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17th ANNUAL INTERGENERATIONAL ESTATE PLANNING CONFERENCE

November 15, 2022

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Contour Mortgage

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Aaron Connor, Esq.
Pierro, Connor & Strauss, LLC

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Meet Marcus and Kim Lockwood

- Live in Niskayuna (home owned jointly)
- Married for 24 years
- **Getting divorced**; amicably so far…
- Estate, financial and retirement plans are in place – need to be unwound

Kim, 58 and Marcus, 61

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The Business

- LLC originally owned by Marcus' family
- Started as a propane business in Schuylerville, in 1958
- Relocated to Tarrytown, in 2020
  - New Building purchased for $10 mil in Marcus and Kim's names
  - $8 mil mortgage
- Converting to renewable energy
- Poised for exponential growth

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The Kids: Marcia, Age 32

- Kim's daughter from a previous relationship
- RPI Grad; Thesis on fuel cell technology
- Chemical Engineer
- Worked at GE Energy before joining MK Fuel
- Focused on renewable energy sources
- Developed a new clean energy fuel cell patent
- New facility built to develop fuel cell technology – contracts are being negotiated

The Kids

- Marcus and Kim have two children together
- Son Ted, 23
- Daughter Carol, 21
- Interested in music, art and social issues
- Not involved in the family business

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Kim's Mother, Joyce

Age 84

- Divorced, physically healthy
- Showing signs of aging

Lives with Barbara, Age 82

- Joyce's significant other for 10 years
- Live in Ballston Spa Condo in Joyce's name
  - Value: $250,000, mortgage $100K
- Joyce has NYS Partnership Long Term Care Insurance policy with a daily benefit amount of $275 and a maximum benefit of $300K

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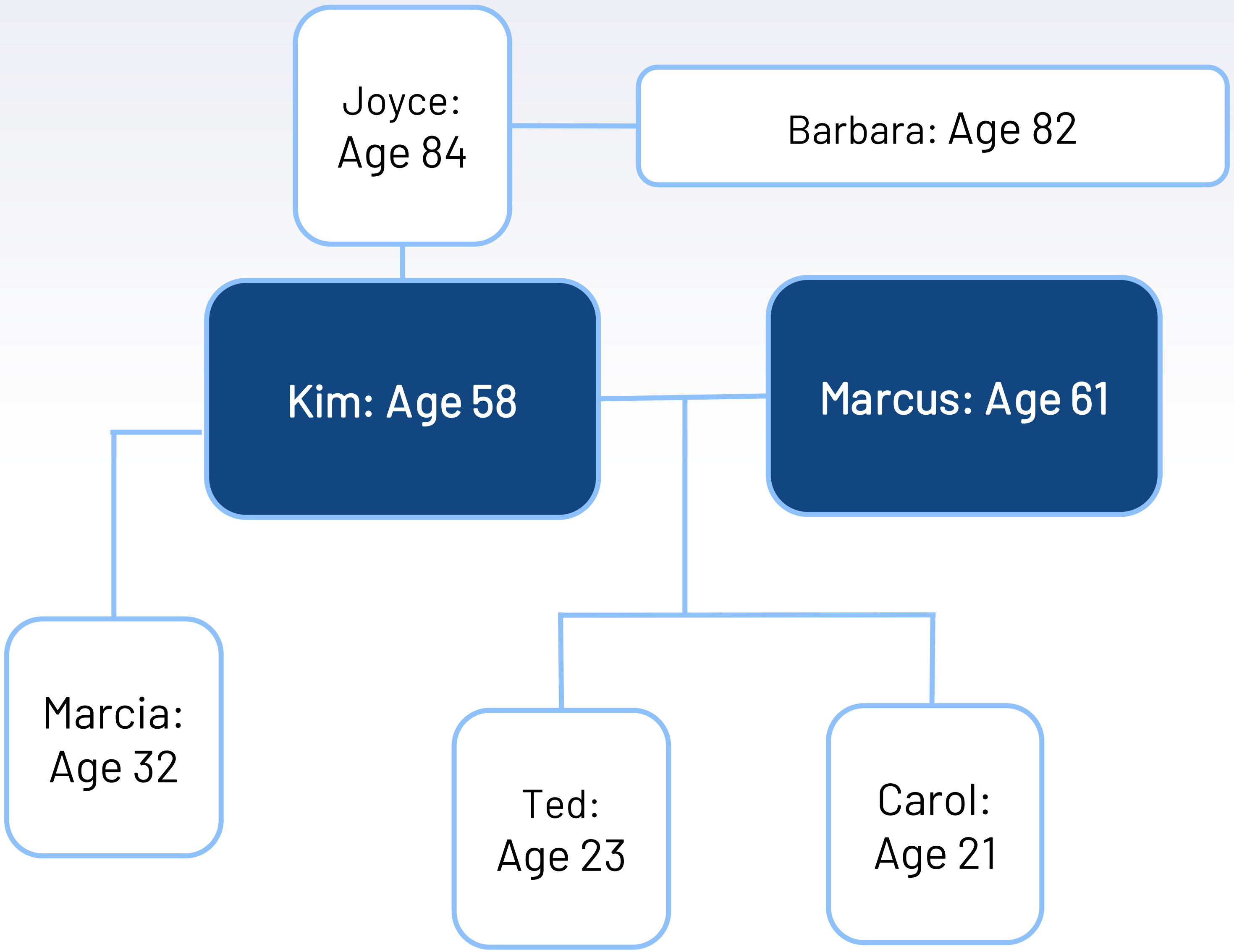
Family Tree



