Top 5 Estate Planning Techniques During These Uncertain Times

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Withers Bergman LLP | withersworldwide

Agenda

Top 5 Estate Planning Techniques During These Uncertain Times

- Review of tax exemptions and rates
- Identifying Opportunities with Intra-Family Loans
- Private Placement Life Insurance (PPLI)
- Grantor Retained Annuity Trusts (GRATs)
- Charitable Lead Annuity Trusts (CLATs)
- Intentionally Defective Grantor Trusts (IDGTs)
- Q&A

Review of tax exemptions and rates

Top 5 Estate Planning Techniques During These Uncertain Times

- Current gift and generation-skipping transfer tax exemption amount is $11,580,000 ($23,160,000 for married couples).
- Scheduled to sunset and in 2026 will revert back to $5,000,000 ($10,000,000 for married couples), adjusted for inflation.
- Exemption could be affected sooner based on election results.
- Take advantage of high exemption amounts.

#1 Identifying Opportunities with Intra-Family Loans

Top 5 Estate Planning Techniques During These Uncertain Times

- Already near historical low interest rates were reduced further by the Federal Reserve to help stabilize the economy during the pandemic.
- Rates for June 2020:
  - Short-term AFR: 0.18%
  - Mid-term AFR: 0.43%
  - Long-term AFR: 1.01%
  - §7520 rate: 0.6%

#1 Identifying Opportunities with Intra-Family Loans

Top 5 Estate Planning Techniques During These Uncertain Times

- New loans
  - Client makes a low interest loan to a trust or family member.
  - Borrower could then use the assets to invest to seek a greater return.
- Refinance current loans
  - The dramatic decline in the applicable interest rates provides an opportunity to review prior transactions to determine whether or not notes can be renegotiated with a lower interest rate.
  - Useful for cash flow planning.
  - Useful for any negative income tax impact of interest payments.
  - Potential issue: mere change in interest rate could be viewed as a gift.

Withers webinar on June 22 at 9 AM PT/ Noon ET.

#2 Private Placement Life Insurance (PPLI)

Top 5 Estate Planning Techniques During These Uncertain Times

- What is PPLI and how does it work?
  - Income tax planning tool.
    - Top federal tax rate on ordinary income of individuals remains high at 37%.
    - State and local taxes no longer fully deductible, and rates exceed 10% even on gains.
    - Investment expenses (2% management fee on investment funds) no longer deductible.
    - Income tax reduction has never been more vital.
  - What can it do?
    - No federal or state income tax on income or gains inside the policy – tax free redeployment.
    - Appreciation can be borrowed during lifetime with no income tax.
    - Death benefit is exempt from income tax.
    - Allows investing in foreign funds without penalty.
    - Reduces reporting (“No K-1s!”).

#2 Private Placement Life Insurance (PPLI)

