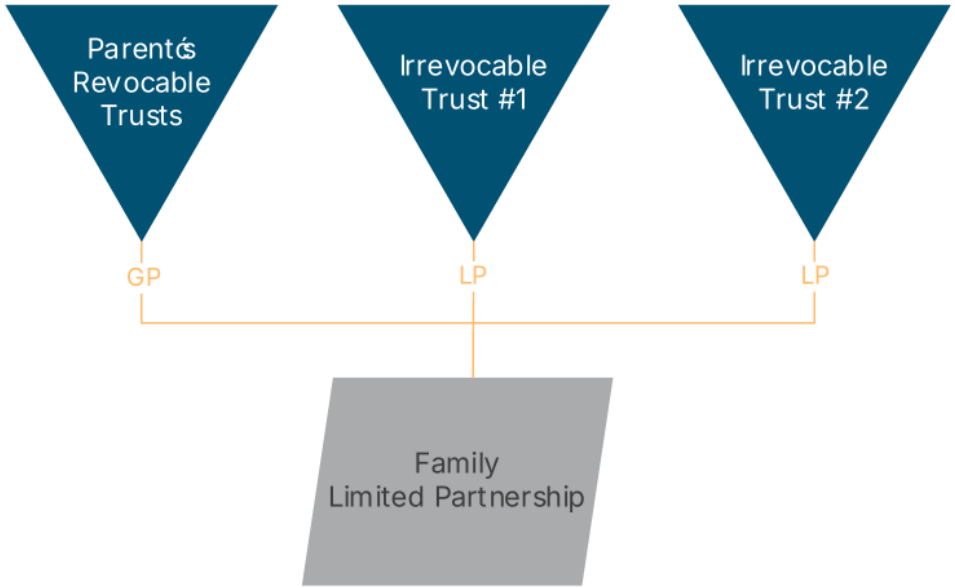
Family Limited Partnership Overview

What Is a Family Limited Partnership?

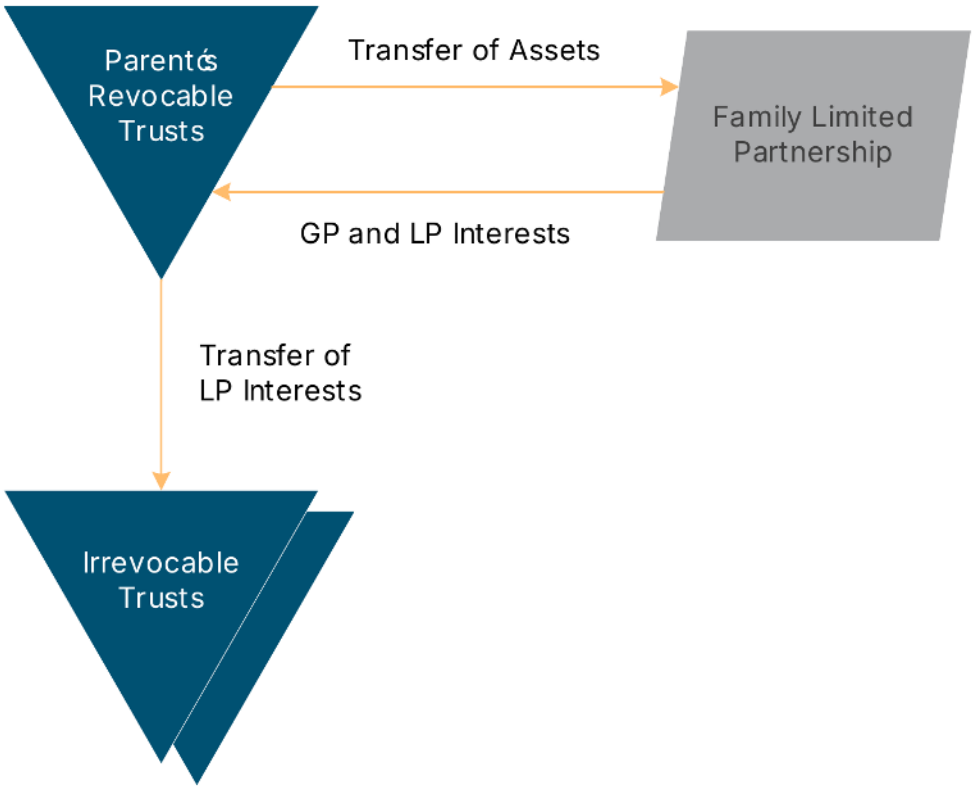
A family limited partnership (FLP) is a holding company owned by two or more family members, which is generally created to manage a family's investments (which may include business interests, real estate, publicly traded or privately held securities). FLPs are usually formed to (i) consolidate the management of assets, (ii) reduce the value of assets for gift and estate tax purposes, (iii) establish appropriate governance mechanisms regarding the management and distribution of the partnership's assets, and (iv) achieve creditor protection.

Who Should Consider This Technique?

This strategy may be appropriate for high-net-worth families with estate tax exposure who want to transfer wealth over time while retaining control and centralizing management of long-term assets. It's less suitable for families with modest wealth, short-term liquidity needs, or those unwilling to maintain formalities.

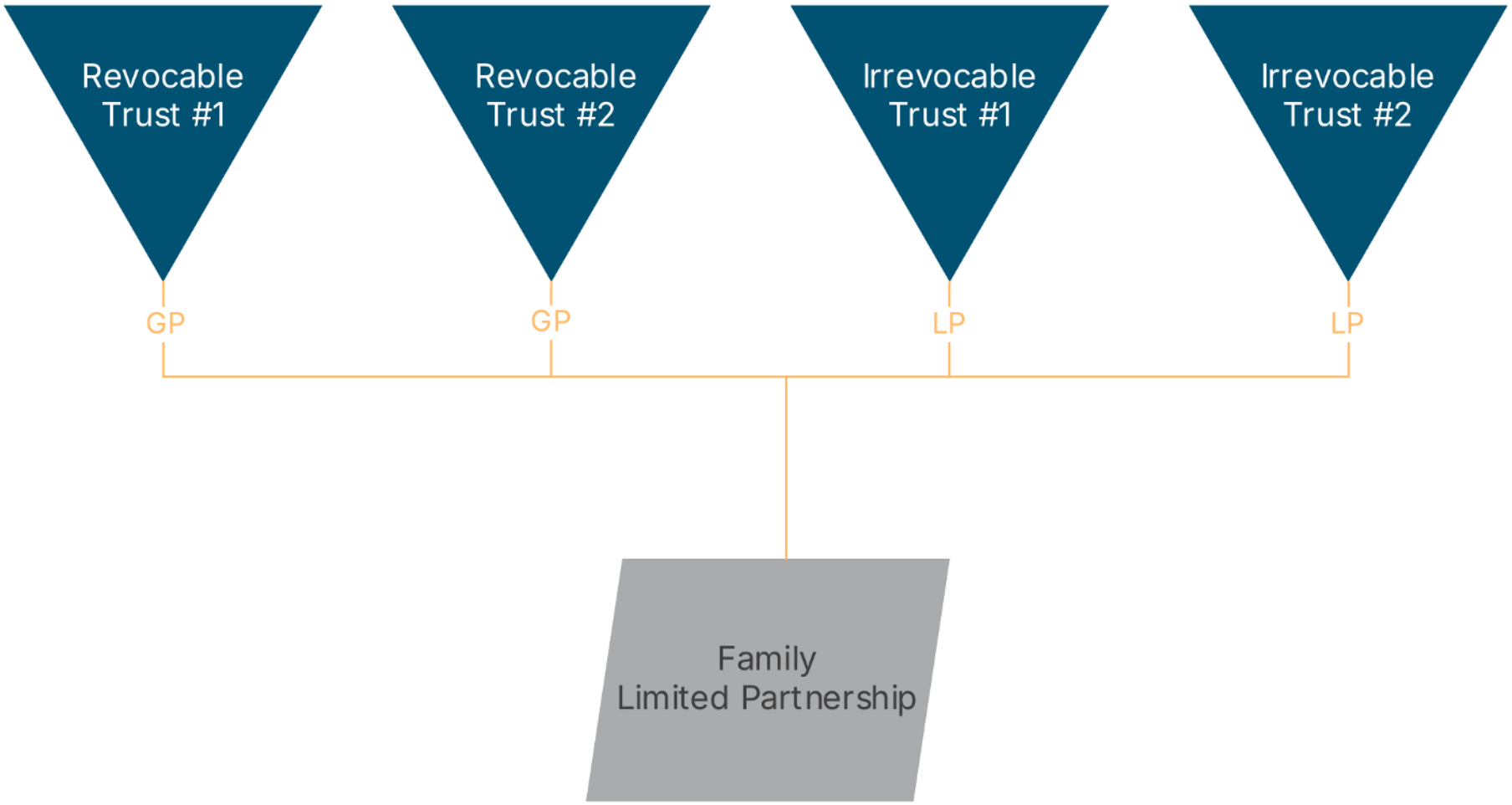


Family Limited Partnership Illustration



Step 1	Step 2
Husband and Wife contribute assets (e.g., liquid assets, real estate, business holdings) to the FLP in exchange for GP and LP interests.	Husband and Wife transfer all or a portion of their LP interest in the FLP to irrevocable trusts for the benefit of themselves (e.g., BDIT), each other (e.g., SLAT) or descendants.

