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SQUEEZE, FREEZE, & BURN: ESTATE PLANNING WITH 678 TRUSTS

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Squeeze, Freeze, & Burn sounds like an odd phrase, but it is actually a term used to describe a highly-effective estate planning technique. If you have assets valued above $5 million, or if you expect to have assets valued above $5 million upon your death, then you need to know about the Squeeze, Freeze, & Burn strategy.

First, you probably already know that the estate tax exemption is around $5 million per person ($5,450,000 in 2016), and assets above the exemption are subject to a 40% estate tax. Many people currently under the exemption level are growing their estates, and their net worth will exceed the exemption level by the time they die. Their family will have to sell off assets to pay this tax.

Regardless of the size of the estate, it is possible to reduce the estate tax to zero. Estate planners have enough estate planning tools in their tool boxes that even the wealthiest of people can avoid making the IRS a "silent partner" in their family's wealth. For that reason, the estate tax is sometimes referred to as a **"voluntary tax."** Consider the example of the Walton family, America's richest family. They have successfully employed various estate planning techniques to completely avoid paying estate tax.

I. THE CONSEQUENCES OF DOING NO PLANNING

Unfortunately, doing no planning is a very common fact pattern. Let's discuss the case of William and Anna who had a very large estate. Although they had a high net worth on paper ($75 million in investment assets and $10 million of other assets), their estate was very illiquid. When they both unexpectedly died in an accident, the IRS sent their children a tax bill for $30 million ($85 million less $10 million in exemptions[1], x 40%). The children had no means to pay this large bill and had to resort to selling off a substantial portion of the investments to pay the tax. William and Anna would have been horrified to know that the wealth that they had worked hard to build had to be sold to pay a tax bill rather than it passing to their children and grandchildren as they intended.

Now, let's **rewind the clock** and show what would have happened with proper planning… William and Anna came to us several years ago to help prepare an estate plan. Along with the approximately $75 million of investment assets, they owned a home, bank accounts, and other personal assets valued at approximately $10 million. Instead of William and Anna continuing to hold the investments in their individual names, we completed several stages of planning with them.

II. STAGE 1: A FAMILY LIMITED PARTNERSHIP CAN "SQUEEZE" DOWN THE VALUE

A. <u>Advantage: Valuation Discounts</u>. The cornerstone of the "Squeeze" stage of planning is the **valuation discount**. Limited partnership interests are less marketable than assets held outright or assets traded on an exchange, such as stock of public companies or bonds. By virtue of the partnership form and standard restrictions in partnership agreements, a partnership interest is worth less than the underlying assets of the partnership. Discounts for lack of marketability and lack of control are routinely recognized by the courts when the partnership is formed and maintained properly. These discounts can result in estate tax savings upon death or gift tax savings during life, when transferring the limited partnership interests to the next generation.

Note: The U.S. Treasury Department has announced new regulations under Section 2704 which, if finalized in the current form, will severely restrict or eliminate the availability of these valuation discounts. Transfers prior to the date of new regulations would be grandfathered and still eligible for valuation discounts.

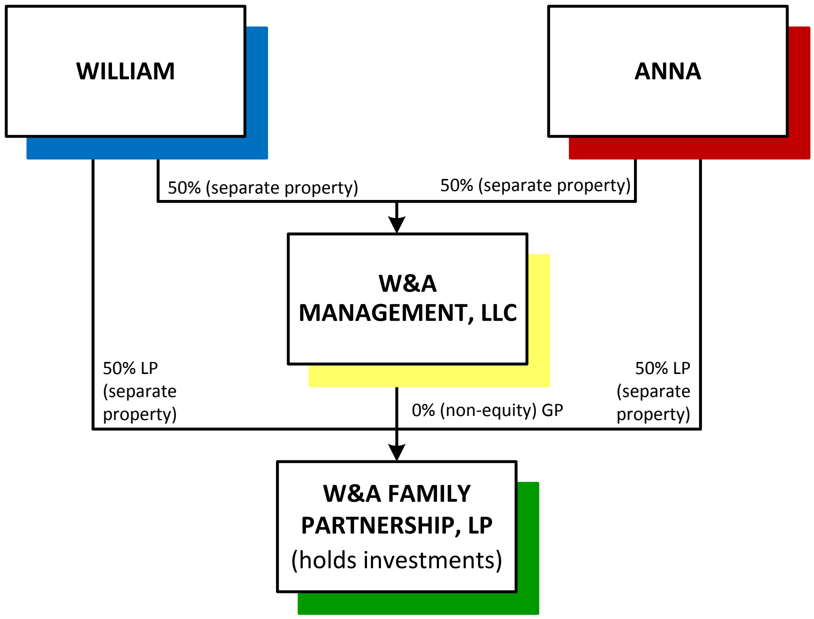
For example, if a partnership is formed and funded with $10,000,000 in investment assets, the limited partnership interests associated with such assets might be valued at only $6,500,000 (representing a 35% discount for lack of marketability and lack of control). As a result, holding the assets in a limited partnership rather than holding them outright would result in an estate tax savings of approximately $1,400,000 using the current estate tax rate of 40%. Clients can gift limited partnership interests to their children in a more tax-efficient manner, removing such interests and the future appreciation of the interests from their estate.

