

# CAPITAL GAINS TAX PLANNING TOOLS



*Proven Strategies for Selling a Business or Other Asset Tax-Efficiently*



# EXIT STRATEGIES

*We can help you sell a business or other asset without the capital gains taxes that may equal 38% of the value. As a firm staffed with business and tax planning professionals, we have solutions to the issues that most frustrate buyers and sellers of appreciated assets. We can typically find ways to design transactions to generate tax savings many times more than the legal costs.*

## THE PROBLEM

Unnecessary taxes can destroy wealth and destroy incentives to build wealth. Only 30% of businesses make it to generation two and a mere 3% still generate profits in generation three. Given the dismal success of family businesses over the long term, it is no wonder that 65% of family wealth is lost by the second generation and 90% by the third generation. By the third generation, more than 90% of estate value is lost. Taxes are often blamed.

While capital gains taxes on businesses are often the greatest, real property, stocks, and myriad other types of assets can have built in capital gains taxes that reduce value. In most cases, tax can be reduced or deferred using techniques in this brochure.

## THE SOLUTION

The capital gains minimization process begins with clarifying the desired outcome. Asset sellers only have four choices. Sales proceeds can go to taxes, lifetime income, family members, or charity. If nothing is done, one-third or more of the wealth may go to taxes. With proper planning, money spent on unnecessary taxes can be redirected to trusts that generate more after-tax retirement income, larger transfers to family members, or bigger gifts to favorite charities.

Tax lawyers can develop tax-efficient asset sale plans at costs that are often less than 1% of tax savings. Creating tax strategies often requires development of trusts that grow assets tax-efficiently and distribute the assets tax-free. For this reason, the lawyers designing and drafting the plans often work with insurance and investment professionals who can fund the plans with tax-efficient portfolios.

# THE PROCESS

## *Benefits of Planning*

### *You can...*

- Control 100% of your wealth.
- Move from success to significance.
- Use proprietary design strategies.
- Benefit from a capable planning and implementation team.
- Access unique investment opportunities.
- Take advantage of one-stop shopping: You receive a plan illustrating all recommended strategies with a balance sheet and cash flow statement.
- Easily re-optimize the plan in response to changing goals, tax law, or asset values.

## *Benefits of Our Process*

### 1 INTEGRATED

Combines capital gains planning with financial, estate, philanthropic, insurance, investment and life planning.

### 2 PURPOSEFUL

Redirects tax money to trusts that fund a more meaningful retirement, a larger legacy for family members, or bigger gifts to favorite charities.

### 3 FEE-BASED

Advisers provide wisdom at a cost that is usually only a small fraction of the tax savings.

### 4 QUANTITATIVE

The plan normally examines both the balance sheet and cash flow impact of the proposed strategy.

### 5 COLLABORATIVE

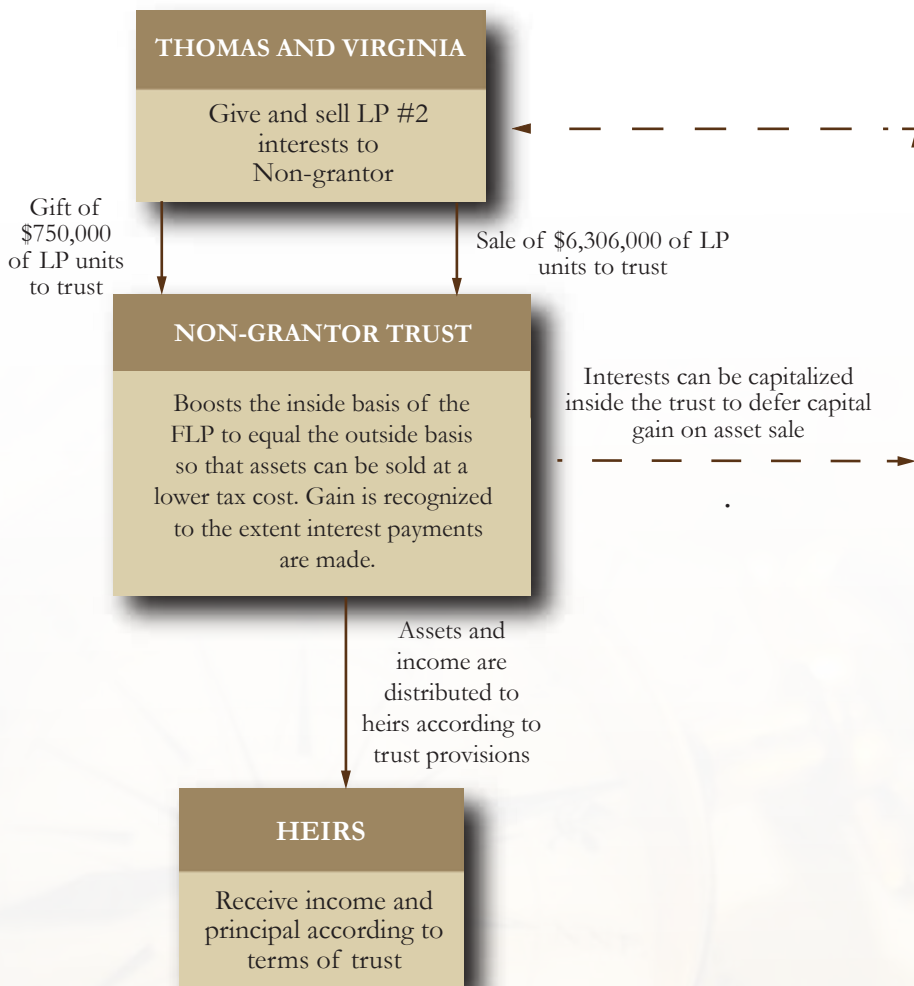
Web-based project management software allows for greater cooperation among advisers.