Family Limited Partnership Illustration of Resulting Structure



Family Limited Partnership Considerations

Advantages

- Enables tax-efficient wealth transfer through gifting of discounted limited partnership interests.
- Allows senior family members to retain control over assets while transferring economic value.
- Centralizes management and decision-making, improving investment discipline and governance.
- Facilitates pooling of family assets, potentially reducing legal, accounting, and investment costs.
- Provides a framework for multigenerational planning, education, and shared family values.
- Offers a degree of asset protection, as creditors generally cannot force .
- Supports long-term holding of concentrated assets such as investments, real estate, or family businesses.

Disadvantages

- Requires strict adherence to legal formalities and ongoing administration.
- Subject to heightened IRS scrutiny, particularly if tax motives dominate or valuations are weak.
- Upfront and ongoing legal, accounting, and appraisal costs can be significant.
- Less flexibility for assets needed for personal use or short-term liquidity.
- Complexity may create friction among family members if governance is unclear.
- Valuation discounts are not guaranteed and depend on asset type, structure, and compliance.

Advanced Planning Tools for Fund Interests and Other Private Investments: BDITs, Derivatives Planning, INGs, and Asset Protection Trusts

Personal planning should be customized to fit the specific situation and goal and optimized for tax efficiency.

General Estate & Tax Planning Tools

Intentionally Defective Grantor Trust ("IDGT"): An IDGT is an irrevocable trust designed to purposefully cause trust income to be taxed to the fund principal while trust assets are excluded from the fund principal's taxable estate. A fund principal may make a small cash gift to the IDGT followed by a subsequent installment sale of an interest in the Fund to the IDGT. This technique can be an effective method to transfer an interest in the Fund and future appreciation on that interest in a way that leverages the fund principal's gift and estate tax exemption.

Spousal Lifetime Access Trust ("SLAT"): A SLAT is an irrevocable trust for the benefit of the fund principal's spouse and descendants. A fund principal may transfer an interest in the Fund to a SLAT, thereby removing the transferred interest and appreciation on the transferred interest from both spouses' taxable estates, though the beneficiary-spouse maintains access to the trust assets.

Incomplete Gift Non-Grantor Trust ("ING"): An ING is an irrevocable trust used primarily to eliminate state income tax liability and provide asset protection. INGs are traditionally used by those residing in high state income tax jurisdictions. A fund principal may contribute an interest in the Fund to an ING and shift the income tax liability generated by the Fund to a state such as Nevada, Delaware or South Dakota that has no state income tax. Note that New York and, more recently, California, in response to large revenue losses from this technique, passed legislation that taxes ING income to the fund principal regardless of the ING being formed as a non-grantor trust.

Dynasty Trust: A dynasty trust is an irrevocable trust that can be effective for individuals who wish to use their gift and GST tax exemptions (each $15 million per individual for 2026) and reduce or eliminate transfer taxes for future generations. A fund principal may transfer a portion of their interest in a Fund to a dynasty trust to shelter the growth and appreciation on the interest from federal transfer taxes for multiple generations.

Donor Advised Fund ("DAF"): A DAF is an account held at a financial institution that is irrevocably designated for future distributions to charity. A fund principal may transfer appreciated assets to a DAF capable of holding such assets and receive an income tax deduction while accomplishing their philanthropic goals.

Charitable Lead Annuity Trust ("CLAT"): A CLAT is an irrevocable trust that provides an income stream to charity for a defined period with the remaining assets after that period transferred to non-charitable beneficiaries (e.g., the fund principal's descendants or other family members) free of gift and estate tax. If structured properly, a CLAT can provide the fund principal with a significant income tax deduction too. Fund interests transferred to a CLAT should be in a mature Fund with sufficient liquidity to satisfy the annual annuity payments to charity.

Private Placement Life Insurance ("PPLI"): PPLI is a type of variable universal life insurance which allows the investments contained within the policy to grow on a tax deferred basis. PPLI allows fund principals to fund PPLI policies with cash distributions from carried interest in a tax-efficient manner.

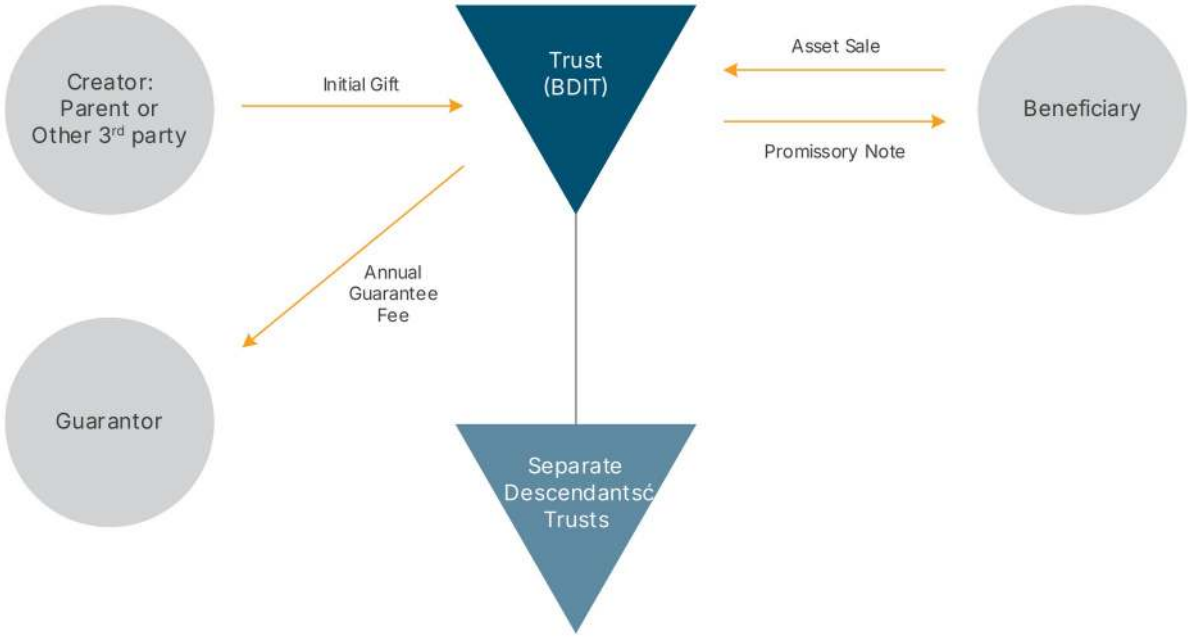
Beneficiary Defective Inheritor's Trust Overview

What Is a Sale to an Intentionally Defective Grantor Trust?