B. <u>Advantage: Asset Protection</u>. In addition to helping facilitate the shifting of wealth outside the estate through the use of valuation discounts, a family limited partnership ("FLP") provides liability protection and creditor protection. If assets are held by the FLP, then the client owns a limited partnership interest instead of the underlying assets. Under Texas law, the creditor's rights as to a limited partnership interest are severely limited; the creditor can only obtain a charging order against the limited partnership interest. The charging order entitles the creditor to receive a share of the distributions from the FLP if and when distributions are made. The creditor cannot force a distribution nor can it vote the FLP interest. The FLP would likely be structured so that distributions are made in the sole discretion of the general partner, an LLC.

C. <u>Caution: Personal Use Assets</u>. It is essential to the successful implementation of a partnership that personal use assets not be contributed to the partnership. In other words, clients should not contribute their homes, cars, or financial assets that they plan to use in the near future such as personal bank accounts. The IRS and the courts may ignore the partnership and the benefits could be lost if these kinds of personal use assets are contributed.

D. <u>William's and Anna's FLP</u>. In our case, William and Anna formed W&A Family Partnership, LP ("W&A FLP") and W&A Management, LLC, a limited liability company (the "LLC"), to serve as the general partner of W&A FLP. William and Anna are named as the initial limited partners of W&A FLP. An LLC that is created to act as general partner can be a non-equity general partner, owning 0% of an FLP. The LLC can therefore be capitalized with only $1,000. William and Anna then transferred their investment assets to W&A FLP.

The following chart illustrates the ownership structure for William's and Anna's investment assets after transferring them to their new FLP.



III. STAGE 2: A GRANTOR TRUST FOR THE CHILDREN IS THE BEGINNING OF THE "FREEZE"

A. Basic Structure. The "Freeze" stage involves gifting and selling limited partnership interests to an Intentionally Defective Grantor Trust ("IDGT"), a 678 Trust, or a Spousal Lifetime Access Trust—each of which is outside the estate for estate tax purposes. Once the assets are transferred to one of these trusts, the value of the assets is frozen and any future appreciation will take place outside the estate. Additionally, the trust can be structured to avoid estate tax at the deaths of the clients' children and grandchildren as well.

Provisions are included in these trusts to make the trusts "grantor" trusts. When a trust is structured as a Grantor Trust, the gift is "supercharged" because the grantors (the clients) remain liable for the income tax attributable to the trust and pay the trust's income taxes out of their own funds which reduces their estate. The IRS has ruled that this payment of the trust's income taxes is not treated as a gift to the trust. The grantor trust status can be "toggled" off later if the client no longer wishes to bear the trust's income tax liability.

The trust can be funded by the clients making a gift to the trust (known as a "seed gift") and using a portion of each spouse's $5,450,000 lifetime gift tax exemption and generation-skipping transfer ("GST") tax exemption. As beneficiaries, the clients' children and their descendants would be entitled to distributions from the trust as necessary for their health, education, maintenance, and support needs. At a child's death, he or she can be given a power of appointment to direct the disposition of remaining trust assets make it a dynasty trust. If the child fails to exercise that power, the assets remain in similar trusts for the benefit of that child's descendants. The assets in the trust can pass free of estate taxes from generation to generation so long as the assets remain in trust (subject to a mandatory termination under state law approximately 90-100 years from the date of creation) by allocating the clients' GST tax exemption to his or her contributions to the trust. The assets in the trust would also be **protected from the children's creditors and divorcing spouses.**

B. William's and Anna's IDGT. We worked with William and Anna to create an IDGT to benefit William's and Anna's children (the "Children's Trust"). William and Anna used a portion of their $5,450,000 lifetime gift and GST tax exemptions to make a "seed gift" of 1/6th of the FLP to fund their IDGT (the "Children's Trust"). The seed gift provided the Children's Trust with sufficient equity so that it could be used to support subsequent sales of FLP interests (discussed below). A typical seed gift is an amount equal to 10%

or more of the anticipated sale transaction. As a result of the gifting, the gifted FLP interests and any further appreciation thereof are removed from William's and Anna's estate.

