Tax planning in an uncertain time

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The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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01

Tax legislative developments

Tax legislation we MIGHT see – individuals and trusts

Individual proposals:	SECURE Act 2.0
None	▪ Mandatory enrollment in plan with required 3% contribution ▪ Expansion of catch-up contributions and Roth tax treatment ▪ Allowing Roth matching contributions ▪ Delaying mandatory distributions (from 72 to 73, 74 in 2029 & 75 in 2032) ▪ Expediting part-time workers participation ▪ Authorize student loan matching

Inflation Adjustments to Lifetime Gift / Estate Tax Exemption

Recently released 2023 inflation adjustments (Rev Proc 2022-38)

- Lifetime gift/estate/GST exemption is $12,920,000 per person for 2023 (up $860,000 over 2022) and $25,840,000 per married couple for 2023 (up 1,720,000 over 2022).
- The annual exclusion is $17,000 for 2023, up from $16,000 in 2022

02

Tax planning opportunities

Tax efficient investing

Fund tax-deferred accounts

- Traditional and/or Roth IRA
- 401(k) plans
- Permanent life insurance

Fund 529 plans

- Contributions to a 529 plan qualify for the annual exclusion
- Don't forget you can do \$80k in one year to one person (for 2022)

Roth conversions

- 24% between \$173,000 – \$330,000 (MFJ) then turns to 32%
- Consider taking advantage of this 8% difference by "filling up" your 24% bracket (i.e. if taxable income is \$300,000 take \$30,000 from an IRA and convert it to a Roth IRA). \$2,400 "savings".
- Back-door Roth if AGI > \$208,000

Tax loss harvesting

- Allows you to sell under-performing investments, replace them with reasonably similar investments, and offset realized investment gains with those losses

Tax planning in a recession

Planning is more important now than ever for individuals and businesses as it can help increase cash flow and many taxes aren't decreasing (payroll, sales, etc.)

Individual Planning

- Re-evaluate quarterly estimates based on current year taxable income versus safe harbor basis from prior year.
- Business entity selection – if you are on Sch C or E paying 37% consider a C corporation and pay 21%. A lot of factors in this so get professional advice to determine which type of entity is best for your circumstances.
- With interest rates increasing your investment interest income may also increase. This is a tax inefficient investment attracting tax at over 50% depending on what states you're in (37% + 3.8% plus state tax)
- Mortgage deduction is capped at loan balances of $750,000 which may come into play as housing prices increase but the $750,000 is not indexed.
- Capital gains on primary residence is exempt up to $500,000 (assuming MFJ and meet ownership tests). If your gain may exceed this amount, calculating your basis is critical and can be a significant compliance burden.
- Net capital losses are limited to $3,000 of ordinary income and has never been indexed to inflation.