# CAPITAL GAINS STRATEGIES

## Strategy #4

### 1 SALE TO A NON-GRANTOR TRUST

The Non-taxable Installment Sale strategy involves the use of a 754 election to treat assets in an LLC as having a basis equal to the market value of the assets when the assets are sold to a trust. The assets are sold for a section 453 installment note that make periodic payments to the seller. Capital gains taxes are generally not due until note payments are received.



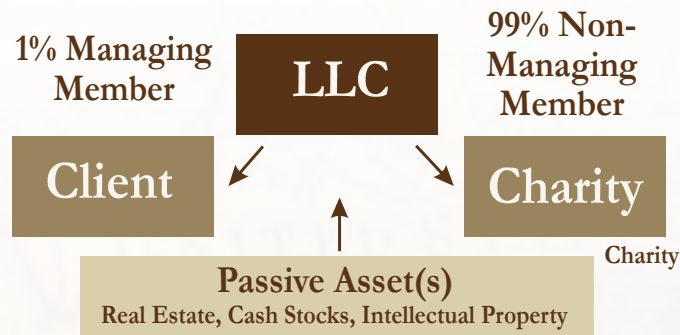
### 2 CHARITABLE REMAINDER TRUST

A charitable remainder trust is otherwise known as a wealth replacement trust. This vehicle is frequently put in place in conjunction with life insurance planning. A portion of the tax savings used from funding the CRT can be used to pay for life insurance. The life insurance death benefit replaces what goes to charities so that the heirs need not receive a smaller inheritance.

	Taxable Sale	CRT	CRT with WRT
Heirs	\$ 1,638,842	\$ 0	\$ 1,500,000
Estate Tax	\$ 1,340,871	\$ 0	\$ 0
Spendable Income	\$ 1,810,112	\$ 1,810,112	\$ 1,810,112
Charity	\$ 0	\$ 2,971,894	\$ 2,971,894

### 3 CHARITABLE LIMITED LIABILITY COMPANY ("CLLC")

The CLLC is a standard LLC funded with passive assets, such as stocks, bonds, real estate or intellectual property. The K-1 from the LLC indicates that 99% or 100% of the income is taxed to a charity. Assets sold inside an LLC owned by a charity can be sold tax free, and income generated inside the LLC can compound tax-free. The managing member of the LLC follows fiduciary standards when lending money to third parties, such as a Dynasty Trust with an independent trustee. Even if the client elects to have the charity manage the LLC, the client can retain influence over the Investment Policy Statement ("IPS"). The IPS may direct that the LLC lend money (using highly secure note instruments) to a Dynasty Trust. The Dynasty Trust may invest in tax-efficient vehicles, such as high cash value life insurance. Charities receiving the LLC gifts typically require that a portion of annual earnings flow to qualified charities that the donor chooses. The CLLC is a very effective tool for directing taxes to charity (converting involuntary philanthropy to voluntary philanthropy) while increasing potential after-tax retirement income and/or transfers for family members.