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The Divorce

Marcus

- Will continue to run MK Fuel
- Supports Marcia's (stepdaughter) growing role in the company and development of the patent
- Concerned about splitting up the jointly-owned assets

INTERGEN

The Divorce

Kim

- Once they started having problems, took a job at the Albany Institute of History and Art
- Concerned about dividing up the assets
  - To have a secure income for life
  - To get her fair share
  - To leave a legacy for the 3 kids
  - To support her mother Joyce

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Asset Overview: Marcus and Kim

Net Worth

- $40-45 mil total asset level
- **Current Annual Income:**
  - $2 mil distributed to Marcus and Kim from business
  - Current investment income $200,000

Schuylerville Building

- MK Fuel's original location (founded in 1958)
- Building + Land value at purchase was $200K, has grown to $5 mil
- New location – Tarrytown, 2020
- Marcus and Kim 'think' the business is worth $25 million

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Other Jointly-Held Assets

Jointly Held

▸ Home in Niskayuna	$750K
▸ Vacation Condo in Miami	$1 mil
▸ Liquid assets/savings	$6 mil
▸ Personal property	$2 mil

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Asset Overview: Marcus

▹ Company Retirement Account	$5 mil
▹ Whole Life Policy Purchased at Age 41 with Death Benefit	$2 mil
▹ Current Death Benefits	$3.6 mil
▹ Cash Value	$2.4 mil
▹ 30-yr. Term Life Insurance at Age 41	$10 mil

– **Expiring in 2032**

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Asset Overview: Kim

▹ Company Retirement	$5 mil
▹ IRA	$2.5 mil
▹ 401K	$2.5 mil
▹ Income - Art Restoration	$50K/year
▹ 30 yr. Term Life Insurance Policy	$5 mil

- Expiring in 2032

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Asset Overview

Estate and Business Planning

The couple created Spousal Lifetime Access Trusts (SLATs)

SLAT 1 Trust created by Marcus for Kim

Funded with $12MM of company stock

SLAT 2 Trust created by Kim for Marcus

Funded with $6MM of marketable securities

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Planning Concerns

- **Concerned** about the impact on the three children and their legacy
- **Unsure** of how much MK Energy business is worth, concerned about preserving its value and future growth
- **Worried** about splitting assets equitably in divorce
- **Concerned** about their income stream, retirement plans, tax liability and insurance

The Lockwood's Goals

- Come up with a plan for the divorce and build a team to carry it out
- Maximize wealth, minimize tax and risk
- Secure financial future for each spouse following divorce
- Create a business succession plan for Marcus and Marcia
- Provide for Kim and her mother Joyce
- Create a legacy for Ted, Carol and Marcia

The Lockwood's Have Hired Our Team Of Advisors

- What are the planning considerations for Marcus and Kim?
- How will our team meet these goals and provide for multi-generations of the family?