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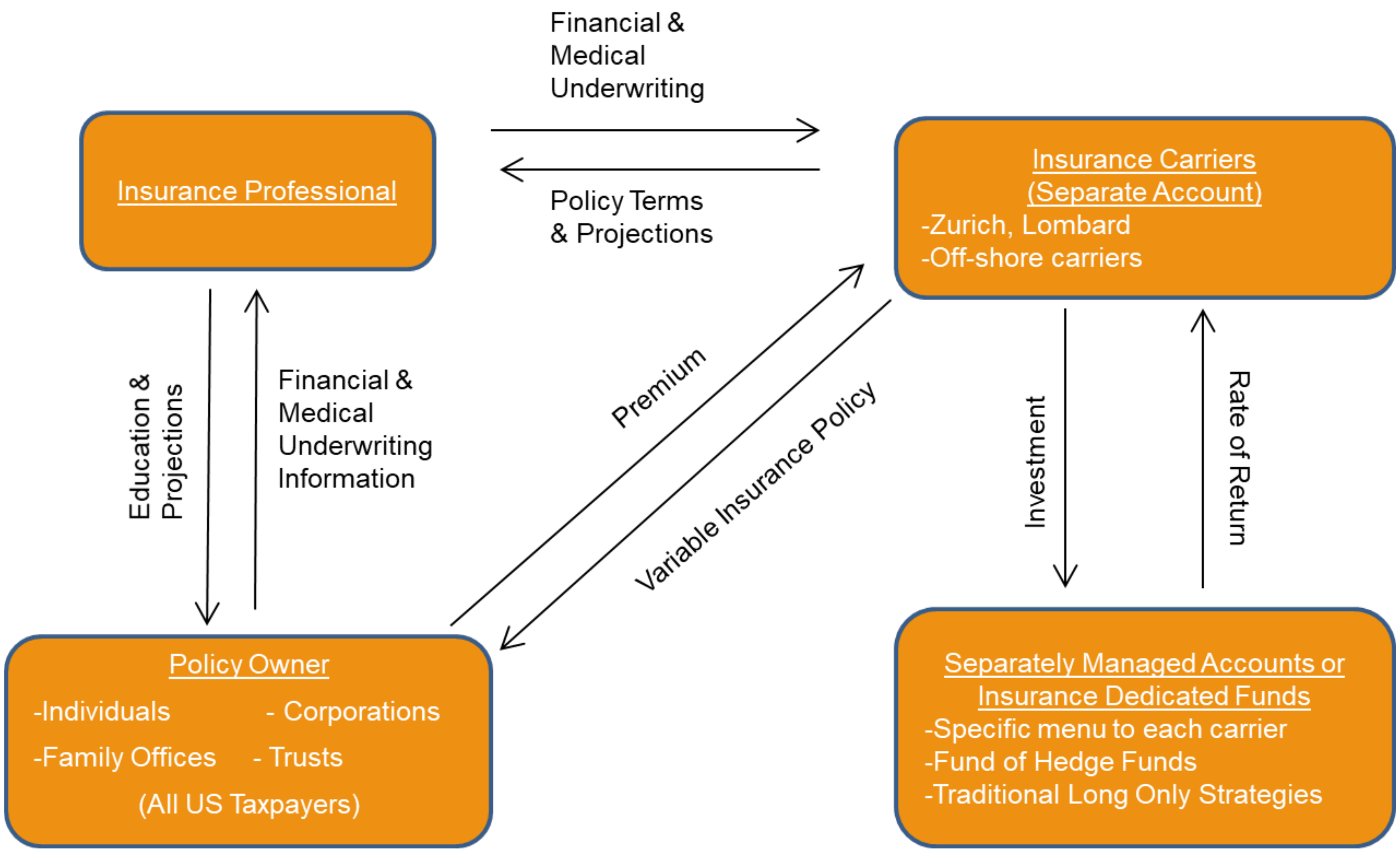


#2 Private Placement Life Insurance (PPLI)

- Drawbacks
  - Cannot manage the money yourself.
  - Must either appoint an independent investment manager or invest in insurance dedicated funds.
  - Account must be diversified.
  - At least 5 assets in specified proportions.
- Not your father's life insurance policy.
  - This is about reducing income tax, not insuring against mortality or creating a pool of liquidity.
  - You can hire any RIA to manage your account.
- What does it cost?
  - All in fees over 5 – 7 years should average around 100 – 125 basis points per year.
  - Includes carrier administration fee, cost of insurance, agent's commission and amortization of up front costs.
  - 53% federal and CA tax on 2.5% return is ~ 132 bps.
  - If you are not earning 2.5%, fire your broker!
  - If earning 3% or more, PPLI is huge win!

Withers webinar on June 29 at 9 AM PT/ Noon ET.