03

Wealth transition opportunities

Tax planning in a recession – Estate

Estate Planning

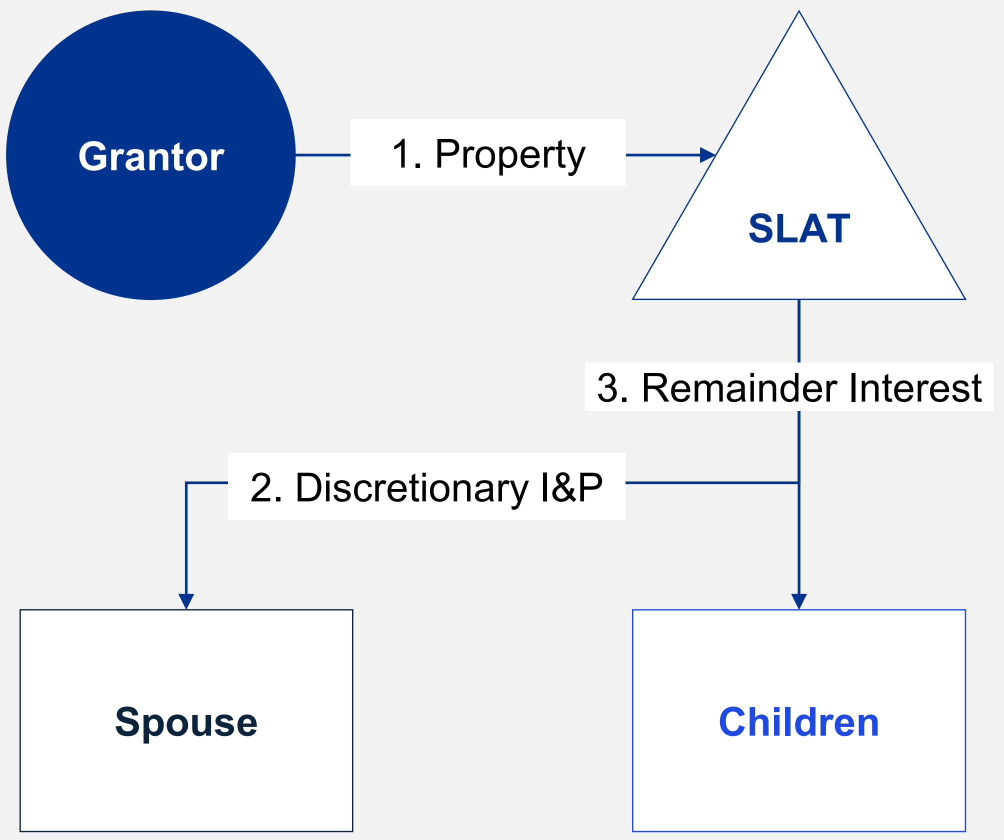
Estate Planning

- Decrease in values make a perfect time for gifting and utilizing life-time exemptions
- Annual exemptions utilized against declining stock values
- Consider forming a family investment partnership for dynastic wealth accumulation. Discounts on transfers of interests may apply
- Unlimited marital deduction
- Consider the 6 month alternative valuation date
- Future benefits on depreciable assets
- Whether assets will be sold in the future and related tax position of seller
- If you have utilized your lifetime exemption already, don't forget the inflationary adjustment for 2023

Spousal Lifetime Access Trust (SLAT)

At a glance

- A strategy to utilize gift tax exemption while still retaining some access to the gifted property through the grantor's spouse
- During spouse's lifetime, spouse and children may receive discretionary distributions of income and principal
- After spouse's death, trust may continue for the benefit of children, and, if GSTT exemption is allocated, trust could be a dynasty trust to benefit grandchildren and later generations
- Spouse could also set up a similar trust for grantor although care must be taken not to run afoul of the reciprocal trust doctrine (which would cause estate inclusion)
- Advantage over testamentary trust – shifts future appreciation on those assets out of estate
- Potential disadvantages – loss of access when spouse dies or divorce occurs



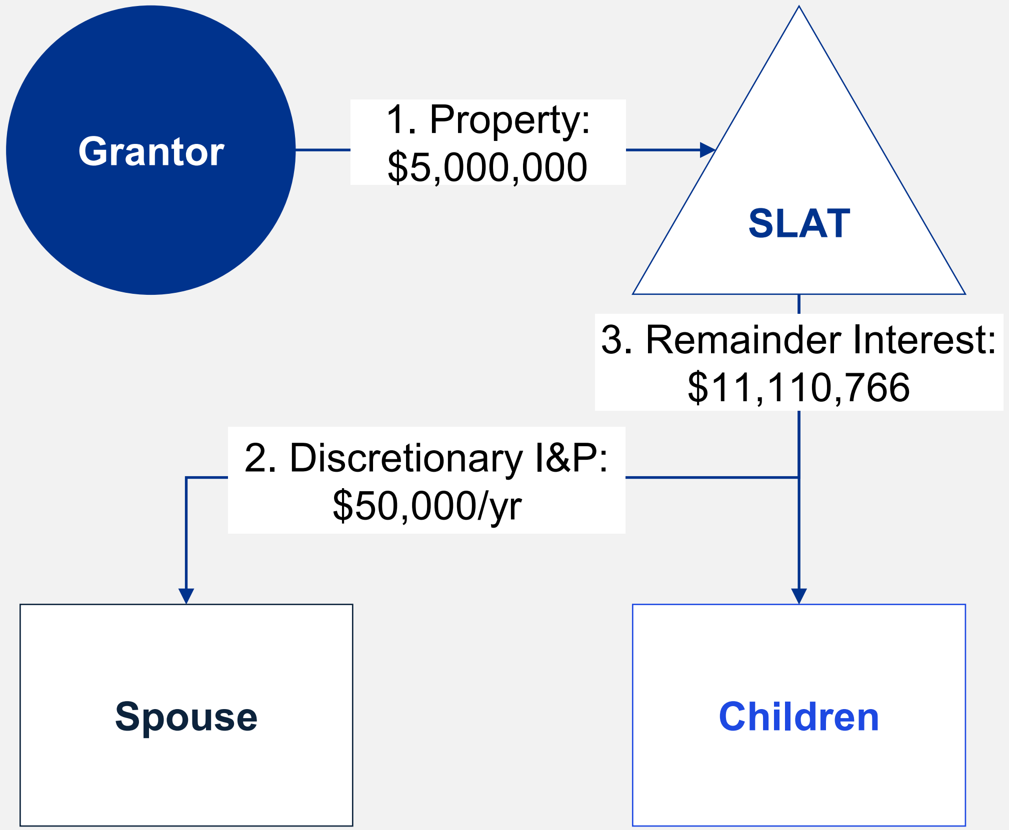
SLAT example

Facts

- Trust term: 9 years
- Total return rate: 10%
- Spousal distributions: $50,000/year
- Grantor pays taxes outside of trust