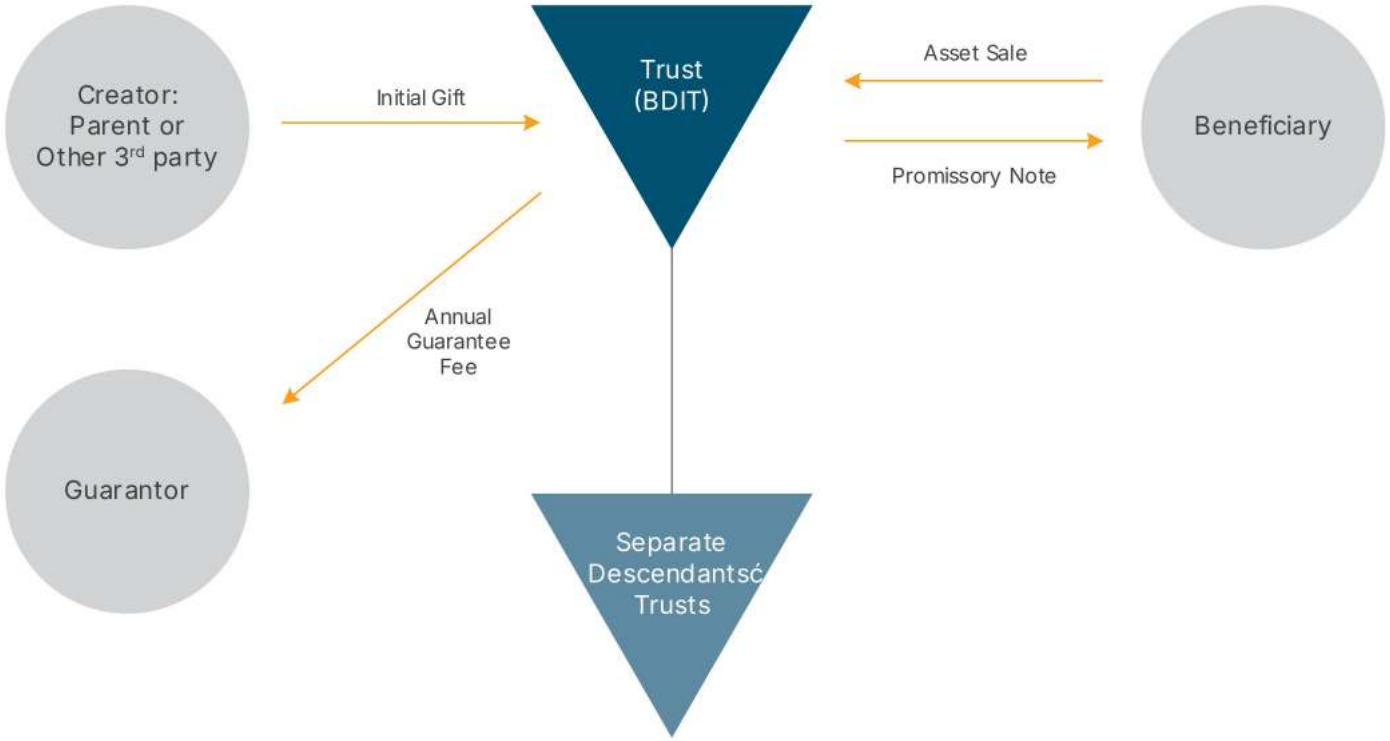
A beneficiary defective inheritor's trust, or a BDIT, is an irrevocable trust formed by a third-party (often beneficiary's parents) for the benefit of a beneficiary (who is also the income taxpayer and trustee). After creation of the BDIT, additional gift transfers to the trust are not permitted; however, the beneficiary may sell assets to the trust at fair market value. A guarantee fee should be paid to an individual who can support the trust's borrowing in order to give the transaction economic substance. When properly crafted, the BDIT minimizes transfer taxes, protects trust assets from creditors, and provides the beneficiary with control and access to trust assets.

Who Should Consider This Technique?

An individual with assets that are likely to appreciate significantly, or assets entitled to a valuation discount, but who may be uncomfortable with a transfer of assets to which they will lose all future access.



Beneficiary Defective Inheritor's Trust Mechanics



Step 1	Step 2	Step 3
An individual selected by the beneficiary creates the BDIT and makes an initial GST exempt gift to the trust.	Beneficiary sells an interest in property to the trust in exchange for an interest-bearing promissory note (typically interest only with a balloon payment at the end of the term).	Assets are held and distributed among the beneficiaries according to the terms of the trust.

Beneficiary Defective Inheritor's Trust Considerations

CRESSET.

In general, a BDIT may accomplish the following:

Access and Control

The beneficiary may retain appropriate control over operations, investments, and while maintaining meaningful access to trust assets.

Asset Protection

Trust assets are protected from the beneficiary's future creditors and remain outside of the beneficiary's estate.

Estate Tax Minimization

Assets in BDIT, including all future appreciation, are outside of the beneficiary's taxable estate.

Income Tax Efficiency

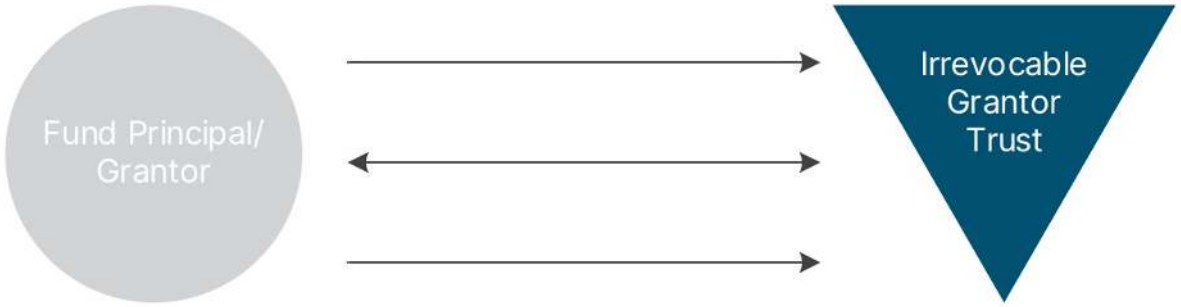
A BDIT is a grantor trust as to the beneficiary, so the beneficiary pays the income taxes on trust income and may sell assets to the trust without recognizing gain or loss.

Planning for Fund Interests: Derivative Contract Planning Overview

CRESSET.

Objective	Plan	Result
• A fund principal wants to transfer a portion of the economic value of their carried interest to a trust for the benefit of their descendants (and possibly spouse) but retain the actual carried interest to avoid complications with vesting, liquidity for capital calls and the complexities of IRC Section 2701.	• A fund principal will enter into a derivative contract with a trust for the benefit of their descendants (and possibly spouse) that allows the trust, for a nominal price, to participate in the upside of the carried interest's distributions and appreciating value without transferring the carried interest itself.	• The trust for the fund principal's descendants (and possibly spouse) may receive value far greater than the amount of gift tax exemption the PE/VC fund principal used in the transaction if the Fund is successful. The fund principal may avoid the complications with vesting, liquidity for capital calls and deemed gifts under IRC Section 2701 since the carried interest itself never actually changed ownership.

Planning for Fund Interests: Derivate Contract Planning Overview



- Create and fund a trust
- Enter into a derivative contract
- Harvest and Settlement Payments

Step 1	Step 2	Step 3
The fund principal creates an irrevocable trust and "seeds" the trust with enough cash for the payment outlined in Step 2. The fund principal files a gift tax return to report this gift and uses part of their $15M (per individual in 2026) lifetime gift tax exclusion.	The fund principal enters into a derivative contract with the irrevocable trust in which the trust pays the fund principal a sum of money determined by a qualified appraiser for the right to future harvest and settlement payments. The future payments are detailed in the terms of the contract and tied to the value of the carried interest over time.	The fund principal pays the irrevocable trust at each harvest date and the settlement date according to the formula and terms outlined in the derivative contract. The fund principal remains liable for all income taxes and capital calls on the carried interest.

Planning for Fund Interests: Derivative Contract Planning Steps

1 Create and fund a trust a trust for the benefit of descendants and/or spouse

- The trust is excluded from the fund principal's estate for federal estate tax purposes and may also be sheltered from generation-skipping transfer ("GST") tax
- The fund principal treated as the owner of the trust for income tax purposes and, therefore, may interact with the trust in a limited manner without triggering an income tax event
- The trust should be funded with sufficient cash upfront to purchase the derivative, unless the trust already has sufficient funds to do so
  - This gift will use a portion of the fund principal's available gift/estate and GST tax exemptions
  - Unlike the vertical slice approach, the fund principal will not need to make additional contributions to the trust to fund capital calls because the fund principal remains personally liable for those capital calls

2 Enter into a derivative contract related to part of carried interest

- The trust will pay the fund principal the fair market value, as determined by a qualified appraisal, for the right to a potential future payment(s) tied to the performance of the carried interest under the contract
- Fund principal should report the sale of the derivative contract on a gift tax return as a "non-gift" to start the statute of limitations on the ability of the IRS to challenge the valuation in the derivative contract
- The purchase does not create an income tax event for the fund principal
- The derivative contract resembles a cash-settled option on the carried interest
  - The "premium" is the amount the trust pays for the right to potential future payment under the contract
  - The "strike price" is equal to the hurdle amount stated in the contract (which could be zero)

Note on QSBS: If there is flow-through of Qualified Small Business Stock ("QSBS") treatment, this will generally not be lost with a derivative contract because there is no actual sale that would cause the stock to no longer satisfy the original issue requirement under IRC Section 1202. However, there is no QSBS "stacking" with the trust because the trust will be a grantor trust and not a separate taxpayer.