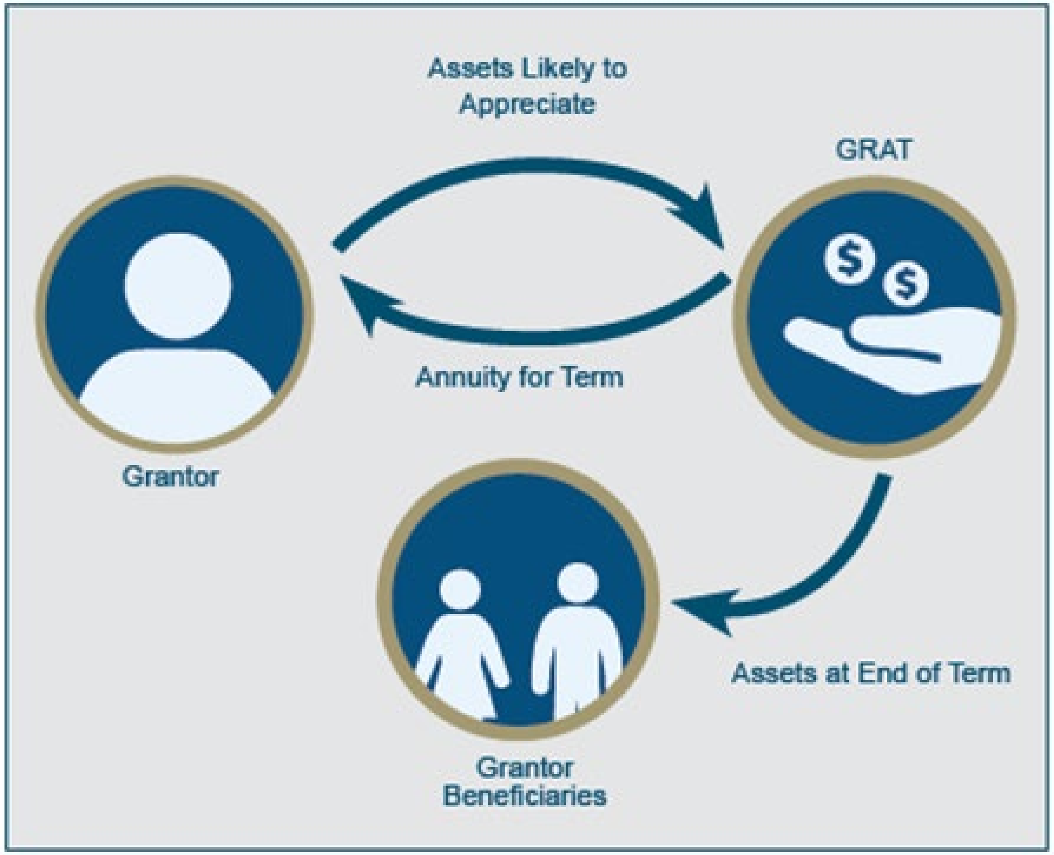
#3 Grantor Retained Annuity Trusts (GRATs)

Top 5 Estate Planning Techniques During These Uncertain Times

- What is a GRAT?
  - A GRAT is an irrevocable trust that allows you (the "grantor") to transfer assets to beneficiaries with reduced or no gift tax consequences.
  - The grantor of the GRAT transfers assets into the trust and receives an annuity payment for a fixed term of years.
  - The annuity payment is based on the fair market value of the assets initially transferred to the GRAT + the 7520 rate at the time of the transfer.
  - When the annuity term ends, any assets remaining in the trust pass to the beneficiaries.
- What type of assets are ideal for a GRAT?
  - Growth Assets.
  - Income Producing Assets.
  - Family Businesses or Other Closely-Held Assets.

#3 Grantor Retained Annuity Trusts (GRATs)

Top 5 Estate Planning Techniques During These Uncertain Times



- $1 million transfer to GRAT in June
- Taxable gift: $0.03
- Year 1 anniversary: $504,515.40 to grantor
- Year 2 anniversary: $504,515.40 to grantor
- Balance to kids/beneficiaries:
  - Assume growth of 5% income and principal
  - $152,600 to kids, transfer tax free

Withers webinar on July 6 at 9 AM PT/ Noon ET.

#4 Charitable Lead Annuity Trusts (CLATs)

- What is a CLAT?
  - A CLAT is an irrevocable trust that allows an individual to satisfy any charitable goals while also passing substantial wealth to your children (or other individuals) on an income tax advantaged basis.
  - The grantor of the CLAT transfers assets into the trust and a charity receives an annuity payment for a fixed term of years.
  - The grantor receives an up front charitable deduction equal to the value of the assets transferred to the CLAT.
  - The annuity payment is based on the fair market value of the assets initially transferred to the CLAT + the 7520 rate at the time of the transfer.
  - When the annuity term ends, any assets remaining in the trust pass to the children (or other non-charitable beneficiaries).
- What type of assets are ideal for a CLAT?
  - Growth assets.
  - Income producing assets.

#4 Charitable Lead Annuity Trusts (CLATs)

Top 5 Estate Planning Techniques During These Uncertain Times

Year	Principal	5% Growth	Payment	Remainder
1	$1,000,000.00	$50,000.00	$53,210.00	$996,790.00
2	$996,790.00	$49,839.50	$53,210.00	$993,419.50
3	$993,419.50	$49,670.98	$53,210.00	$989,880.48
4	$989,880.48	$49,494.02	$53,210.00	$986,164.50
5	$986,164.50	$49,308.23	$53,210.00	$982,262.73
6	$982,262.73	$49,113.14	$53,210.00	$978,165.87
7	$978,165.87	$48,908.29	$53,210.00	$973,864.16
8	$973,864.16	$48,693.21	$53,210.00	$969,347.37
9	$969,347.37	$48,467.37	$53,210.00	$964,604.74
10	$964,604.74	$48,230.24	$53,210.00	$959,624.98
11	$959,624.98	$47,981.25	$53,210.00	$954,396.23
12	$954,396.23	$47,719.81	$53,210.00	$948,906.04
13	$948,906.04	$47,445.30	$53,210.00	$943,141.34
14	$943,141.34	$47,157.07	$53,210.00	$937,088.41
15	$937,088.41	$46,854.42	$53,210.00	$930,732.83
16	$930,732.83	$46,536.64	$53,210.00	$924,059.47
17	$924,059.47	$46,202.97	$53,210.00	$917,052.44
18	$917,052.44	$45,852.62	$53,210.00	$909,695.06
19	$909,695.06	$45,484.75	$53,210.00	$901,969.81
20	$901,969.81	$45,098.49	$53,210.00	$893,858.30
Summary:		**$958,058.30**	**$1,064,200.00**	**$893,858.30**