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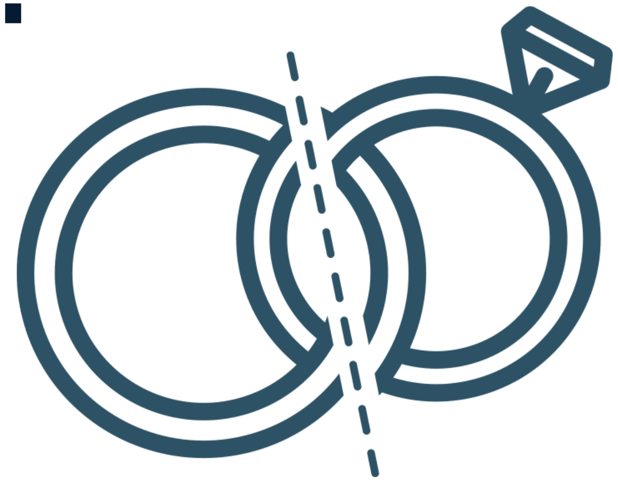
Above All, This Couple Wants To Know:

HOW CAN THE DIVORCE BE EQUITABLE IN BUSINESS AND LIFE?



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Wealth Management

Daniel Nolan, CEO & President
Sean Leonard, Chief Investment Officer

Challenges for Kim

- Generate enough post-divorce income to maintain current lifestyle
- Current level of liquid assets isn't sufficient to produce required income
- Business income? What does Kim need/expect from profits?

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Challenges for Marcus

- Should have enough income from business (compensation and profits)
- Does he give up all liquid assets in the divorce settlement?
- If Kim gets income from the business, how is it structured?

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Joint Challenges

- What do they want to leave the children?
- How might that affect their investment plan?
- Will Marcia be treated differently?

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Know Your Client

- What is the purpose of wealth; i.e., their objectives?
- What is the investment time horizon?
- What is their risk tolerance?
- What is their sophistication?

Kim's Purpose of Wealth

- Kim needs to produce income
- Assume $1 million annually is required
- Retain an estate for the children?

Marcus's Purpose of Wealth

- Marcus has sufficient income from the business
- Does he monetize the business at some point?
- Marcus will need a retirement plan at some point
  - His existing retirement allocation should be reviewed but likely does not need to change

Time Horizon

- Time horizon for investments for wealthier families is generally lifetime PLUS children's lifetimes

- Retirement plan is required to be distributed over life expectancy

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Risk Tolerance

- Most investors don't understand their risk tolerance until they lose money
  - Risk is expressed in volatility of prices, not permanent loss of capital

- Maximum drawdown, probability of depleting assets, sequence of return and liquidity risk all important as well.

Asset Allocation

- What asset classes?
- Where to hold (taxable or retirement accounts)?
- What proportions?
- Higher returns require greater risk (volatility or liquidity)

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Asset Classes and Implementation

- **Public Equity**
  - ETFs, mutual funds, separately managed accounts, structured notes
- **Public Debt**
  - Separately managed account, mutual fund, ETF
- **Alternative Assets**
  - Private funds (drawdown and/or interval funds), liquid alternatives or hedge funds

Kim Observations

- Swap SLAT assets so she has $6MM liquid + $2MM retirement
- Generate $1MM spending power (including $50K salary)
  - High spend rate on $13+MM investment assets (including $5+MM proceeds from Schuylerville sale)
    - 50%+ probability runs out of money in <30 years
    - Drawing $250K from business reduces failure rate to potentially <10% depending on allocation