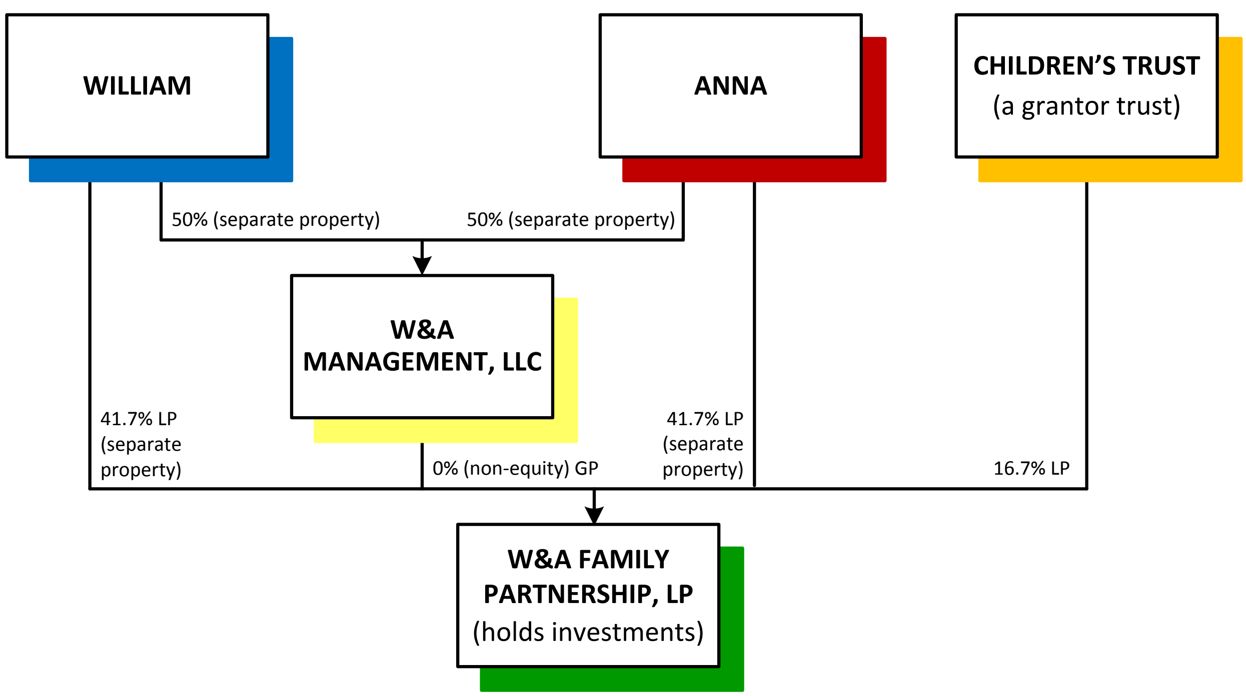
William's and Anna's seed gifts, assuming the FLP has $75,000,000 in underlying assets and that the FLP interest qualifies for a 35% valuation discount, have a value of $8,125,000, resulting in a gift of $4,062,500 from each of William and Anna.[2]

C. <u>Appraisal of FLP Interests Gifted</u>. The client should hire a qualified appraiser to appraise the FLP interests gifted to the trust. When valuing the FLP interests, discounts for lack of control and lack of marketability are often appropriate. The fair market value of the FLP interests would be calculated after considering these discounts.

The appraiser should be advised that the value sought should be on the mid-range of the scale of reasonableness. If the appraisal is too aggressive and results in a value lower than that reasonably determined by the IRS, it is possible that the client will be treated as having made a gift to the trust equal to the difference between the appraised value and the IRS-determined value. There are some techniques that utilize defined value clauses to guard against such an unintentional gift.

Once a gift is made and the gift is adequately disclosed on a Form 709 United States Gift (and Generation-Skipping Transfer) Tax Return, a statute of limitation begins to run during which the IRS can challenge the valuation of the gift. Hiring a qualified appraiser and obtaining a top-quality appraisal report to attach to a gift tax return is money well spent. The statute of limitations will not run on a gift tax return unless the gift is adequately disclosed on the return itself. A quality appraisal report should fulfill all the requirements of adequate disclosure in Treasury Regulations Section 301.6501(c)-1(f)(2). Without the statute of limitations running, the IRS could challenge the valuation and assess gift tax at any point in the future.

The following chart is updated to reflect William's and Anna's ownership structure after funding the Children's Trust with a portion of the FLP interest.



IV. STAGE 3: "FREEZE" THE TAXABLE VALUE

William and Anna still own 5/6th of the FLP. *Question*: How do they move it out of their estate? *Answer*: They sell it. As discussed below, William and Anna have two choices. They can either sell it to the Children's Trust or they can sell it to a new "678 Trust."

A. Path Not Chosen: Sale to Children's Trust. As mentioned above, William and Anna have two choices for selling the 5/6th of the W&A FLP interests. One choice is to sell it to the Children's Trust in exchange for a promissory note. This is a very common estate planning technique. Because the Children's Trust is drafted as a Grantor Trust, William and Anna are considered to be the owners of the trust for income tax purposes but not for estate tax purposes. The IRS would therefore ignore any transactions between William and Anna and the trust for income tax purposes, and sales to the trust would not trigger any income tax gain to William and Anna.