Planning for Fund Interests: Derivative Contract Planning Steps

3 Harvest and Settlement Payments

- The contract may call for harvest payments at certain time periods and will, at a minimum, provide for payment on the settlement date, commonly defined as the earlier of the (1) expiration of the term stated in the derivative contract or (2) fund principal's death
- If the Fund failed, the fund principal does not owe the trust anything
- Payment to the trust where the fund principal survives the term of the derivative contract does not generally cause an income tax event
  - However, the trust may realize taxable gain if the fund principal dies before expiration of the contract term to the extent the amount received by the trust exceeds the trust's basis in the contract (i.e., the purchase price)
  - This results in two levels of income tax – (1) when the fund principal receives the distribution from the Fund and (2) when the trust receives the settlement payment after the fund principal's death
  - The PE principal's estate will be able to deduct the settlement proceeds for estate tax purposes, so given the current 40% estate tax rate, the two layers of income tax may still result in slightly less tax than would otherwise be due if the fund principal died without engaging in any carried interest planning
  - Harvest payments may help mitigate this mortality risk

Who Should Consider This Strategy?

Derivative planning should be considered by individuals who have carried interest and do not want to utilize the "vertical slice" approach due to the complexities of funding future capital calls, transfer restrictions of the Fund, or need to retain capital interests for income.

Planning for Fund Interests: Derivative Contract Planning Illustration

Assumptions

- FMV of Carried Interest at Time of Transfer: $1 million
- Hurdle Amount: $1 million
- Qualified Appraised Value of Derivative: $350,000
- Term of Derivative Agreement: 8 years
- Fund Distributions: $5 million
- Current FMV of Carried Interest: $2 million



Results

- The amount due to the trust on the settlement date is equal to the fair market value of the carried interest plus fund distributions, less the hurdle rate/strike price outlined in the contract.
- The fund principal owes $6 million ($7 million less the $1 million hurdle) to the trust on the settlement date
- The $6 million payment to the trust will generally have no income tax consequences and is free of transfer taxes
- If the total return of the carry is less than $1 million (the hurdle) the PE principal would owe nothing to the trust and the trust would realize a financial loss of $350,000

The information contained in these materials is for illustrative purposes only and not intended to provide professional, investment, legal, or tax advice and should not be relied upon in that regard.

Planning for Fund Interests: Derivative Contract Considerations

CRESSET.

A derivative contract may help avoid the § 2701 tax trap but careful consideration must be given as to whether this approach is appropriate for your Fund.

Advantages

- The fund principal continues to own the carried and capital interests
- The trust does not need to qualify as an accredited investor or qualified purchaser on its own
- Able to use leverage, which allows for the transfer of significantly more assets than may otherwise be possible using lifetime gift exemption alone (if the carry generates a positive return)
- Reduced potential for gift tax due to valuation inaccuracies
- No need for additional loans or gifts to the trust to fund capital calls
- Uses less lifetime exemption

Disadvantages

- Potential lack of liquidity to settle the contract
  - Carried interest may have a high value with little to no distributions
  - Loss in personal investments
  - PE principal left the fund and lost the unvested portion of their carried interest causing the PE principal to owe more to the trust than they received
- Clawback of distributions
- The trust may realize taxable gains if the PE principal dies before the settlement date
- Legal, administrative and appraisal fees

CRESSET.

Risks

Liquidity

Not enough liquidity to settle the contract – could settle with assets in kind or with a promissory note.

Clawback

The Fund's operating agreement may require the fund principal to pay back distributions previously received without the trust being similarly obligated to pay back the fund principal.

Fund Failure

If the Fund fails, the fund principal wastes part of their transfer tax exemptions that were used to fund the trust.

IRS Challenge to Valuation

The IRS could challenge the value of the purchase price in the derivative contract which may reduce the amount deductible by the fund principal's estate if they die during the contract term.

IRS Application of IRC 2701

The IRS could claim that the trust should nonetheless be deemed to have acquired the carried interest and IRC Section 2701 should apply

Several Private Letter Rulings (useful but non-binding) have held that IRC Section 2701 does not apply to options to acquire an equity and a derivative contract is even further removed from the carried interest than a mere option to acquire the carried interest.

Planning for Fund Interests: Derivative Contract Customization and Valuation

Contract Customization	Effect on Purchase Price
The derivative may be tied to all the fund principal's carried interest or a smaller portion thereof.	The larger the percentage interest reflected by the derivative, the higher the valuation.
May include a hurdle amount which the total return of the carry must exceed before the fund principal owes anything to the trust.	The higher the hurdle amount, the lower the valuation.
Typically, up to 3 harvest dates to mitigate mortality risk, with one near the start of the Fund's harvest period, one in the middle, and one at the end or shortly after the expected end of the harvest period. Another option is a single settlement date.	The later the settlement dates, the lower the valuation, although the impact is nominal.
A cap on the appreciation that inures to the benefit of the trust.	The lower the cap, the lower the valuation.
A split of the economics post-hurdle so the fund principal has liquidity for tax payments and capital calls.	The higher the split for the trust, the greater the valuation.
The derivative contract is usually non-transferrable.	The inability to transfer the contract reduces its valuation.
Some contracts settle upon the fund principal's death, or on the death of the second to die of the fund principal and their spouse. Some contracts provide for a payment of zero if the fund principal dies during the term of the contract	Mortality assumptions, based on mortality tables, nominally reduce the valuation.
The derivative contract could provide that the trust receives a multiple of the carry distributions.	The higher the multiple, the higher the valuation.

Non-Grantor Trusts An Important Distinction

What Is a Non-Grantor Trust?

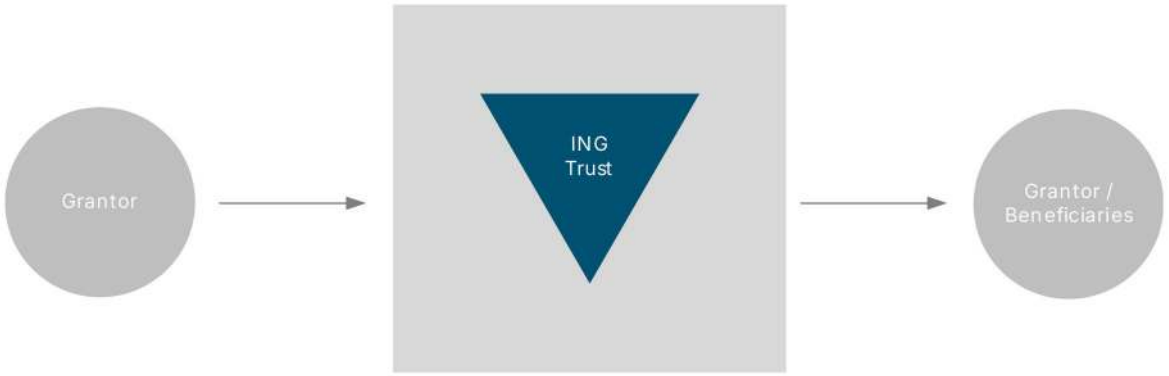
A non-grantor trust is a trust that is treated as a separate taxpayer, meaning the trust has its own tax identification number and is responsible for the income tax on undistributed trust income. Typically, a non-grantor is established in a state that does not tax the income of the trusts created there (e.g., Nevada, Delaware, South Dakota, or Alaska), even by non-residents of the state. Depending on the asset and prior gifting, a gift to a non-grantor trust may be considered "complete" or "incomplete" for estate tax purposes.