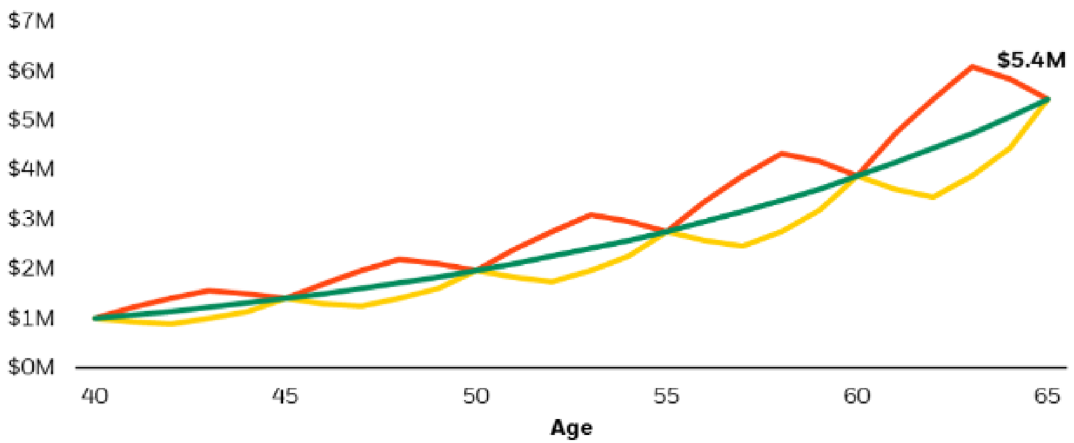
The Impact of Sequence of Returns

- Sequence of returns is more a concern with high spend rates

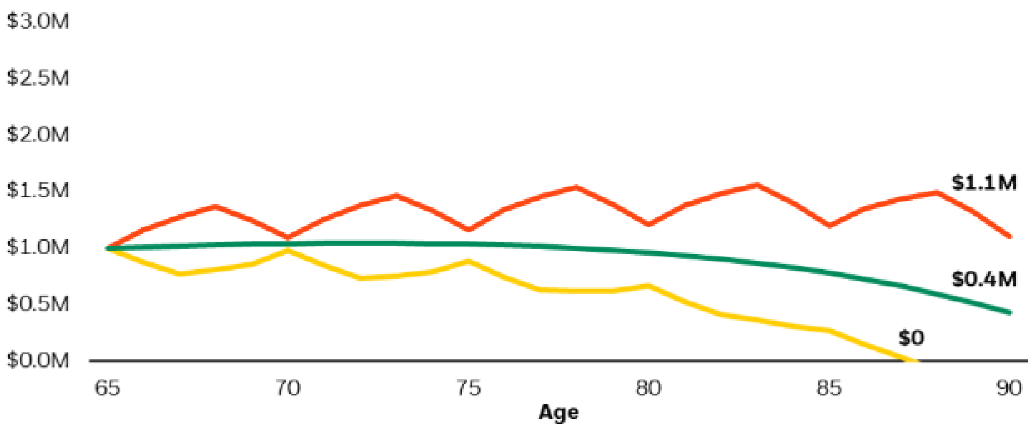
Return pattern

	Year 1	Year 2	Year 3	Year 4	Year 5	Avg. Annual
Portfolio A	22%	15%	12%	-4%	-7%	7%
Portfolio B	7%	7%	7%	7%	7%	7%
Portfolio C	-7%	-4%	12%	15%	22%	7%

Portfolio in accumulation phase



Portfolio in decumulation phase



Source: Blackrock

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Mitigating Sequence Risk

- Create higher certainty around spending sources
  - Ladder structured notes with buffers to create higher certainty maturity stream and keep upside equity exposure
- Trade-off liquidity for price stability
  - Increase use of alternative assets, particularly interval funds, to enhance returns vs. fixed income while reducing market fluctuations
- Reduce tax-drag. Consider Qualified Opportunity Zone investment to reduce taxes and increase after-tax yield

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Kim Sample Portfolio

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Kim - Sample Portfolio Growth QOZ

November 15, 2022

Asset Class/Investment	Proposed Allocation ($)	Proposed Allocation (%)	Yield* (%)	Estimated Annual Yield ($)
Cash, Deposits & MMKT Funds	**500,000**	**3.8%**	**3.25%**	**$16,250**
Cash	500,000	3.8%	3.25%	16,250.00
Fixed Income	**$1,300,000**	**10.0%**	**3.54%**	**$45,955**
US Equities	**$6,000,000**	**46.2%**	**1.20%**	**$72,240**
Large Cap Equity	**6,000,000**	**46.2%**	**1.20%**	**72,240**
1 Year SPX 30% Hard Buffer, 1x leverage to 10.5% cap	600,000	4.6%	0.00%	0
2 Year SPX 20% Hard Buffer, 2x leverage to 29% cap	600,000	4.6%	0.00%	0
3 Year SPX 20% Geared Buffer, Greater of 30% or underlier	600,000	4.6%	0.00%	0
Tax-loss Harvesting Sep. Managed Account	4,200,000	32.3%	1.72%	72,240
Private Assets (including QOZ fund)	**$5,200,000**	**40.0%**	**3.75%**	**$195,000**
TOTAL	**13,000,000**	**100.0%**	**2.53%**	**$329,445**