Under this option, William and Anna would have then sold their remaining interests in W&A FLP to the Children's Trust and, in exchange, received a promissory note from the trust with a principal amount equal to the fair market value of the assets sold. As previously discussed, the fair market value of the W&A FLP interests would be calculated after considering discounts for lack of marketability and lack of control. The promissory note would be structured as a 9-year note with interest at the mid-term AFR, which is currently 1.41% for transactions occurring in June 2016. It is often structured as an interest-only promissory note with a balloon payment at the end of the ninth year. Of course, this technique works best with assets that are anticipated to appreciate at a rate higher than the interest rate on the promissory note.

The law is still uncertain whether the unrealized gain on the sale to the trust would be immediately recognized if the seller (William or Anna) were to die during the term of the promissory note, so it is recommended to avoid making a promissory note with an excessively long term—a 9-year note is typical.

Although this approach is effective in transferring value outside of the estate, many clients are hesitant to utilize this approach due to the loss of access to the funds generated by the investment assets once the note is paid in full. Their interest in the investment assets would be limited to their promissory note, reduced by the income taxes they pay on behalf of the Children's Trust.

B. Path Chosen: 678 Trust. In order to transfer their investment assets outside of their estates without sacrificing the ability to access or control the investments, William and Anna chose to sell their W&A FLP interests to a newly-created 678 Trust. A 678 Trust is a unique vehicle that combines asset protection, estate tax savings, and the clients' continued ability to benefit from assets they have built up over the years. Therefore, 678 Trusts are ideal for individuals who need to reduce their estate tax exposure but who are not in a position to part with their assets. The 678 Trust is named after the Internal Revenue Code section upon which it is based, which controls who will be treated as the owner of the trust for income tax purposes.

C. Basic Structure of a 678 Trust. A 678 Trust is established by a third party—the client's parents, sibling, or close friend—with a gift of $5,000. **This is the only gift that should ever be made to the 678 Trust**. It is important that the $5,000 contribution to the 678 Trust be a true gift and that the person making the gift receives no quid pro quo payments or benefits as a result of making the gift. Since the 678 Trust is created by a third-party trustor, the client can be the beneficiary and the client can be the trustee.

The Trust is structured as a "Crummey" trust, so the beneficiary has a period of time to withdraw the $5,000 gift. If the beneficiaries (the clients) do not demand the gift, their withdrawal right lapses after a certain period of time (e.g., thirty days). In order for the 678 Trust technique to work as intended, it is crucial that the beneficiaries not be given a withdrawal right exercisable with regard to any other trust at any earlier point in the year of the gift. When the clients allow the withdrawal right over the initial $5,000 contribution to lapse, the 678 Trust becomes a Grantor Trust as to the clients (under the authority of Section 678 of the Internal Revenue Code). Thus, all income tax effects of the 678 Trust from that point forward are the responsibility of the clients and the IRS would ignore any transactions between the clients and the 678 Trust. Therefore, the clients could sell assets to the 678 Trust without triggering an income tax gain.

Because the clients are the primary beneficiaries of the 678 Trust, they can receive distributions for health, education, maintenance, and support purposes. The clients can also be named as the trustees. The Trust is structured initially as a "non-grantor" or "complex" trust for income tax purposes. Therefore, at inception, the 678 Trust is a separate taxpayer for income tax purposes.

As a result of being treated as the owners of the 678 Trust for income tax purposes, the clients will be responsible for paying the income tax on the income generated by the trust's assets during their lifetimes. Assets outside of the 678 Trust can be used to pay the income taxes, allowing the trust assets to grow without being depleted by income taxes. If the time came that the clients were unable to pay the income taxes out of his or her own assets, the 678 Trust could make a distribution to the client in the amount of the income taxes under the health, education, maintenance, and support standard.

D. William's and Anna's 678 Trust. William's brother, Jim, created a 678 Trust to benefit William and Anna and their descendants (the "Family Trust") and funded the Family Trust with a $5,000 gift. The Family Trust provides that William and Anna have a withdrawal right over contributions to the trust. William and Anna received notice of the withdrawal right and declined to withdraw the $5,000 contribution, allowing the withdrawal right to lapse after the thirty-day withdrawal period.

E. Shifting Assets to a 678 Trust. Since there's never another gift to the 678 trust after the initial $5,000 gift, you beef up the trust by the client (beneficiary) selling assets to the trust in exchange for a promissory note. Assets that have appreciation potential or that are valued at a discount (FLP interests) are perfect for selling to a 678 Trust. Selling the interests to the 678 Trust at a discounted value immediately moves the amount of the discount out of the client's estate and also freezes the value of the FLP interests.

