2022 New England IRS Representation Conference

Avoiding IRS Challenges to Your Client's Estate Plan

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Barry A. Fischman is a partner in Marcum LLP's New Haven, Connecticut office and a member of its National Construction, Real Estate, Business Enterprise Tax Services, High-Net-Worth Individuals, Tax Compliance, Family Wealth Services, and Trusts and Estates practice groups. He has more than 35 years of tax and consulting experience providing services primarily to closely-held businesses. He has a wide range of industry experience including construction, real estate, research and development, professional services, manufacturing and high-net-worth individuals.

Mr. Fischman represents clients before the Internal Revenue Service and the Connecticut Department of Revenue Services. A frequent speaker, Mr. Fischman is often asked to present on topics regarding income taxation matters for construction companies; research and development credit opportunities; and gift, estate and asset protection planning.

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Kristen M. Lynn is a partner in Green & Sklarz's estate planning and administration department. She focuses her practice on estate planning, asset protection, business succession planning, and trust and estate administration.

Kristen provides services to individuals, families, fiduciaries, and business owners. She assists clients with wealth transfer strategies designed to minimize overall estate tax while protecting beneficiaries from creditors. Kristen is experienced in drafting wills, revocable and irrevocable trusts, buy-sell agreements, and other estate and business planning documents.

After obtaining her Juris Doctor from Quinnipiac University School of Law in 2007, Kristen went on to attend Georgetown Law School in Washington, D.C. where she earned a master's degree (LL.M.) in Taxation with a focus in Private Wealth and Estate Planning.

Kristen is a member of the Connecticut Bar Association's Trust and Estate and Elder Law sections and the Greater New Britain Chamber of Commerce. As an active volunteer with the Alzheimer's Association Connecticut Chapter, Kristen currently serves as a committee member for the Walk to End Alzheimer's. She has also served on the Board of Directors for Love of Learning, Inc., a nonprofit educational organization, and the Continuing Legal Education Committee for the Connecticut Bar Association Elder Law Section. Kristen has also volunteered with the Truancy Intervention Project, where she worked with students to address issues contributing to chronic absenteeism.

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Anthony Vitiello dedicates his practice to sophisticated tax planning for individuals, businesses, estates and trusts. As Chair of the firm's Taxation and Estate Planning Practice Group, he places a particular emphasis on tax-driven estate planning and asset protection planning. Tony uses a personalized and innovative approach in planning estates from $10 million to more than $1 billion, and in his counsel on significant tax issues for family foundations, closely held corporations, partnerships and limited liability companies. He also maintains a significant practice in gift, estate and income tax audits and controversies.

Since 2011, Tony has been listed annually in *The Best Lawyers in America®*, one of the legal profession's most well-respected and long-standing peer-review publications. He is recognized by Best Lawyers® in the areas of Trusts and Estates, Trusts and Estates Litigation, and Tax Litigation and Controversy. Tony was also named by editors of *Worth* magazine in its list of the nation's "Top 100 Attorneys" for each of the four years the roster was published. *Worth*'s editors looked most carefully at attorneys practicing in trusts and estates and other personal planning matters.

A thought leader in estate planning and related tax matters, Tony lectures extensively and frequently publishes in legal and business journals.

Tony began his legal career with the United States Treasury, providing counsel to the Internal Revenue Service (IRS). During this time, he represented the IRS in the United States Tax Court, handling complex tax controversies including corporate tax disputes, estate tax litigation matters and personal income tax cases. Tony received both his J.D. and LL.M. in taxation from New York University (degree programs ranked sixth and first in the nation, respectively).

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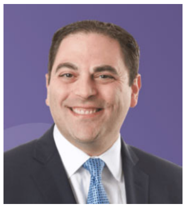

Lawrence (Larry) Sannicandro focuses his practice on federal and state tax controversies, including representation in audits, administrative appeals, collection matters, summons proceedings, criminal tax investigations and prosecutions, and litigation in the United States Tax Court, federal district and appellate courts, and state tax tribunals. He has extensive experience providing tax-related advice with respect to original tax return reporting positions on a broad range of substantive tax issues, amending tax returns, filing and litigating claims for refund, challenging civil tax penalties, reporting foreign assets and income, and making voluntary disclosures. Drawing on his unique experience as a former estate and gift tax attorney for the IRS, Larry is particularly well-versed in estate and gift tax planning techniques, as well as the valuation of closely held businesses, and defending those techniques and valuations in disputes with tax authorities.