Sample illustration purposes only

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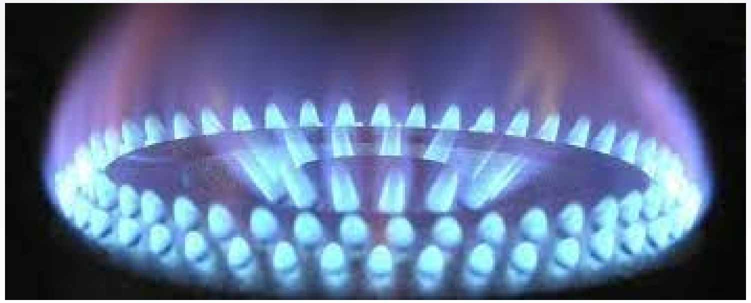
Business Valuation for MK Fuel

Daniel Cooper,
CFA, Senior Manager, Empire Valuation Consultants

MK Fuel, LLC ("MK LLC" or "MK")

MK FUEL



What are the equitable distribution valuation steps related to MK LLC?

- **Step 1:** Value MK LLC in '98 (i.e., date of the marriage)
- **Step 2:** Value MK LLC in mid '22 (Kim is entitled to half the interim appreciation)
- **Step 3:** Current Value (for potential gifting of equity to Marcia)

Which valuation approaches could be used?

- Income Approach, Market Approach, and/or Cost Approach

MK LLC's 1998 value?

Income Approach

- DCF: Forecasting cash flows to discount based on "then current" budgets (note: impossible if MK did not prepare forecasts in '98).

- Earn Cap: If no budgets, then capitalization of income is an option (e.g., using an average of 1996's and 1997's earnings as proxy for future).

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MK LLC's 1998 value?

Market Approach

- Guideline Transactions: Given MK was a "pure play" fossil fuel business in '98 (similar to many other gas companies), then a multiple of '97's earnings is an option.
- Guideline Companies: MK could be compared to public companies of a similar nature; however, this may be complicated by the fact that most public companies are significantly larger than MK.