Results

- $450,000 distributed to spouse ($50,000 x 9 years)
- Remainder interest of $11,110,766 consisting of appreciation of assets passes gift/estate tax free to beneficiaries



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Tax efficient philanthropy

Tax efficient philanthropy

Itemized versus standard deduction

- If you have a Schedule A in your tax return you probably itemize
- If the amount on line 12a of your 2021 Form 1040 page 1 is not equal to $25,100 for married filing jointly you probably itemize (increased by $1,400 per person if over age 65)
- If you have mortgage interest and charitable donations of more than $15,000 in the aggregate you probably itemize, (since the SALT deduction will add an additional $10K benefit).
- If you don’t itemize in a given year, be familiar with how close you are to the standard deduction to take advantage of timing of payments if the amount will make you eligible to itemize.

After-tax cost for APPRECIATED STOCK donation

	Cash gift	Appreciated asset
Fair market value of gift	$10,000	$10,000
Amount of basis in stock		$4,000
Capital gain on donated property		$6,000
Federal capital gains and Medicare tax avoided (20% + 3.8%)		($1,428)
State tax on capital gains avoided (6%)		($360)
Federal tax benefit	($3,700)	($3,700)
State tax benefit	($600)	($600)
Net after-tax "cost" of donation	**$5,700**	**$3,912**
Benefit		**$1,788**

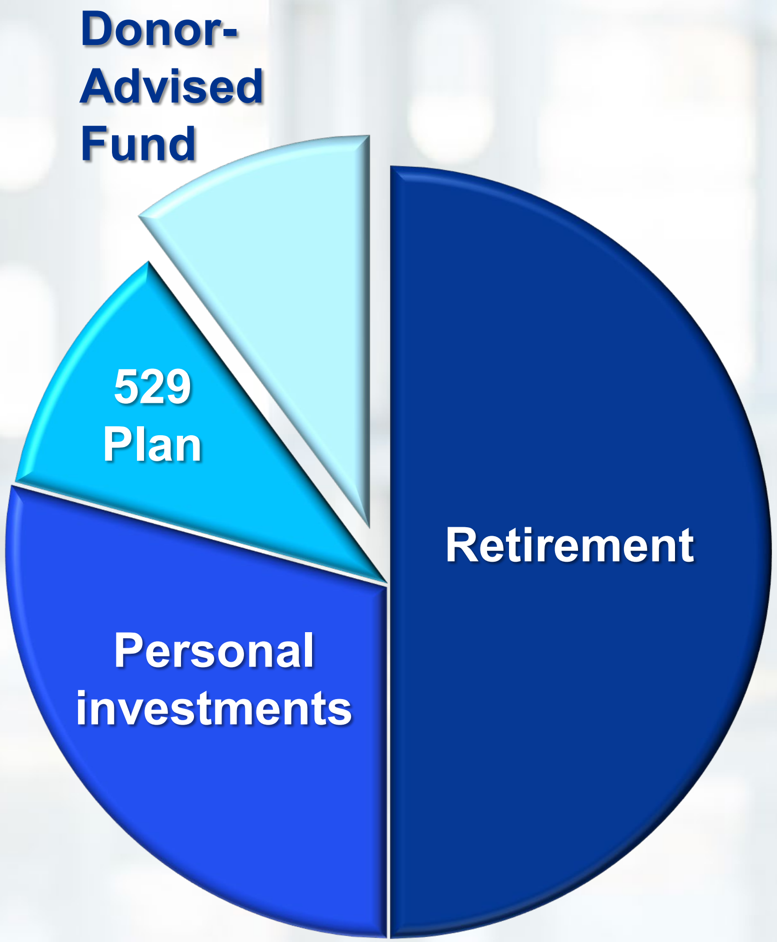
Some states also offer credits for donations to particular entities