Larry has served the American Bar Association Section of Taxation as the immediate past Chair of the Tax Collection, Bankruptcy, and Workouts Committee and as current member of the Appointments to the Tax Court *and* Pro Bono Committees. On behalf of the Tax Section, he has drafted comments to Congress, the U.S. Department of the Treasury, and the IRS on a wide range of tax issues. A dedicated pro bono advocate, Larry was awarded the 2020 Janet Spragens Pro Bono award for his team's work providing tax-related advice to wrongfully incarcerated individuals.

Prior to entering private practice, Larry served as a law clerk for the United States Tax Court. He teaches a course in tax practice and procedure at Fairleigh Dickinson University and he lectures on legal ethics at Rutgers University School of Law. A prolific writer, Larry is a co-author of the BNA Portfolio on *IRS National Office Procedures – Rulings, Closing Agreements*, an author of the BNA Portfolio on Innocent Spouse, a contributing author of *Effectively Representing Your Client Before the IRS*, and a co-author of *Qualified Appraiser, Qualified Appraisal: Practice, Procedure, Legal Analysis, and Theory*, among other books and articles. 5

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Introduction

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Introduction

- The Tax Cuts and Jobs Act (TCJA) temporarily raised the estate and gift tax exclusion amount from $5 million to $10 million (annually adjusted for inflation)
  - Applicable exclusion amount is $12.06 million for 2022 and $12.92 million for 2023
    - $24.12 million per couple for 2022 and $25.84 million per couple for 2023
  - Exclusion amount will revert back to $5 million (annually adjusted for inflation) on January 1, 2026
  - Proposed legislation may lower the exclusion amount sooner (*see, e.g.*, S. 994, H.R. 2576)
- As a result of the increased exclusion amount, the number of taxpayers subject to the federal estate tax plummeted to 1/3 of the pre-TCJA amount
- Practitioners today must navigate the exclusion amount's steep rise and likely drop
- These circumstances create new needs and opportunities for taxpayers
  - Different planning techniques
  - Elect portability, preparing the predeceased spouse's federal estate tax return as if it will be examined on the surviving spouse's death
  - Proactively start the running of statutes of limitations with respect to gifts
  - Take due care, especially because all estate tax returns will be reviewed and classified for audit potential

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Trending Planning Techniques in Action

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Trending Planning Techniques in Action

- Hypothetical
  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
  - Upon the first spouse's death, John and Jane would like to:
    - Minimize taxes
    - Provide for surviving spouse
    - Provide gift to children
    - Provide gift to grandchildren (GST)
    - Treat all children equally
  - Additionally, John would like his son to transition into the family business during his lifetime.

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Trending Planning Techniques in Action (con't)

- Hypothetical (same facts as before)
  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Estate plan includes:
  - Balancing of assets between spouses;
  - Revocable Trust that includes a marital deduction formula clause;
  - Spousal lifetime access trust (SLAT);
  - Grantor retained annuity trusts (GRAT(s));
  - Irrevocable life insurance trust (ILIT); and
  - Business interests / promissory note.

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Trending Planning Techniques in Action (con't)

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  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
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  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Implementation of the plan:
  - Be sure accurate gift returns are filed;
  - Take care that documents do not include powers that will cause assets to end up back in estate (*e.g.*, string provisions, powers to appoint, trustee selection, etc.)
    - Strings: reversionary interests, retained interests, transfers that take effect at death
    - Trustee Selection and Trustee Powers.
      - I.R.C. § 672
      - Limit to HEMS distribution standard if Interested trustee
  - When establishing GRATs, consider triggering a small gift for the purpose of filing a gift tax return to begin SOL on audit (*i.e.*, do not use zeroed-out GRAT)
  - When using a sale to IDGT, be sure that the "seed" is at least 10% of value of note. The seed does not need to be cash, but it must be an asset that can service the debt e.g. rental income from property that can pay note.
  - Always use an independent, unrelated appraiser when making valuations are necessary

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Trending Planning Techniques in Action (con't)

- Hypothetical (same facts as before)
  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Balancing of assets between spouses
  - Jane had $5 million in her name; John transferred $13 million to ensure that she had enough in her name to use the Federal and State estate tax exemptions. (Most states with an estate tax do not allow portability of the state estate tax exemption.)
- Revocable Trusts for each spouse that include marital deduction formula clauses

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Trending Planning Techniques in Action (con't)

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  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Spousal Lifetime Access Trust ("SLAT")
  - A SLAT is an irrevocable trust in which one spouse (the donor spouse) gifts assets to the other spouse as the beneficiary of a trust (the beneficiary spouse). In most cases, the gift will be limited to an amount not to exceed the donor spouse's remaining federal (or state) estate tax exemption amount. The gift to the trust removes the gifted assets, and any appreciation thereafter, from the donor spouse's estate. The SLAT may provide distributions to the beneficiary spouse while still excluding such assets from the beneficiary spouse's estate.
  - The key benefit of the SLAT is that by designating her or his spouse as a lifetime beneficiary of the trust, the donor spouse retains indirect access to the trust, including the income, while excluding trust assets from both spouses' taxable estates. Moreover, the SLAT may protect trust assets from creditors.