Withers webinar on July 13 at 9 AM PT/ Noon ET.

#5 Intentionally Defective Grantor Trusts (IDGTs)

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- What is an IDGT?
  - An IDGT is an irrevocable trust that allows transfers to the trust to be complete for gift and estate tax purposes.
  - The grantor retains certain powers over the trust, such as the power to reacquire trust property for cash or other assets of equal value, causing it to be "defective" for income tax purposes (i.e., any income earned by the trust is taxable to the grantor instead of the trust or its beneficiaries).
- Tax Benefits of an IDGT
  - Gift and Estate Taxes
    - Reduced Taxable Gift
    - Freezing the Grantor’s Estate
  - Income Taxes
    - Additional Tax-Free Gifts
    - No Capital Gain
    - Basis Step-Up

#5 Intentionally Defective Grantor Trusts (IDGTs)

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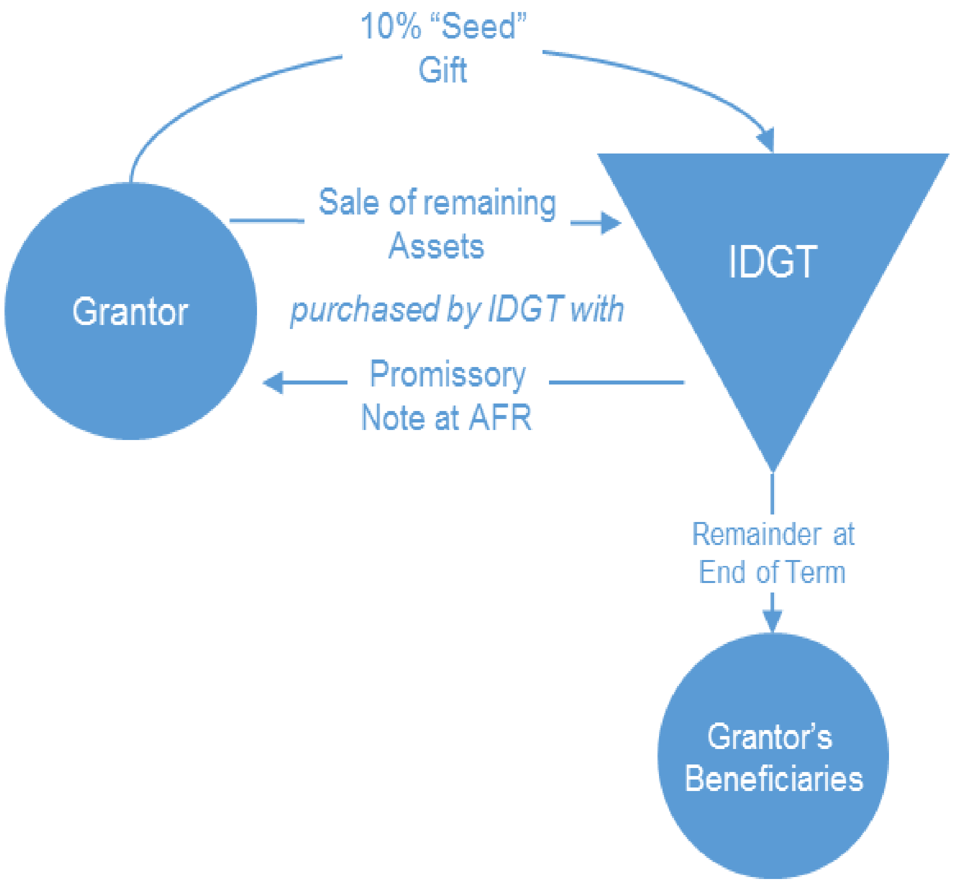

- How does an IDGT Operate?
  - The grantor establishes an irrevocable trust with "grantor trust" provisions and selects the property to transfer to the trust.
  - Gift-Sale Structure
    - The grantor "seeds" the trust by making a gift of 10% of the value of the intended trust property prior to the sale, in order to provide an arm's length down payment.
    - The remaining assets are sold to the trust for a promissory note with interest at the AFR.