It is important that the sale be structured so that it will be respected by the IRS as a bona fide sale under Section 2036 of the Internal Revenue Code. The 678 Trust needs to have sufficient substance to support the sale, which can be problematic if the 678 Trust is new and has not yet built up significant value. To remedy this situation, the 678 Trust can have other trusts or individuals (other than the clients) pledge assets to guarantee the promissory note owing to the clients. The assets pledged should equal at least 10% to 20% of the size of the promissory note (the higher, the better). If no other trusts or individuals are available to guarantee the promissory note, the client can create a separate trust for his or her children and make a gift to it (as already discussed above with the creation of William's and Anna's Children's Trust). The new trust can then provide a guarantee to the 678 Trust in exchange for a guarantee fee. To supercharge the new trust, it can be structured as a Grantor Trust with respect to the client for income tax purposes and as a GST-exempt dynasty trust.

William and Anna sold their remaining 5/6th W&A FLP interest and all of their LLC interest in W&A Management, LLC to the Family Trust for $40,625,000 ($75,000,000 less 35% discount x 5/6 = $40,625,000). William and Anna each received a 9-year promissory note for $20.3 million in return, plus interest at the mid-term applicable federal rate (1.41% for June 2016). This immediately moved $21,875,000 out of their estate (the value of the discount) providing instant estate tax savings of $8,750,000. In addition, there was a $4,375,000 discount on the gift of 1/6th of the FLP to the Children's Trust, saving an additional $1,750,000 of estate tax, **for a total savings of $10,500,000 from valuation discounts alone**.

William's and Anna's Children's Trust had sufficient assets to pledge as the guarantor of 20% of the promissory note amounts and so guaranty agreements were executed. In return for the guarantees, the Family Trust executed guaranty fee agreements agreeing to pay the Children's Trust annual fees equal to 3% of the amount guaranteed. The annual guarantee fees paid by the Family Trust to the Children's Trust are $243,750 for guaranteeing 20% of the promissory notes ($40,625,000 x 20% x 3%).

It is important when the clients transact with the 678 Trust that the transaction be structured at fair market value, and that no gifts be made to the 678 Trust beyond the initial $5,000 gift contributed by a third party. Any additional gifts could alter the income tax and estate tax characteristics of the 678 Trust. Furthermore, if the clients are treated as having made a gift to the 678 Trust, then the trust's assets will be subject to estate taxes at the clients' deaths.

Sale documents can also include adjustment clauses, where the 678 Trust and the client agree that, if the fair market value of the assets sold to the 678 Trust is ever determined to be different than that agreed upon by the trust and the client, the sales price will be adjusted to reflect the differently determined fair market value. This adjustment clause could help avoid the argument that the client made a gift to the 678 Trust if the sales price were determined to be lower than the fair market value of the assets.

F. <u>Benefits of a 678 Trust</u>. As discussed above, the assets owned by the 678 Trust will not be subject to estate taxes at the clients' deaths. While a client is living, he or she will continue to have access to the funds for health, education, maintenance, and support purposes and can serve as trustee of the 678 Trust.

In addition, the assets owned by the 678 Trust will not be subject to the claims of the clients' creditors. Texas law provides that a trust that contains "spendthrift" language that is created by a third party will not be subject to the creditors of the trust beneficiary. This is true even if the trust is structured as a Crummey trust and the beneficiary is given a right of withdrawal over the trust assets. Section 112.035 of the Texas Trust Code specifically states that a trust beneficiary is not treated as a settlor of a trust merely because of a lapse of withdrawal rights, provided that the withdrawal right does not exceed the greater of the amount specified in Section 2041(b)(2) or 2514(e) of the Internal Revenue Code or Section 2503(b) of the Internal Revenue Code (the "5 and 5 rule"). As a result, the lapse of a withdrawal right will not cause the 678 Trust assets to be subject to the reach of a beneficiary's creditors. This very clear legislation makes Texas particularly well suited for 678 Trust planning.

Section 112.035 of the Texas Trust Code also provides that a trust beneficiary is not treated as a settlor of a trust merely because the beneficiary has the power to consume or distribute trust property to or for the benefit of himself or herself as long as the power is limited by an ascertainable standard (such as health, education, maintenance, and support). Therefore, a beneficiary's creditors will not be able to reach the trust's assets if the beneficiary is also named as the trustee, so long as the trustee-beneficiary's distribution standard is limited to health, education, maintenance, and support.

The 678 Trust can also be drafted to allow the clients to exercise a special power of appointment ("SPOA") over the trust assets during life or at death. An inter vivos SPOA can give the client-beneficiary the power to provide for trust property to pass to individuals or charitable organizations during the client's life.

A testamentary SPOA can give the client-beneficiary the power to control how the property will be distributed at his or her death and also can give the client-beneficiary flexibility to modify the terms of the trust on his or her death to account for a change in circumstances or a change in the law. The SPOA can be so broad as to allow the client to exercise it in favor of anyone (including other individuals, trusts, and charitable organizations) other than the client, the client's estate, the client's creditors, or the creditors of the client's estate.