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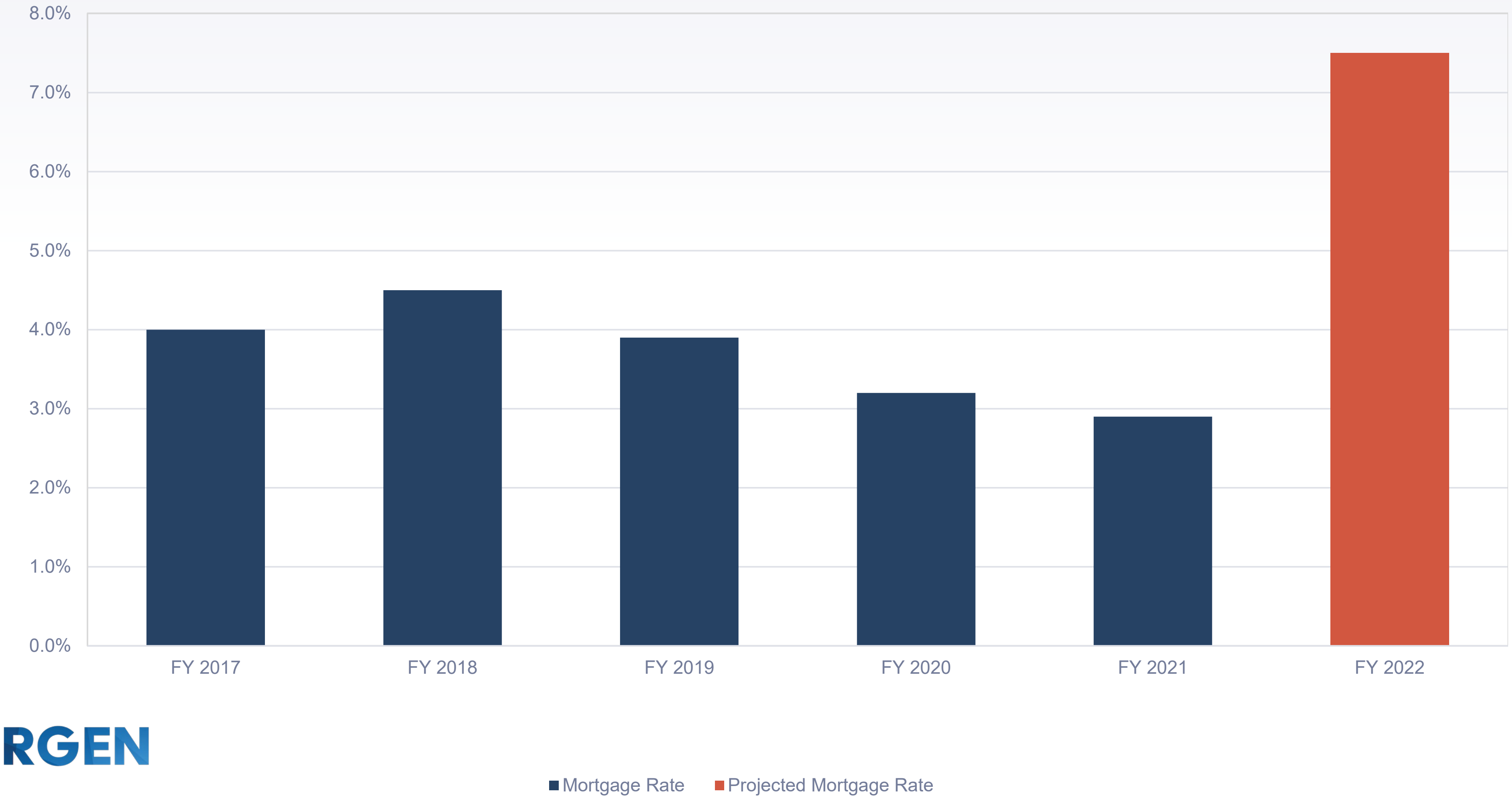
MK's Current Value?

Prospective Income Approach

- Outlining appropriate cash flows to discount (based upon MK's projected income statements).
- These cash flows are present valued by selecting a discount rate (likely to be a quite a high one) given: (i) "early-stage" risks on the fuel cell side; and (ii) rising interest rates, which are hitting all companies.
- Conclusion: $30 million