Withers webinar on July 20 at 9 AM PT/ Noon ET.

Looking Ahead

Top 5 Estate Planning Techniques During These Uncertain Times

Monday, June 22

Identifying Opportunities with Intra-Family Loans

With Genevieve Larson and Ivan Sacks

Monday, June 29

The Power of Private Placement Life Insurance

With Jenny Bratt and Richard Levine

Monday, July 6

Key Benefits of Grantor Retained Annuity Trusts (GRATS)

With Elizabeth Bawden and James Brockway

Monday, July 13

The Long-Term Benefits of Charitable Lead Annuity Trusts (CLATS)

With Steven Chidester, Karen Yates and Lawton Leung

Monday, July 20

Reducing Tax Burdens with Intentionally Defective Grantor Trusts (IDGT)

With James Dougherty and Rebecca O'Toole

9 AM PT / 12 PM ET

Registration links for each series presentation will be available in the Resource Center.

Jenny Hill Bratt

Partner | San Diego, Rancho Santa Fe

Her practice is focused on US and international estate and income tax planning, trusts and estates administration, family and closely-held business planning and charitable planning and exempt organizations.

She advises US individuals who own foreign assets on the manner in which such assets should be structured as well as their US tax compliance obligations. She routinely employs transfer tax mitigation techniques such as intentionally defective grantor trusts, grantor retained annuity trusts, irrevocable life insurance trusts, and family limited partnerships, among others.

Jenny regularly advises clients with the creation and administration of closely-held family businesses, from choice of entity issues, to the design and implementation of limited partnerships and limited liability companies, structuring tax-efficient wealth transfers and addressing income tax solutions arising from investments and operating businesses.

She also advises clients in planning and implementing charitable gifts including structuring such gifts through charitable remainder trusts and charitable lead trusts. She can also assist clients with the formation of private foundations and private operating foundations and advise such clients on issues that arise in the administration of such entities.

Jenny is certified as a specialist in estate planning, trust, and probate law by the State Bar of California Board of Legal Specialization. She serves on the Executive Committee of the Trusts and Estates Section of the California Lawyers Association, and was involved in the passing of the California Uniform Trust Decanting Act effective January 1, 2019. She is a fellow in the American College of Trust and Estate Counsel (ACTEC).

Focus Areas:

- Trustees, executors and fiduciaries
- High-net-worth individuals
- Family businesses
- Private companies
- Philanthropy
- Charities and non profit

Richard S. Levine

Special Counsel | New York, New Haven

He is familiar with the taxation of partnerships, LLCs, corporations and trusts from both an income and an estate tax perspective, along with knowing how to incorporate them into international structures, he is one of our renaissance lawyers who ties together many aspects of our tax practice for individuals and wealthy families. Richard recently helped a real estate developer transfer minority interests in closely-held entities to trusts to minimize both state income tax and federal estate taxes; a hedge fund manager form a private trust company to administer both personal and charitable assets; a wealthy entrepreneur to create an insurance dedicated fund as part of US pre-immigration planning; and an investment professional to expatriate while minimizing his exit tax. When he is not using private placement insurance and annuity structures to confound the IRS, he is busy confounding opponents decades his junior by blowing up their tanks in late night games of Battlefield on his son's Xbox. He is one of the few lawyers in our firm who has read every page of the US FATCA regulations (both the Chapter 3 and 4 portions), as well as the OECD CRS Standards, Commentary and Implementation Handbook, and stands ready to explain all the new international transparency and automatic exchange of information regimes without putting the audience to sleep. A tax lawyer who speaks plain English (well American), Richard would be happy to discuss arcane points of international compensation planning and the use of bilateral tax treaties to minimize US tax on investment income, but he would rather delve into which type of bitters to add to his next recipe for raspberry jam.

Richard is our resident tax guru. No, really, he has had the e-mail address taxguru@aol.com since 1992. But please use his Withers e-mail for work related communication since the spam filter on the other address is quite savage these days and we wouldn't want urgent information to be overlooked.

Focus Areas:

- Trustees, executors and fiduciaries
- Leaders and senior executives
- Talent and creatives
- Israel
- Sport
- Charities and non profit
- Family businesses
- Insurance companies
- Philanthropy

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