G. Appraisal of FLP Interests Sold. It is advisable to have the assets sold to the 678 Trust professionally appraised. The appraisal report already obtained to report the gift of 1/6th of the FLP interest can be used to value the assets sold.

H. Reporting Requirements. The creator of the 678 Trust should file a Form 709 gift tax return reporting the $5,000 gift to the 678 Trust and allocating GST exemption to the gift. The gift tax return will be due on April 15th of the year following the year in which the $5,000 gift is made.

When the clients transact with the 678 Trust, they should file gift tax returns also, disclosing the sale or loan in order to start the running of the statute of limitations within which the IRS can challenge the valuation of the assets. Again, the gift tax return will be due on April 15th of the year following the year in which the transaction takes place.

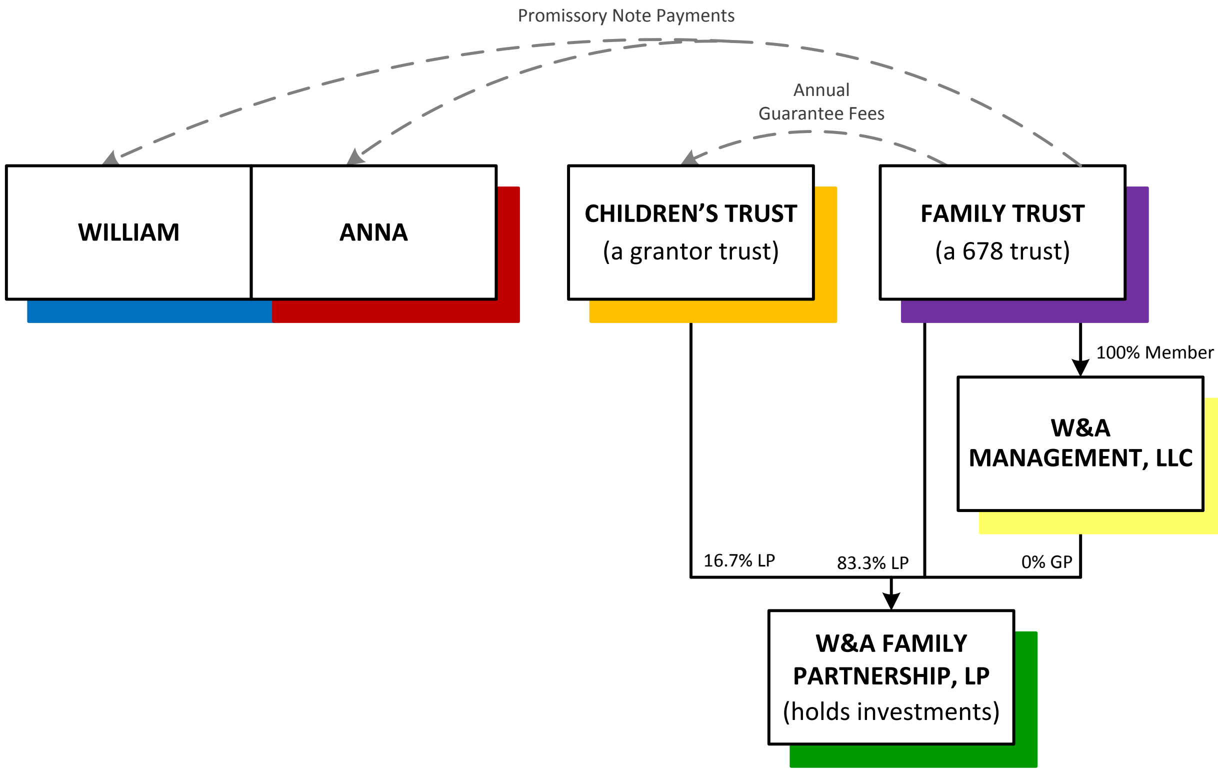
Jim, the creator of the Family Trust, filed a gift tax return reporting the $5,000 gift to the Family Trust and allocating $5,000 of his GST exemption to the Family Trust making the Family Trust fully-exempt from GST tax. William and Anna filed gift tax returns disclosing the sale to the Family Trust which started the period within which the IRS can challenge the valuation of the assets sold to the Family Trust.

I. Results of 678 Trust Planning. The 678 Trust should be structured as a GST-exempt dynasty trust. When the initial gift is made to the 678 Trust, the third party who made the gift should allocate GST exemption to the 678 Trust, which will allow it to pass to future generations free of transfer taxes. As a result, the assets owned by the 678 Trust should not be subject to estate tax at the deaths of the client or the client's children. In addition, the 678 Trust should contain a spendthrift provision, in which case the trust assets should be protected from the client's creditors.