MK's Selected Discount Rate…



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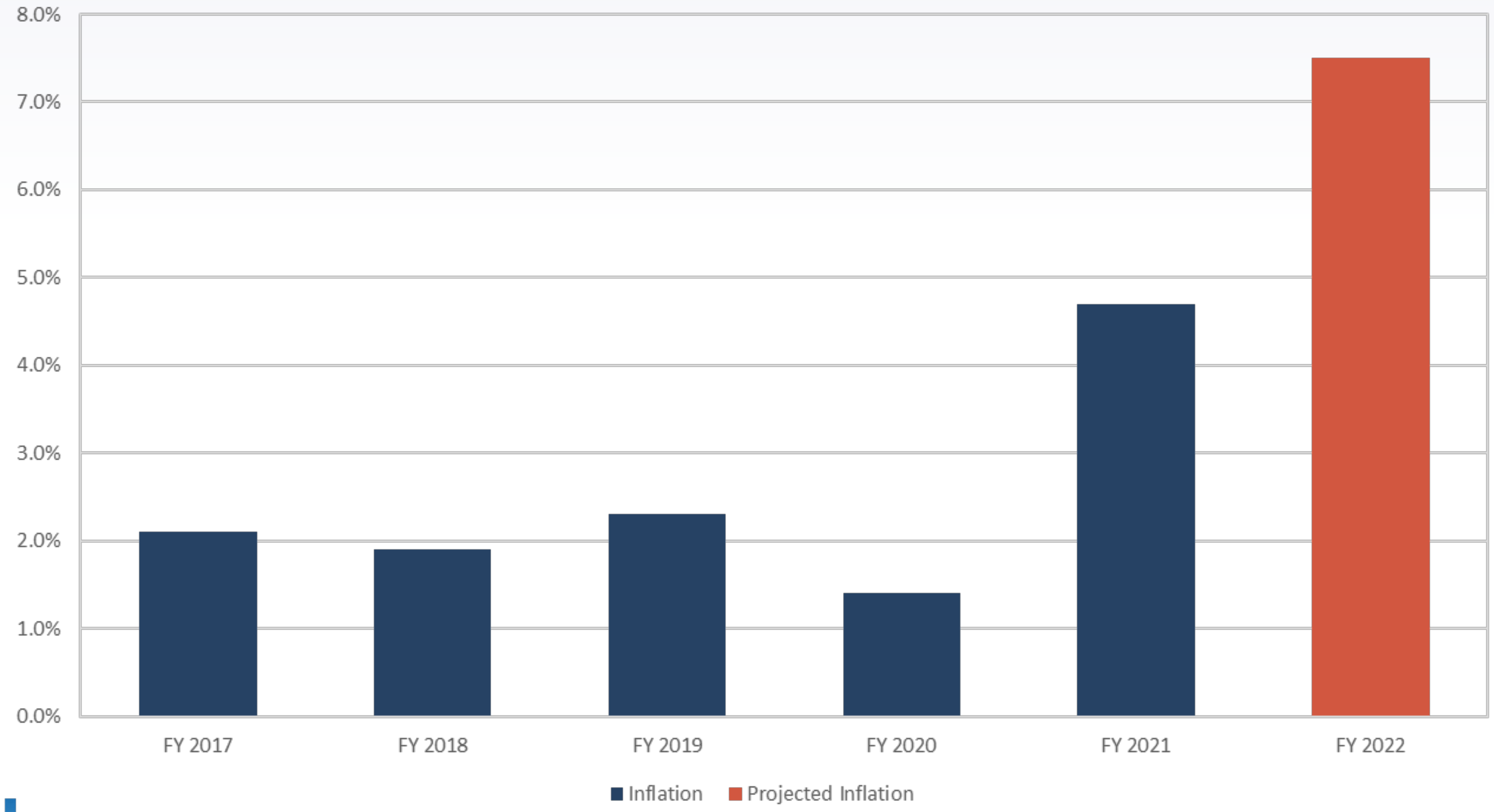
What's Impacting MK's Value?

Inflation and Interest Rates

- The pandemic caused the moderate level of inflation to drop.
- The years 2017-19 saw inflation close to the Fed's target.
- This stimulus caused a spike in prices during '21, especially the cost of fuel.
- A further jump in '22 caused the Fed. to increase interest rates.

Trends in Inflation



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Divorce Valuation – Discounts

Applicability of DLOM in divorce (in theory)

- New York considers professional degrees and enhanced earning capacity as marital assets. In divorce disputes, New York may apply marketability discounts against the enterprise value of a given business.

Applicability of a DLOM in MK Fuel (in practice)

- MK LLC's units are not saleable like an interest in a public company..
- Therefore, the appraiser's work (both in Step 1 in 1998 and in Step 2 in '22) will likely reflect a marketability discount before estimating the value of half's the company's shares.

Recapitalizing Units

What Does Recapitalization Mean?

- Multiple classes of units in MK LLC (non-voting, convertible preferred, and voting).
- The voting units are a small % of value and have the ability to control management.

Preferred, Voting And Non-voting - Summary For Valuation:

- Preferred valued based on rights (higher dividend rate means higher value).
- Non-voting allows an incremental discount (for inability to influence decisions).
- Allows MK's economic value to be transferred to the next generation (potentially more than 50% of this economic value to Marcia) while preserving discounts.
- Allows Marcus to retain voting control and still be in charge of the company.

Discounts for Estate Planning

MK LLC is Small (Compared To Other Fuel Cell Companies)

- All else equal, a stake in MK with several million in sales supports a DLOM higher than if it were bigger (based on medians from study data).

MK LLC is Not Being Sold Soon:

- MK LLC has a bigger DLOM now given the current plan to pass the business on to Marcia (i.e., Marcus may, eventually, transfer management control to Marcia)
- In summary, MK LLC is growing and so it is a good time to gift the non-voting units to Marcia before the firm value increases significantly.

Kim's Assets (Post-Divorce)

What Did She Get?