	Complete Non-Grantor Trust	Incomplete Non-Grantor Trust (ING)
Purpose	Moving appreciating assets out of taxable estate	Shifting state income tax liability to a low or no-income tax state while retaining some control
Control	No retained control over the assets and how they are used	Some control retained (e.g., ability to veto or a power of appointment)
Gift Tax	Subject to federal gift tax at the time of transfer unless using lifetime exemption	Not a gift subject to gift tax until the gift is completed; to individuals other than grantor and spouse are treated as gifts when made
Estate Tax	Generally excluded from the Grantor's taxable estate at death	Generally included in Grantor's taxable estate
Step-Up in Basis	None	Yes, if assets are included in taxable estate

Non-Grantor Trusts Income Tax Saving Strategy

- For clients in high income-tax states anticipating a liquidity event in the future, the creation of an ING Trust is a potential income-tax savings strategy.
- This strategy is designed to preserve wealth by potentially reducing or eliminating state income tax and grow the tax savings compounded over time
- This tax benefit may not be realized for certain assets that are otherwise subject to tax in the state in which they are located (e.g., real property and other assets that generate state-specific source income).
- Intangible property, such as stocks in public and private companies/carried interest/membership units in out of state LLC's, are examples of assets where this technique can work well
- Additionally, the trust could be used to hold assets that throw off substantial income each year, sheltering that income from personal income tax in your state of residence
- Unlike most common trust planning that requires an individual to give up access to the asset gifted, this strategy allows clients to have significant income tax savings while retaining varying degrees of control and access to the funds

Power of Appointment Committee (PAC)



Step 1: Grantor funds ING with assets that have or are likely appreciate sharply

Step 2: Power of Appointment Committee (PAC) makes distributions or loans to the grantor or other named beneficiaries

Non-Grantor Trusts Power of Appointment Committee

CRESSET.

Appointment:

- The Grantor of the trust appoints the Power of Appointment Committee (PAC).

Who Can Be a Member?

- Typically, the PAC includes family members like children, parents, and spouses.

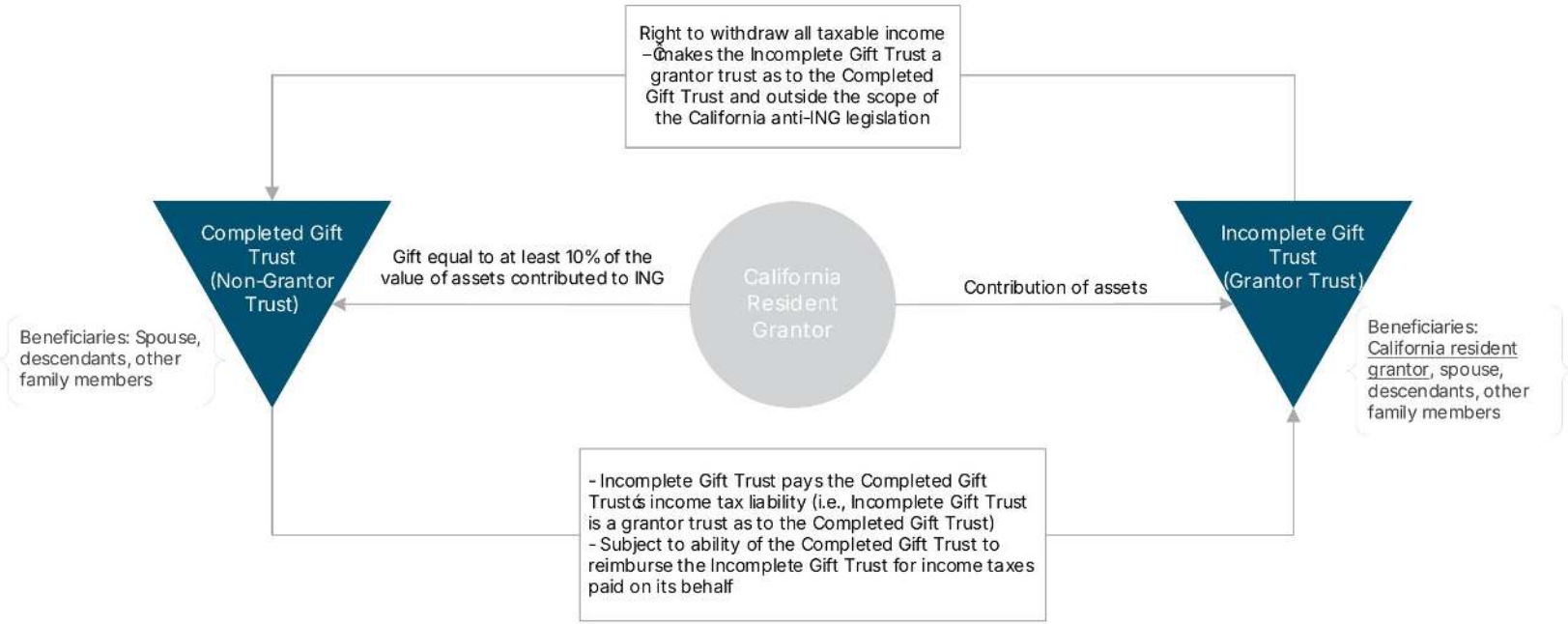
Function:

- The PAC has the power to make loans and distributions.
- The PAC provides an adversarial interest to the settlor allowing the IRS to agree with the position that the trust is a separate taxpayer from the settlor(s) for income tax purposes.

Incomplete Non-Grantor Trusts: A Solution for California Residents

Plan: Create an irrevocable non-grantor trust ("completed gift trust") outside of California and use a portion of your available lifetime exemption to fund the trust. This could be in the form of either a SLANT or Dynasty Trust. Subsequently, create and fund, what looks in many ways like, an incomplete non-grantor trust ("ING") outside of California. We will call this trust the "incomplete gift trust." The completed gift trust will have the right to withdraw all of the incomplete gift trust's taxable income, which takes the incomplete gift trust outside the scope of the California anti-ING legislation.

Result: The completed gift trust will be treated as the grantor of the ING for income tax purposes under U.S.C. § 678 because of the right to withdraw all income. This accomplishes two things (1) the ING does not fall within the California legislation governing these trusts because the completed gift trust is treated as the grantor of the ING and (2) assets can be distributed from the ING to California residents without being subject to the California throwback tax because taxes for the ING are paid on an annual basis.



Domestic Asset Protection Trust Overview

What Is a Domestic Asset Protection Trust?

A domestic asset protection trust ("DAPT") is an irrevocable trust of which the Grantor may be added as a beneficiary in the future or may be a current beneficiary. DAPTs are currently only recognized in a limited number of states and the requirements vary by state. When properly crafted, funded, and administered, the DAPT protects trust assets from future creditors (subject to compliance with the applicable waiting period), provides the Grantor with limited access to trust assets, and may minimize transfer taxes.

Who Should Consider This Technique?

Business owners who wish to reduce or eliminate liability exposure for certain asset and who may also want to use their lifetime exemptions (currently $15 million per individual).



Beneficiaries: Grantor, and other beneficiaries of Grantor's choosing

Domestic Asset Protection Trust

	Traditional DAPT	Completed Gift DAPT	Hybrid DAPT	Two-Grantor Hybrid DAPT
Type of Trust	Self-Settled	Third-party irrevocable	Third-party irrevocable	Third-party irrevocable
Beneficiary	Grantor + others (if any)	Grantor + descendants	Grantor's Spouse + descendants	Grantors' descendants
Trust Protector can add/remove Grantor as beneficiary?	Yes	Yes	Yes	Yes
Grantor has power of appointment?	Yes	No	No	No
Estate Inclusion	Yes	No	No	No

CRESSET.

In general, an asset protection trust may accomplish the following:

Access and Control

Except in limited circumstances, the Beneficiary does not retain control over operations, investments, and . Beneficiary has limited access to trust assets.

Structure

Must satisfy jurisdictional requirements, including waiting periods and situs rules, and transfers may be subject to fraudulent transfer claims. The structure also involves ongoing administrative and trustee costs.

Estate Tax Minimization

Assets in DAPT, including all future appreciation, are outside of taxable estate if structured as a completed gift DAPT.

Income Tax Efficiency

A DAPT may be structured as a grantor trust, in which case the grantor is responsible for income taxes on trust income. As a result, the Grantor may sell assets to the trust without recognizing gains or losses.