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  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Grantor Retained Annuity Trusts ("GRAT")
  - A GRAT is a trust that is required to pay the grantor an annuity for a fixed period of years
  - The Grantor transfers assets to the GRAT and the trustee of the GRAT pays the Grantor on the last day of each year of the GRAT, a designated percentage of the initial fair market value of the trust for the term of the trust. That percentage is based on the I.R.C. § 7520 determined interest rate on the date the GRAT is funded. Any earnings above that rate are accumulated in the trust and, provided the Grantor is living at the end of the trust term, the accumulated earnings pass to the beneficiaries (or a trust for their benefit).
  - Essentially, the purpose of a GRAT is to transfer future growth to children without any gift or estate tax imposed on that growth. If structured correctly, a GRAT will not require use of the donor's gift tax exemption. As a result, a GRAT generates no gift tax and transfers no existing wealth, but rather will move future appreciation above a current interest rate (currently 4.8% per year for a GRAT funded in November 2022)
  - If the Grantor does not survive the term of the GRAT then the assets end up back in Grantor's estate

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Trending Planning Techniques in Action (con't)

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  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Irrevocable Life Insurance Trust ("ILIT")
  - An ILIT is an irrevocable trust created during the Grantor's lifetime that owns and controls a life insurance policy. So long as the Grantor does not retain any incidents of ownership in the life insurance policy, the death proceeds will not be included in the Grantor's gross estate.
  - John (the grantor) was ordered by the family court to maintain a policy for the benefit of his former spouse. To minimize his gross estate while also complying with the court order, he established the ILIT and named his former spouse as the beneficiary thereunder.

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Trending Planning Techniques in Action (con't)

- Hypothetical (same facts as before)
  - John and Jane are a married couple. It is the second marriage for both, and they each have two children from previous marriages as well as several grandchildren. They do not have joint children but they wish to treat all children and grandchildren equally.
  - John owns several businesses and real estate investments. His net worth is $65 million. Jane's net worth is $18 million and is comprised mostly of investment accounts.
  - John is required under a divorce decree from his first marriage to maintain a life insurance policy for his former wife in the amount of $3 million. He is also required to pay her a certain percentage of any sales on real estate investments. The divorce decree requires that he include these provisions in his estate plan.
- Sale of Business Interests to Intentionally Defective Grantor Trust ("IDGT")
  - Purpose of Transaction: John to transfer substantial portion of equity interest in S-Corporation to IDGT for next generation but maintain management with John (goal to transition son into this role).
  - Steps:
    - Recapitalize into voting and nonvoting shares based upon a valuation;
    - Transfer seed money to IDGT. Must be at least 10% of value of note. (In this case, John transferred income producing real estate.).
    - Transfer the non-voting equity to the IDGT, retaining the voting shares so that Grantor maintains management control;
    - Trustee issues promissory note to John (grantor) for the payment of the non-voting equity.
  - Note: Must put in at least 10% seed money (the gift was real estate that was income producing for the 10% so we get the benefit of getting real estate out of the estate and any appreciation into the trust
  - Disadvantages:
    - Grantor cannot be trustee and cannot be beneficiary
    - No step up in basis on seed real estate

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Preparing the Estate Tax Return for Portability

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Preparing the Estate Tax Return for Portability

- Portability defined
  - A procedure by which a surviving spouse may add a deceased spouse's unused exclusion amount to the surviving spouse's exclusion amount
- Availability
  - Portability is available if the decedent:
    - Was a citizen or resident of the United States;
    - Died after 2010;
    - Is survived by a spouse; and
    - Did not use the full exclusion amount.
- Advisability of electing
- Steps to elect portability
  - "Timely" file a complete and properly prepared federal estate tax return
  - Portability is triggered automatically unless the filer affirmatively elects out of portability

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Preparing the Estate Tax Return for Portability (con't)

- Timeliness of electing portability
  - Within 9 months of decedent's death, UNLESS:
    - Six-month extension of time to file the estate tax return is filed; or
    - The return is filed within 5 years of the decedent's death and the return is solely filed for portability purposes
  - Under Revenue Procedure 2022-32, if the estate tax return is filed for portability purposes within 5 years of the decedent's date of death, the return will be accepted as timely filed if the top of the return states:

    "FILED PURSUANT TO REV. PROC. 2022-32 TO ELECT PORTABILITY UNDER § 2010(c)(5)(A)"

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Preparing the Estate Tax Return for Portability (con't)

- Simplified reporting is generally available for an estate tax return solely filed to elect portability
  - Treas. Reg. § 20.2010-2(a)(7)(ii) provides simplified reporting requirements for certain property when an estate tax return is filed for portability purposes
  - In general, when an estate tax return is filed for portability purposes, if property is subject to the marital or charitable deduction, the filer may estimate the value of the property. *Id.*
  - A filer estimating the value of property subject to the marital or charitable exclusion must exercise due diligence in doing so, making the filer's best estimate of the of the property's value under penalties of perjury. Treas. Reg. § 20.2010-2(a)(7)(ii)(B).
  - The filer must provide supporting documentation to demonstrate that the property with the estimated value is subject to the marital or charitable deduction. <u>See</u> Treas. Reg. § 20.2010-2(a)(7)(ii)(C), Ex. 1, Ex. 2.

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Preparing the Estate Tax Return for Portability (con't)

- Estimated valuation is not allowed if:
  - The property value relates to, affects, or is needed to determine, the value passing from the decedent to a recipient other than the recipient of the marital or charitable deduction property (Treas. Reg. § 20.2010-2(a)(7)(ii)(A)(1));
  - The property value is needed to determine the estate's eligibility for a generation-skipping transfer tax provision (Treas. Reg. § 20.2010-2(a)(7)(ii)(A)(2));
  - The property value is needed to determine the value of another estate (<u>id.</u>)
  - The property value is needed to determine eligibility to elect either the § 2032 alternate valuation date or § 2032A special use valuation (<u>id.</u>);
  - The property's entire value is not subject to the marital or charitable deduction (Treas. Reg. § 20.2010-2(a)(7)(ii)(A)(3)); or
  - A QTIP election is made respecting property subject to the marital or charitable deduction (Treas. Reg. § 20.2010-2(a)(7)(ii)(A)(4)).

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Preparing the Estate Tax Return for a Taxable Estate

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Overview

- Unlike other returns, which are subject to a "lottery", ALL estate tax returns for individuals subject to estate tax will be individually reviewed to determine audit potential and identify the key issues for any examination
- Estate and gift tax examiners return more tax dollars per capita than any other subdivision of tax. Therefore, estate and gift tax audits are emphasized
- Estate tax return audits are usually initiated within nine months of the filing of the estate tax return
  - Absent special circumstances (*i.e.*, someone filing a reward application two years after the estate tax return is filed), estate tax audits are usually concluded no later than 18 months after filing
  - The IRS can examine a deceased spouse's unused exclusion amount on audit of the surviving spouse's death. *See* I.R.C. § 2010(c)(5)(B).

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Prepare the Estate Tax Return With the Audit in Sight

- Anticipate Your Audience at the Outset
  - "Begin with the end in sight"
- Practice Tip 1: Ensure adequate documentation for the audit by attaching required documents to the return and storing necessary information in a safe place.
- Practice Tip 2: Use reputable appraisal firms
- Practice Tip 3: Assume all relevant evidence will be reviewed by the auditor and a judge

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Prepare the Estate Tax Return With the Audit in Sight

- Practice Tip 4: Know what the IRS knows (and more):
  - Request IRS transcripts – account, W&I, gift, and related entity
  - Order copies of past gift tax returns (Form 4506)
    - Consider asking for gift tax returns post-2010
  - Order a copy of predeceased spouse's estate tax return (Form 4506)
  - Review last three years of income tax returns and bank statements
  - Make requests under the Freedom of Information Act
  - Request date of death valuations
  - Westlaw searches (*e.g.*, adverse judgment search to determine liabilities and liabilities)
  - Accurint (for information on businesses, real estate, etc.
  - Transunion TLOxp for information on credit, bankruptcies, foreclosures, liens, judgments, assets, professional licenses, etc.
  - Google search

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Prepare the Estate Tax Return With the Audit in Sight

- Practice Tip 5: Perfect the return by including:
  - Certified copy of Will;
  - Certified copy of death certificate;
  - Forms 712, *Life Insurance Statement*;
  - Copies of trust instruments;
  - Copies of power of appointment instruments;
  - Appraisals on real estate;
  - Appraisals on art (required for art objects with a value greater than $3,000);
  - Appraisals on businesses (or other required financial information);
  - Detailed valuation discount calculations (showing nominal and effective discounts taken); and
  - Copies of Forms 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*.