Bunching charitable giving example

	Base year	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Itemized deductions							
State & local taxes	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000	$10,000
Mortgage interest							
Charitable donations	$15,000	$90,000					
TOTAL DEDUCTIONS	**$25,000**	**$100,000**	**$10,000**	**$10,000**	**$10,000**	**$10,000**	**$10,000**
Standard deduction	$25,100	$25,100	$25,100	$25,100	$25,100	$25,100	$25,100
Itemized or standard	$25,100	$100,000	$25,100	$25,100	$25,100	$25,100	$25,100
Benefit of bunching donations		$74,900					
TAX BENEFIT @ 40% Federal & State Rate		$29,960					
TOTAL BENEFIT After 6 years							**$29,960**

Consider combining with appreciated or loss capital asset

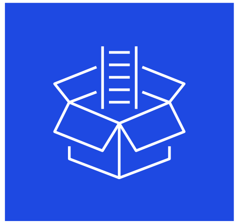
Your financial picture



Donor advised fund

GIVE

Give cash, stock or other assets to your fund. Contributions are tax deductible.



GRANT

Use your fund to support your favorite charities.

GROW

Invest through your financial advisor. Your charitable dollars grow tax-free.

Tax efficient philanthropy

Qualified Charitable Distributions (QCD)

- Can be utilized by those 70 ½ and beneficiaries of inherited IRAs
- Direct transfer from IRA to a qualified charity
- Satisfies your RMD up to $100,000 annually
- QCDs are excluded from your income
  - Different than RMD even if given to charity
  - Important as reduces your Adjusted Gross Income which impacts taxability of social security and other items

05

State tax residency

State tax residency

State tax residency – Importance

Why is determining an individual's resident status important?

- State personal income tax issues:
  - — Residents pay tax on all of their income
    - o Residents can generally claim a credit for nonresident taxes paid to other states on income derived from sources outside of their resident state.
  - — Nonresidents only pay tax on income derived from sources within

State tax residency – Overview

- Non income tax issues:
  - — Estate taxes:
    - o A domiciliary's estate is subject to probate in the state and is subject to corresponding state level estate taxes
    - o Nonresidents are only subject to probate and estate taxes on property physically located in the state (e.g., a vacation home)
  - — Real estate taxes
    - o Only residents can claim a "homestead" credit or reduction on their real estate taxes
- Each state gets to make an independent determination of who is a resident. See In re Dorrance's Estate, 288 U.S. 617 (1933) cert denied; and 298 U.S. 678 (1936) cert denied.

State tax residency

Residency vs. Domicile

Factors to consider in determining an individual's domicile:

- Primary factors
  - — Home
  - — Active business involvement
  - — Time spent
  - — Location of "near and dear" possessions
  - — Family connections

Residency vs. Domicile

- Secondary factors include (but are not limited to):
  - — Address at which important mail is received
  - — Location of safe deposit boxes
  - — Location of car registrations and driver's licenses
  - — Voter registration
  - — In-state tuition claims
  - — Tax exemptions (e.g., homestead)
  - — State resident licenses (e.g., fishing)
  - — Jurisdiction of legal documents (e.g., wills, trusts, divorce agreements)
  - — Memberships in social, charitable, and religious organizations
  - — Any other fact that tends to establish where an individual intends to remain permanently

06

Preparing for change

What now?

What should you do now?

- Don't forget fourth quarter of 2022 estimated tax payments are due January 16, 2023
- Encourage utilization of any remaining estate/gift exemption amounts
- Review wealth transition strategies to make sure still consistent with your goals and objectives
- Project taxable income and consider
  - Roth conversions
  - Utilization of a DAF in high income years
  - Consider investment mix based on projected taxable income

Six documents we each should have and keep current

01 Financial/Durable Power of Attorney (one in the same or separate)

02 Medical Power of Attorney and HIPAA Release

03 Declaration of Guardianship in Event of Incapacity

04 Will (Pour Over)

05 Living Trust/Revocable Trust

06 Document “vault” for passwords and important information

Revocable trust

What is a revocable trust and do I need one?

- Remains open during your life. You can add property (by deeding real estate to your trust, for example), and you can remove property by selling it.
- Not a tax planning opportunity, so any income or dividends your property earns will pass through and be taxed to you directly, and the assets inside are not immune to creditors
- When you die, whatever property is in there must be distributed to your beneficiaries according to your instructions.
- Generally easier to consolidate accounts before retitling so a chance to increase assets under management

Revocable trust pros and cons

Pros

- Avoid probate and conservatorship
- Flexible – you can change whenever you want
- Keeps your affairs private upon death
- Assets available at death to your Trustee (versus tied up in probate court)

Cons

- No tax benefits – it is the same as you while you are alive
- Some assets not allowed in the trust – like a retirement account (IRA)
- Need to retitle assets
- Might need an attorney to assist in drafting

What questions do you have?

Thank you

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