Asset Protection Comparison of Options

	BDIT	Completed Gift Asset Protection Trust
Grantor	Third-party Grantor, often a parent	Client
Beneficiary	Client	Client + descendants
Trustee	Beneficiary may be a trustee	Often requires third party independent trustee
Funding	Beneficiary sells income producing assets to the trust in exchange for a promissory note	Grantor gifts property to the trust
	Beneficiary has right to income and access to principal for health, education, maintenance and support; can be broader with independent trustee	Should be limited to maximize asset protection; to Client require consent of adverse party if non-grantor trust
Income Tax Treatment	Tax liability flows through to beneficiary	Tax liability flows through to Grantor
Control over trust property	Maximum control permissible without exposing the assets to estate taxes and creditors	Substantially limited in order to achieve the desired transfer tax results
Power of Appointment	Beneficiary may redirect assets at death	Beneficiary may redirect assets if power is granted
Estate Inclusion	No	No
Swap Power (i.e., exchange high basis assets for trust's low basis assets)	Yes	Varies by state
Waiting Period for Creditor Protection	No	Yes (varies by state)
Situs	Any state	One of the 19 states that permit DAPTs
Use of lifetime exemption	No	Yes

Charitable Trusts and Tools

Philanthropy Contribution Limits

Type of Donation	Recipient	Valuation Rules	Deduction Limit*
Cash	Most public charities (excludes supporting organizations); donor advised funds ("DAF"); private operating foundations; government entities	Fair market value	60% of AGI
	Private non-operating foundation; other*	Fair market value	30% of AGI
Ordinary income or short-term capital gain property	Public charity; private operating foundation; government entity (includes DAF)	Basis of the property	50% of AGI
	Private non-operating foundation; other**	Basis of the property	30% of AGI
Long-term capital gain property	Public charity; private operating foundation (includes DAF)	Fair market value (can elect to deduct at cost basis)	30% of AGI (50% of AGI if elect to deduct at cost basis)
	Private non-operating foundation; other*	Fair market value for qualified marketable securities; basis for all other LTCG property	20% of AGI

* Deduction limits are subject to the 0.5% AGI floor and 35% cap under the One Big Beautiful Bill Act (OBBBA) as of January 1, 2026.
** Includes qualifying contributions to veterans' organizations, fraternal societies, and non-profit cemeteries. Not all non-operating foundations are subject to the 30% limit.
Note: These are general rules and there are numerous exceptions. Charitable donations in excess of AGI limitations may be carried forward to future tax years. For most types of contributions, you may carry deductions forward for five years.

Philanthropy Comparison of Charitable Giving Options Cont'd

Charitable Vehicle	Restricted Funds	Donor-advised Fund	Supporting Organizations	Private Foundations
Typical Use Case	Donor wants to support a specific purpose or program with minimal administration and no ongoing involvement	Donor wants flexibility in grantmaking over time without administrative burden or public disclosure	Donor wants a dedicated entity closely aligned with one or more public charities and greater structural control than a DAF	Donor wants maximum control, staffing, direct operations, or complex assets despite higher cost and compliance
Donor Control	Low	Advisory only	Moderate (structural, not discretionary)	High
Grant Making Flexibility	Low	High; subject to sponsor policy	Moderate; limited to supported organizations	High
Ability to Hold Complex Assets	Very limited; typically, liquid assets only; charity may decline illiquid gifts	Moderate; depends on sponsor, will often accept private stock, crypto, or real estate but require liquidation	Moderate; can hold illiquid assets subject to relationship tests and payout rules	High; can hold operating businesses, concentrated positions, real estate, and alternatives
Regulatory Scrutiny	Low	Low	Moderate	High
Ongoing Compliance Risk	Low	Low	Moderate	High
Privacy	High	High	Moderate	Low
Planning Traps	Overly narrow restrictions that become impracticable; failure to include variance power language; donor assuming ongoing influence after the gift	Expecting enforceable donor control; using DAFs for impermissible benefits (tickets, memberships, tuition); conditioned acceptance of complex or illiquid assets	Misclassification risk; failure of control or relationship tests; Type III non-FISO payout and attentiveness failures; inability to pivot supported organizations	Self-dealing (especially with compensation, expense reimbursements, or family transactions); missed or miscalculated 5% payout; excess business holdings; improper grants

Philanthropy Comparison of Charitable Giving Options Cont'd

Charitable Vehicle	Restricted Funds	Donor-advised Fund	Supporting Organizations	Private Foundations
Start-Up Time	Immediate; established by gift agreement	Immediate; opened with sponsoring charity or custodian	Formation can take several weeks/months; IRS approval usually exceeds six months	
Costs	Low to none; typically, subject to charity's administrative fee	No start-up expense; ongoing investment management and administrative fees	Legal fees to form and file for exemption may be substantial; administrative, compliance and ongoing operational expenses	
Tax Deduction Limits	Public charity limits; 60% of adjusted gross income (cash) and 30% of adjusted gross income (stock and real property)			30% of adjusted gross income (cash) and 20% of adjusted gross income (stock and real property)
Valuation of Gifts	Fair market value			Fair market value for publicly traded stock, cost basis for all other gifts
Required	None; governed by donor restrictions and charity policy	None (although best practice is moving toward a 5% payout)	None generally; Type III non-FISO: required payout (greater of 85% of ANI or 3.5% of non-exempt assets)	Must distribute 5% of net asset value annually
Excise Taxes	None	None	Subject to excess business holdings and certain PF-like rules	1-2% of net investment income annually
Additional Requirements	Written gift agreement	None	Organizational, operational, control & relationship tests	Self-dealing, limits on holding private businesses, investment restrictions and expenditure oversight
Administrative Responsibility	Low	Low	Moderate	High

Private Foundations Excess Business Holdings Rules

Private foundations and related persons are generally limited under the excess business holdings rules to owning no more than 20%—and in some cases up to 35%—of a company's voting stock. As a result, a private foundation typically cannot fully own a business, even if all profits are directed to charity. Exceeding these limits triggers an annual excise tax of 10%, with an additional 200% tax imposed if the excess ownership is not timely corrected.

An exception to the excess business holdings rules applies to certain "philanthropic businesses" (e.g., Newman's Own), allowing a private foundation to own and operate a business if specific requirements are met:

- Independent foundation board: Most of the foundation's board members are not officers or directors of the business and are not family members of a major donor.
- No donor family involvement: Major donors and their family members cannot serve as directors, officers, employees, or contractors of the business, and the business cannot make loans to them.
- Full ownership: The private foundation owns 100% of the business's voting stock.
- No purchase: The foundation received the business as a gift or through an estate, not by buying it.
- All profits go to charity: Each year, after taxes, the business must give its net income to the foundation, except for a reasonable amount kept to run the business.

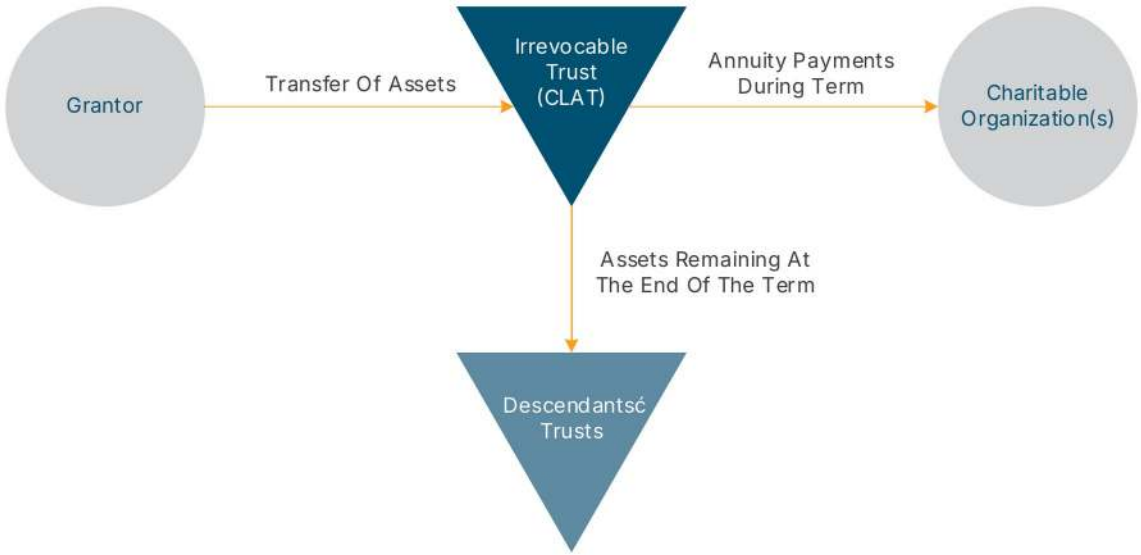
Charitable Lead Annuity Trust Overview

What Is a Charitable Lead Annuity Trust?