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Prepare the Estate Tax Return With the Audit in Sight

- Practice Tip 6: Anticipate common audit issues:
  - Adjusted taxable gifts and gift tax paid;
  - Real estate (fractional interest, arm's-length sale);
  - Accrued interest and dividends included;
  - Are you properly reporting assets transferred to a revocable trust;
  - Closely held businesses (sales price in formational documents, reasonable and appropriate discounts, reliable appraisal);
  - Life insurance (ILITs, Form 712);
  - FLPs (indirect gift, section 2036 issues, reasonableness of discounts);
  - Powers of appointment;
  - Annuities;
  - Expenses incurred during administration; and
  - Whether portability was properly elected.
- Practice Tip 7: Anticipate issues likely to be scrutinized during classification and on audit

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Issues Likely to be Scrutinized During Classification/Audit

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Issues Likely to be Scrutinized

- Failure to file gift tax returns
- Failure to file income tax returns for trusts
- Failure to report distributed income
- Failure to make required annuity payments to grantor
- Reconciling trust accounting and taxable income
- Filing incomplete gift tax returns
  - Lack of documentation to support gift reported
- Lack of valuation
- Lack of appraisals for underlying assets
- Incomplete valuation
  - Valuation not meeting IRS standards
  - Paper napkin valuations
- Discounts not substantiated

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Issues Likely to be Scrutinized (con't)

- Grantor retains control
- Failure to allocate GST exemption
  - Be mindful of automatic allocation rules
- Failure to keep trust separate and distinct from grantor
  - Grantor acting for the trust
  - No separate bank accounts
- Independent trustee not signing documents for trust activity
- Ignoring debt service on sales to intentionally defective grantor trusts (IDGTs)
- Failing to qualify trusts as eligible S-Corp owners
- Lack of *Crummey* notices

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Deficiencies in Valuations

- Company's legal documents not considered
  - Buy-sell agreements
  - *Connelly v. United States*, 128 AFTR 2d 2021-5955 (E.D. Mo. 2021)
- Known or knowable as of the valuation date
- Appropriate valuation approach
- Valuation of an interest that doesn't correlate to gifted interest
  - Warne v. Commissioner, T.C. Memo. 2021-17
  - *Nelson v. Commissioner*, 128 AFTR 2d 2021-6532 (5th Cir. 2021), *aff'g*, T.C. Memo. 2020-81

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Managing Estate Tax Controversies Through Proactive Gift Tax Return Filings

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Statute of Limitations Considerations for Gifts

- Relevant statute of limitations rules
  - The IRS typically has three years from the date on which a taxpayer files a tax return to audit that tax return and assess additional tax with respect to it. I.R.C. § 6501(a).
  - Federal gift tax may be assessed at any time if a gift is not shown on a gift tax return in a manner adequate to apprise the IRS of the nature of the gift. I.R.C. § 6501(c)(9).
    - Most typically, this additional assessment occurs in connection with the filing of the estate tax return, many years after the gift was made and adding to the assessment potentially significant interest.
- Proactively manage statutes of limitation to take advantage of higher exemption amounts, as opposed to deferring the tax to a later year (when exemption amounts may be lower)
- File "protective" gift tax returns adequately disclosing a transaction to begin the statute of limitations

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Adequate Disclosure Rules

- Generally
  - A gift is only considered adequately disclosed if it is reported in a manner adequate to apprise the IRS of the nature of the gift and the basis for the value so reported. Treas. Reg. § 301.6501(c)-1(f)(2)
- Safe harbor
  - Transfers reported as a gift will be considered adequately disclosed if the return provides:
    - A description of the property and any consideration received by the transferor;
    - The identity of, and relationship between, the transferor and the transferee;
    - If the property is transferred to a trust, the trust's TIN and either a brief description of the terms of the trust or a copy of the trust;
    - Either an appraisal (in the form described in Treas. Reg. § 301.6501(c) – 1(f)(3)), or a detailed description of how value was obtained (financial data/property information, etc.); *and*
    - A statement describing any position taken that is contrary to any proposed/temporary or final regulations or revenue rulings. Treas. Reg. § 301.6501(c) – 1(f)(1)(v).
  - Non-gift transfers
    - A non-gift transfer will be considered adequately disclosed even if it is not reported on a gift tax return if the transfer is properly reported by all parties for income tax purposes. Treas. Reg. § 301.6501(c)-1(f)(4).

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Questions?

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