Furthermore, assets in the 678 Trust do not constitute marital property, protecting the assets if a beneficiary of the 678 Trust gets a divorce. As a result, it is often possible for a client's child to **avoid needing a prenuptial agreement** when the child marries, as the child's assets will be owned by the 678 Trust and not by the child.

The 678 Trust can be drafted to, upon the clients' deaths, pour into an existing trust created for the child's benefit or divide into separate trusts for their children, and those trusts will be considered complex trusts (rather than Grantor Trusts) for income tax purposes.

The following illustration shows William's and Anna's current ownership structure for their investment assets.



V. STAGE 4: "BURN" DOWN REMAINING ASSETS SUBJECT TO ESTATE TAX

William and Anna live off the promissory note payments and other assets remaining inside their estates and use these assets to pay the income tax generated by the Family Trust's income and the Children's Trust income. As these assets outside of the 678 Trust are used, the client "Burns" down assets that would otherwise be includable in his or her estate and subject to estate tax at death.

Once William and Anna have insufficient assets outside of the 678 Trust to cover their living expenses, the trustee of the 678 Trust could distribute trust income or principal to William and Anna and their issue, as beneficiaries, for health, education, maintenance, and support needs.

VI. SUCCESSFUL ESTATE PLANNING

Thankfully, William and Anna chose to engage in active estate planning. As a result of the Squeeze, Freeze, & Burn stages, William and Anna have significantly reduced the size of their taxable estate. Following the gift to the Children's Trust and the sale to the Family Trust, William and Anna saved $10,500,000 in federal estate tax from valuation discounts alone (($75,000,000 x 35%) x 40%).[3] As the promissory note payments are consumed (by living expenses and payment of income taxes), the estate tax savings will be even greater.

William and Anna will continue to receive interest payments on the promissory note owned by the Family Trust and will receive principal payments on or before nine years. They will continue to pay the income tax on income generated by the Children's Trust and the Family Trust. As trustees and beneficiaries of the Family Trust, they also have access to the Family Trust assets if necessary for their health, education, support or maintenance. Additionally, William and Anna continue to participate in the management of the FLP through their ownership of the LLC general partner. William and Anna can continue to burn down the assets that will be subject to federal estate tax, while allowing their investments to appreciate outside of their estates.

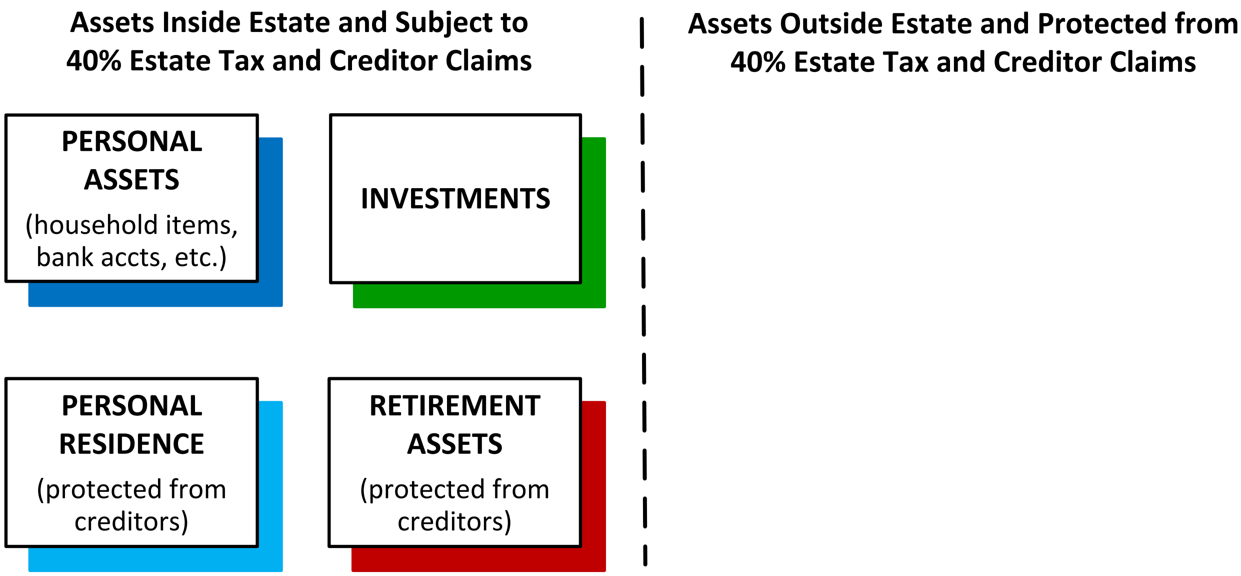
The Children's Trust owns 1/6th of the FLP and will benefit from the future appreciation of 1/6th of the FLP assets. The Children's Trust receives an annual guaranty fee from the Family Trust. The assets within this Children's Trust are protected from creditors, and the trust itself does not have to pay income tax as long as the grantor status of the trust is maintained.