A Charitable Lead Annuity Trust (CLAT) is a charitable planning technique in which a grantor transfers assets to an irrevocable trust for a fixed term of years, with annual annuity payments made to one or more designated charities. The grantor receives an immediate charitable income tax deduction equal to the present value of the charitable payments, subject to AGI limitations, and the trust is designed so that the value of those payments equals the initial value of the assets transferred, plus an IRS-determined interest factor. The annuity may be structured to increase over time, allowing assets to compound more efficiently in the early years, and any assets remaining at the end of the trust term pass to non-charitable beneficiaries, often with minimal or no use of the grantor's lifetime exemption if the trust is structured appropriately.

Who Should Consider This Technique?

Individuals who are charitably inclined and want to shift the benefit of an appreciating asset to beneficiaries while supporting charitable causes for a period of time.



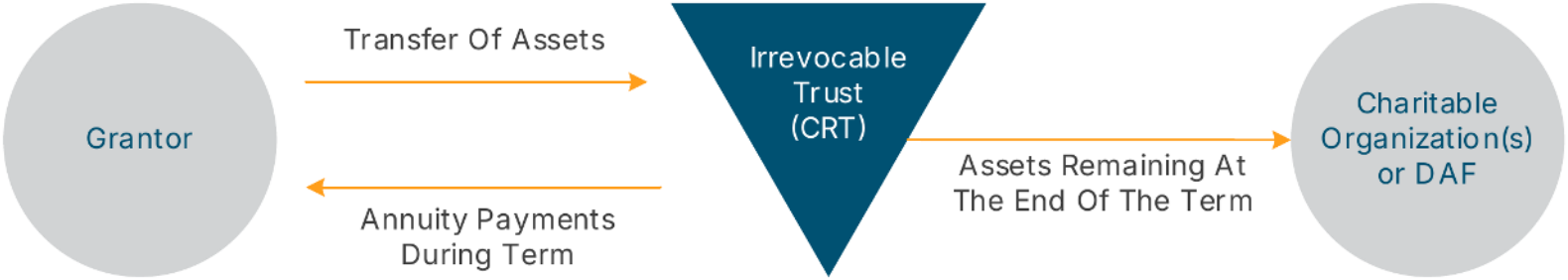
Charitable Remainder Trust Overview

What Is a Charitable Remainder Trust?

A Charitable Remainder Trust (CRT) is a charitable planning technique in which a grantor transfers appreciated assets to an irrevocable trust for a fixed term of years. The trust pays the grantor annual equal to a fixed percentage of the trust's fair market value, while the remaining assets pass to one or more designated charities at the end of the trust term. The grantor receives an immediate charitable income tax deduction equal to the present value of the assets expected to pass to charity, subject to AGI limitations, and because the trust is generally not a taxable entity, appreciated assets may be sold and reinvested inside the trust without immediate capital gains tax.

Who Should Consider This Technique?

This strategy may be appropriate for individuals with highly appreciated assets who want to diversify tax-efficiently, receive a predictable income stream, and support charitable causes. It is best suited for those comfortable making an irrevocable charitable commitment and who have sufficient cash flow to pay taxes on trust .



Net Income with Makeup Charitable Remainder Unitrust Overview

What Is a Net Income with Makeup Charitable Remainder Trust?

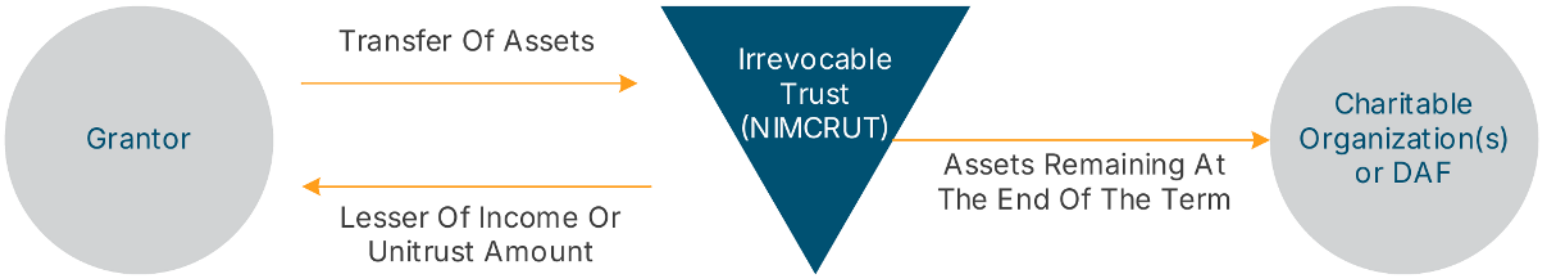
A Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT) is a variation of a charitable remainder trust in which a grantor transfers appreciated assets to an irrevocable trust. The trust pays annual equal to the lesser of (i) a fixed percentage of the trust's fair market value or (ii) the trust's net income for the year.

If the trust's income is less than the unitrust amount in a given year, the shortfall is tracked. In future years, when income exceeds the unitrust amount, the trust will distribute additional amounts to make up prior shortfalls.

The grantor receives a charitable income tax deduction equal to the present value of the remainder interest expected to pass to charity, subject to AGI limitations. Because the trust is generally exempt from federal income tax, appreciated assets may be sold and reinvested without immediate recognition of capital gains at the trust level.

Who Should Consider This Technique?

This strategy may be appropriate for individuals contributing low-income or non-income-producing assets, such as closely held business interests or real estate, who want to defer until a future liquidity event while still obtaining a charitable deduction.



Charitable Trusts Tax Treatment

	Charitable Lead Annuity Trust	Charitable Remainder Trust
Income Tax	The Grantor receives a charitable income tax deduction for the present value of assets passing to charity during the term of the trust, subject to AGI limitations. Income realized by the trust during the term is taxable to the Grantor, and trust assets retain their original basis when transferred to the remainder trust.	The Grantor receives a charitable income tax deduction for the present value of assets passing to charity at the end of the term of the trust, subject to AGI limitations. The trust is generally exempt from federal income tax, allowing appreciated assets to be sold and reinvested without immediate tax and enabling tax-free diversification within the trust, except to the extent of unrelated business income. As a result, capital gains on the sale of appreciated property transferred to the trust are deferred.
Gift and Estate Tax	The transfer is treated as a completed transfer for gift and estate tax purposes. The amount of the taxable gift is calculated by reducing the value of the transferred assets by the total charitable , which may allow the gift to be "zeroed out" for transfer tax purposes. If the Grantor dies during the trust term, a portion of the trust property is included in the Grantor's taxable estate.	of trust assets to non-charitable beneficiaries during the trust term are treated as a taxable gift upon funding, except when the assets are paid to the Grantor, in which case no gift occurs. If the Grantor dies during the trust term, any unpaid annuity payments in the year of Grantor's death are included in the Grantor's gross taxable estate.
Generation-Skipping Transfer (GST) Tax	Typically, an inefficient vehicle for GST tax planning. Appreciated assets can be sheltered from GST tax at the expiration of the trust term by making a late GST election prior to the last charitable annuity payment.	Not a wealth transfer vehicle, so does not apply.

Charitable Remainder Trusts Tax Treatment

CRESSET.

Gift & Estate Tax

- A taxable gift may occur upon funding the trust if the non-charitable beneficiary is someone other than the grantor. during the trust term are not treated as additional gifts.
- A Form 709, United States Gift Tax Return, should be filed to report the transfer.

Income Tax

- A Charitable Remainder Trust allows deferral of capital gains on the sale of appreciated assets because the trust is not a taxable entity and can sell and reinvest assets without immediate tax, enabling tax-efficient diversification. to non-charitable beneficiaries are taxed under a tiered system, and the grantor receives a charitable income tax deduction for the present value of assets ultimately passing to charity, subject to AGI limits and carryforward rules.
- Annual are taxed in the following order: ordinary income (including short-term capital gain), then long-term capital gain, then tax-exempt income, then return of principal.

Generation-Skipping Transfer Tax

- Generally, not subject to GST tax because the remainder passes to charity.

Changing Residency/Domicile

Establishing New Domicile

Your domicile is your legal residence, defined as the fixed and permanent residence to which you intend to return whenever absent. Your domicile affects where you are taxed, where you can file for divorce, and what assets a creditor can claim.