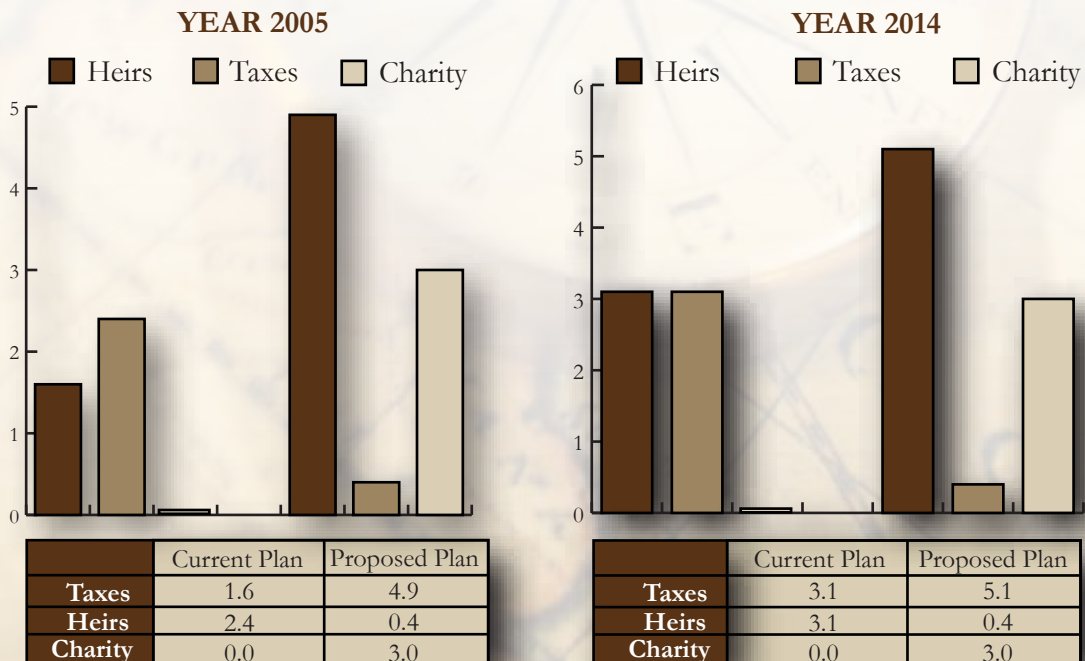
Assets in <b>ULTIMATE PLAN</b> - Year 50	<b>\$11,648,030</b>
Assets in <b>CURRENT PLAN</b> - Year 50	<b>\$ 2,890,540</b>





## 4 SUPER CLAT

An individual can form a grantor CLAT that keeps the value of the CLAT remainder interest out of the estate while also producing a current income tax deduction equal to the present value of the future gift to charity. By using a family limited partnership (or LLC) funded with tax-free bonds and index universal life insurance, it is possible to produce enough tax-free income to meet the distribution requirements during the term of the CLAT. The technique can result in as much wealth for family as would have been received with a taxable sale, but the family enjoys the added benefits related to redirecting tax money to favorite charities.



## 5 EMPLOYEE STOCK OWNERSHIP PLAN (“ESOP”).

The owner of a closely held corporation can convert a large portion of his or her equity into cash without paying any tax. The company owner can invest this cash in a diversified securities portfolio while deferring capital gains and maintaining control of the company. When combined with a Charitable Trust (a "ChESOP"), the transaction can produce a current income tax deduction and provide a tax-free trading environment.

### POTENTIALLY ACHIEVABLE BENEFITS

IF DEATH OCCURS IN CURRENT YEAR

	EXISTING PLAN	PROPOSED PLAN
Current Year Corporate Income Tax	\$480,000	\$255,000
Current Year Personal Income Tax	\$140,000	\$95,000
Inheritance to Heirs	\$3,000,000	\$8,000,000
Estate Tax	\$2,000,000	\$1,500,000
Legacy to Charity	\$0	\$1,000,000
Projected After-Tax Retirement Income	\$170,000	\$267,000
Business Goes to Children	No	Yes

### PROPOSED PLAN SUMMARY

Reduced Corporate Income Taxes	\$225,000 for 10 years
Reduced Personal Income Taxes	\$87,000 over 2-6 years
Increased Annual After-Tax Personal Income Pre-Retirement	\$30,000
Increased Annual After-Tax Retirement Income	\$88,000
Eliminated Capital Gains Taxes on Sale of Business	\$750,000
Reduced Estate Taxes	\$500,000
Increased Net to Heirs	\$5,000,000
Increase to Charity	\$1,000,000

## CONCLUSION

As a result of our extensive experience and expertise, Matsen Voorhees Mintz LLP is uniquely positioned to create and implement comprehensive strategies that coordinate CPAs, financial planners and other advisers to design, draft and fund capital gains planning solutions. We can implement even the most complex and sophisticated capital gains tax planning strategies.

# PARTNERS



JRMATSEN.COM

As one of the top estate planning attorneys in the country, Jeff has spent his 45-year career providing his clients with the highest level of legal service and has recently authored an award winning book in his area of expertise, *The Ladder of Success: An Asset Protection Planning Primer*.



TIMVOORHEES.COM

While earning his JD and MBA degrees, Tim emphasized business and corporate planning. He helps clients transfer their businesses tax efficiently using techniques to lower income and estate taxes while increasing after-tax retirement and wealth transfer amounts.



JONATHANAMINTZ.COM

As the newest partner at *MVM Law*, Jonathan has nearly 25 years of experience as an estate planning and business attorney. He has extensive experience in designing and implementing effective estate and succession plans for business owners and their families.

## Matsen Voorhees Mintz LLP



*Maximizing Value with Integrated Estate,  
Business, Tax, and Asset Protection Planning*

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