The Family Trust owns 5/6th of the FLP and will benefit from the future appreciation of 5/6th of the FLP assets. The Family Trust makes principal and interest payments on the promissory note payable to William and Anna, as well as guarantee fee payments to the Children's Trust. The assets within the Family Trust are protected from creditors. Like the Children's Trust, the Family Trust will not have to pay income tax on trust income. In addition, both the Family Trust and the Children's Trust will be protected from estate tax at the deaths of William and Anna, their children, and possibly their grandchildren.

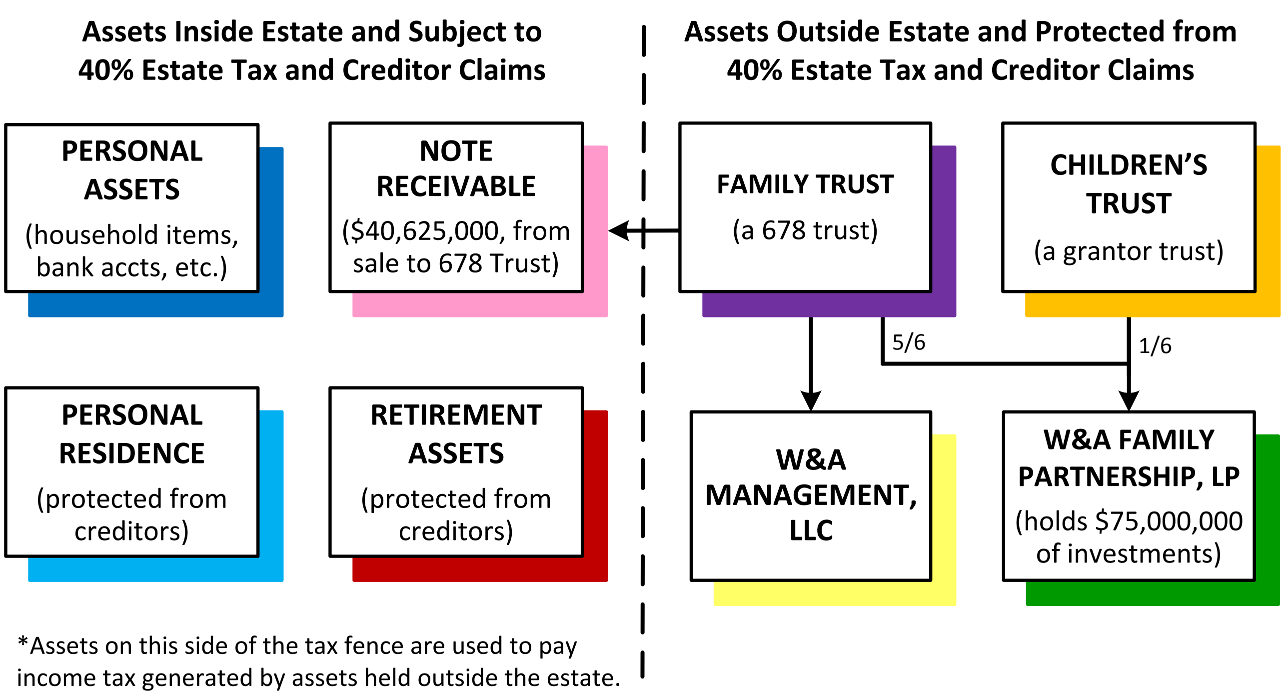
Assuming that William and Anna do not unexpectedly die before the promissory notes are paid in full and assuming assets in their estate have been burned down to cover living expenses and pay income taxes, **their estate tax will be zero**. (Their lifestyle expenses are approximately $2 million per year.) Had William and Anna not engaged in active estate planning, approximately **$30 million in estate tax would have been due**. If William and Anna want to accelerate the results and get to a zero estate tax sooner, they can engage in more sales or do some charitable planning.

In order to visualize the techniques used for William's and Anna's planning, consider the following two illustrations. The assets on the left side of the "Tax Fence" are included in your taxable estate at death and are generally subject to your creditors. In contrast, the assets on the right side of the Tax Fence are not subject to estate tax and cannot be reached by your creditors.

"Tax Fence" Without Planning



"Tax Fence" With Planning



Note: If dealing with a low-basis asset, a consequence of 678 Trust planning is that the Family Trust won't receive a step-up in basis for the investment assets upon the client's death. The estate tax savings at William's and Anna's deaths needs to be weighed against the tax that would be due if the Family Trust later sells the investment assets. In a particular situation, it may be more advantageous to engage in planning techniques other than 678 Trust planning to reduce the estate tax.

Endnotes

[1] The exemption amount is actually $5,450,000 for each. For simplicity, a total of $10 million is used.

[2] If the assets are mainly liquid, the applicable discount may be lower than 35%. Our example assumes a mix of assets that would qualify for a 35% discount.

[3] Assuming a 35% discount for lack of marketability and lack of control.