Establishing New Domicile

To change your domicile to a new state, you must reside in the new state and have the specific intention to make it your permanent home, which intent is manifested through the facts and circumstances surrounding your lifestyle. Therefore, to reflect your intent to change your domicile, you should take steps to maximize your contacts with the new state and reduce or eliminate your contacts with your former domicile. Critically, though not by itself determinative, time spent in a state is one of the most (if not the most) important factors considered in a change of domicile analysis. All of the following factors may be considered as well:

- Be physically present in the new state as long as possible, especially during the initial year, and spend as little time as practical in the former state. Maintain a trip log to show relative time spent in each location.
- Purchase or lease a home in the new state to be used as your primary residence.
- If your former residence is not sold, services should be shut down for any period the residence is not being used.
- File federal income tax returns using your address in the new state.
- Execute and file a Declaration of Domicile or other similar document (if the state has such a procedure).
- Obtain a new driver's license in the new state. Register your car (as well as any other motorized vehicles) and obtain insurance coverage in the new state.
- Register to vote and vote in the new state.
- Arrange for mail forwarding and file a change of address notice with the former state's post office.

Establishing New Domicile Cont.

Establishing New Domicile

All of the following factors may be considered as well:

- Update your estate plan to declare your new domicile and ensure compliance with the laws of the new state.
- If engaged in a business or profession, carry it on in the new state, to the extent possible.
- Change your professional relationships (e.g., medical, dental, legal, accounting, financial, etc.) and use practitioners in the new state.
- Transfer bank and investment accounts to the new state. Direct account statements, bills and other important communications to your address in thenew state.
- Transfer memberships at clubs, gyms, civic organizations and places of worship to the new state.
- Update address on file with charitable and political organizations, banks, insurance agents, stockbrokers, religious organizations and SSA.

- Gather for holidays, family celebrations and other seasonal events in the new state.
- Register your family pets in the new state.
- Close safe deposit boxes in the former state and move contents to a safe deposit box in the new state.
- Move jewelry, artwork, family heirlooms and other cherished and/or valuable personal items to thenew state.
- Make charitable contributions to local organizations and/or local chapters of national organizations.

CRESSET

Join the Cresset Community

Get time back to focus on what matters to you most.

Your journey begins today.

Chicago | Atlanta | Austin | Boston | Charlotte | Cleveland | Dallas | Denver | Greenwich | Houston | Kalamazoo
Los Angeles | Menlo Park | Minneapolis | Naples | Nashville | New York City | Phoenix | San Francisco | Santa Barbara Sioux Falls | Tulsa
| Washington, D.C. | West Palm Beach

Disclaimer

All right, title and interest in and to these materials are the sole and exclusive property of Cresset. Cresset refers to Cresset Capital Management, LLC and its respective direct and indirect subsidiaries and controlled affiliates. For full list of Cresset subsidiaries and controlled affiliates, please see cressetcapital.com/disclosures.

The provision of any services or products provided by Cresset and/or its affiliates shall be expressly subject to the particular terms and conditions contained in a separate written agreement with Cresset and/or its affiliates, as applicable. Cresset will not provide any individualized advice or consulting unless agreed to by a separate written agreement. Cresset Asset Management, LLC provides investment advisory, family office, and other services to individuals, families, and institutional clients as well as investment advisory services strictly to investment vehicles investing in private equity, real estate and other investment opportunities.

Assets Under Management, ("AUM"), is defined as securities portfolios for which Cresset Asset Management ("CAM") provides continuous and regular supervisory or management services. Assets Under Advisement ("AUA") are assets, including non-securities, for which CAM, Monticello Associates, LLC ("Monticello") and Connable Office Inc. ("Connable") do not provide continuous and regular supervisory or management services. Examples of AUA include, but are not limited to, non-discretionary assets considered in connection with financial or estate planning or portfolio allocation review, assets subject to consulting or reporting-only arrangements, tracking of assets for services, assets that are designated as "non-managed," and non-securities such as real estate, collectibles, or other non-securities that are not part of a securities portfolio.

Cresset Asset Management is a registered investment adviser with the U.S. Securities and Exchange Commission ("SEC"). SEC registration as an investment adviser does not imply any specific level of skill or training.

Wealth Optimized, Life Elevated refers to the firm's philosophy and process in providing advisory and planning services and is not intended to convey a guarantee of results.

Cresset and its representatives may, from time to time, appear on third-party media outlets, including television programs, podcasts, or online publications. Such appearances are for informational and educational purposes only and should not be construed as an endorsement or recommendation by the media outlet of Cresset or its services. Cresset did not provide any compensation to, and did not receive any compensation from, the media outlet in connection with these appearances. References to Cresset by third-party media are independent of Cresset and are based solely on publicly available information or the outlet's own editorial discretion.

The information contained in these materials is for illustrative purposes only and is not intended to provide professional investment, legal or tax advice and should not be relied upon in that regard or as the basis for any investment decision. The contents of these materials are for general information only and are not provided with regard to your specific investment objectives, financial situation, tax exposure, or particular needs. The contents hereof are not a recommendation of, or solicitation for, the subscription, purchase, or sale of any security, including the fund(s) and/or investment products mentioned herein. Nothing contained herein should be used as the basis for making any specific investment, business, or commercial decision. You should carefully read the final prospectus, offering memorandum, organizational agreement and/or other supplemental and controlling documents before making an investment decision regarding any particular security.

Investments, including interests in real estate and private funds, are subject to investment, tax, regulatory, market, macro-economic and other risks, including loss of the principal amount invested. Investments denominated in a foreign currency are subject to factors including but not limited to changes in exchange rates that may have an adverse effect on the value of the investment.

Disclaimer

Past performance as well as any projection, target, or forecast used or discussed in these materials are not indicative or a guarantee of future or likely performance of any investment product. Statements may be forward looking and are not intended as specific investment advice or guarantees of future performance. Such forward-looking statements are estimates necessarily involve known and unknown risks and uncertainties, which may cause actual performance and financial results in future periods to differ materially from any projections of future performance or result expressed or implied by such statements. Actual events or results or actual performance of any investment may differ materially from those reflected or contemplated in such forward-looking statements as a result of factors that are beyond the control of Cresset and their respective affiliates, members, partners, stockholders, managers directors, officers, employees, or agents. As a result, investors should not rely on such forward-looking statements in making their investment decisions. Hypothetical Performance refers to any projections, forecasts, targets, composites, pro forma calculations, and estimates (including without limitation, any hypothetical or projected rates of return or performance, anticipated investment horizon or exit date) contained herein are necessarily speculative in nature. Hypothetical, forward-looking, performance and related statements involve elements of subjective judgment and analysis, and are based upon certain assumptions of the Firm and Cresset, as applicable.

Any indices and other financial benchmarks shown are provided for illustrative purposes only, are unmanaged, reflect reinvestment of income and dividends and do not reflect the impact of advisory fees. Investors cannot invest directly in an index. Comparisons to indexes have limitations because indexes have volatility and other material characteristics that may differ from a particular investment portfolio.

Inflation-protected debt securities may be affected by changes in interest rates and the predictability of their value and the interest payment. Investments, including interests in real estate and private funds, are subject to investment, tax, regulatory, market, macro-economic and other risks, including loss of the principal amount invested. Asset allocation or diversification may be used in an effort to manage client objectives and risk. It does not guarantee a profit or protect against loss.

The contents of these materials are subject to change and may be modified, deleted, or replaced at any time in Cresset's sole discretion. In particular, Cresset assumes no responsibility for, nor makes any representations, endorsements, or warranties whatsoever in relation to the timeliness, accuracy and completeness of any content contained in these materials. While care has been taken in preparing the contents of these materials, such contents are provided to you "as is" and "as available" without warranty of any kind either express or implied. In particular, no warranty regarding suitability, accuracy, or fitness for a particular purpose is given in conjunction with such contents. Cresset shall not be liable for any loss, damage, costs, charges, and/or expenses incurred as a result of or in connection with these materials or any reliance on the contents of these materials. All information obtained from third-party sources is believed to be reliable, but its accuracy is not guaranteed. There is no representation or warranty as to the current accuracy, reliability, or completeness of the information, nor liability for decisions based on such information, and it should not be relied on as such. Certain information contained herein has been obtained from third party sources and such information has not been independently verified by Cresset. No representation, warranty, or undertaking, expressed or implied, is given to the accuracy or completeness of such information by Cresset or any other person. While such sources are believed to be reliable, Cresset does not assume any responsibility for the accuracy or completeness of such information. Cresset does not undertake any obligation to update the information contained herein as it may be a snapshot in time.