- Presumed she gets $7.8 million in liquid assets (cash, fixed income, and equities) along with $5.2 million in private assets.
- Assuming she wants to retain an estate to pass along, it is recommended to place some of the private assets (e.g., the condo) and some liquid assets into an LLC*
- Use the LLC as an efficient wealth transfer vehicle to benefit Marcia, Ted, and Carol.

*Investment holding company that is an LLC (could also be family limited partnership).

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How to Value the LLC?

Asset Approach (MOST LIKELY)

- Adjusted Book Value Method focuses on individual asset values (e.g., potentially some structured notes, stocks,& fixed income
- For private assets/real estate like the condo it would be a fair market value appraisal

Discounts By Asset Class:

#1 Bonds lower

#2 Equities/Structured Notes – potentially slightly higher discounts

#3 Private Assets/Real estate (especially if not rented out to tenants) will have the highest discount out of all the asset classes.

All-in LLC Discounts

- Discounts (both asset and the entity level DLOM):
- Discounts combined (lack of control & marketability) are often 25% to 35%. If the real estate were worth more, then closer to 35%.
- Again, the types of assets put into the LLC impact the appropriate discounts.

Higher discounts at entity level are driven by:

- Lower expected distributions.
- Ownership rights, including information access.
- Ease or difficulty of sale/transfer.

QUESTIONS??

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Trusted Counsel

Estate Planning for the Lockwood (Fractured) Family

Louis W. Pierro,
Founding Partner

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Our Team of Attorneys

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Hanna Dameron


Kristen Peck


Jacob Verchereau


Bethany Van Pelt


Robert Bosman

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2023 Estate and Gift Tax

- Federal Gift, Estate and GST Tax Exemption
  - $12,920,000 per person
  - Sunset 12/31/25 > reduction to inflation-adjusted $5,000,000
  - Portability of Estate + Gift, not GST Exemptions

- NYS Estate Tax Exemption = $6.11 MM
  - No Gift or GST Tax in NY – opportunity for large gifts
  - However, gifts made within 3 years of death are clawed back
  - No State Portability – Use it or lose it exemption

New York State Estate Tax

New York has a "cliff" at 105% of the lifetime exemption

Example A: Taxpayer has a taxable estate valued equal to (or less than) the current New York State estate tax exemption (a/k/a the Basic Exclusion Amount) of $6,110,000. At his or her death in 2022, the applicable credit will cover the entire tax:

$0.00 estate tax due

Example B: Taxpayer has a taxable estate valued at $6,415,500, just $305,000 more in value. The taxpayer's estate is 5% over the $6,110,000, and therefore subject to the "cliff." As a result, an estate worth $6,415,500 will pay $571,005 in estate tax! Only $5,844,495 passes to heirs, which is $265,505 less than a taxable estate of $6,110,000.

$571,005 estate tax due

Plan For The Cliff Using Lifetime Gifts (Subject to 3-year Clawback, or Draft in Charitable or Marital Deductions)

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Income Taxes
Combined Federal & New York Rates

Maximum Income Tax Rate

- Federal: 37%
- NYS: 9.65 – 10.90% (2022)
- NYC: 3.6%
- Net Investment Inc. Tax: 3.8%
- Combined: 55.3% NYC
  51.7% Upstate

Maximum Capital Gains Tax Rate

- Federal: 20% (28% on collectibles)
- NYS: 9.65%-10.90% (2022)
- NYC: 3.6%
- Net Investment Inc. Tax: 3.8%
- Combined: 38.3% NYC
  34.7% Upstate

Federal Sunset 12/31/25 = 39.6%

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$12.92 Million Gift and Estate Tax Exemption $25.84 Million for Married Couples

REASONS TO USE IT NOW:

1. Reduction to $5 mil. (adjusted) in 2025
2. Remove future appreciation
3. Utilize Grantor Trust "Burn"
4. Interest rates continue to rise (GRAT's, Note Sales)
5. FLP/LLC Discounts may be disallowed
6. No portability of GST Exemption
7. No NYS Gift Tax, and 3-year clawback
8. Can use LLC's, SLATS's, BDIT's, etc. to retain use + control

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Interest Rate Arbitrage

	Nov. 2021	Nov. 2022
▪ Short Term AFR =	.22%	4.1%
▪ Mid Term AFR =	1.08%	3.97%
▪ Long Term AFR =	1.86%	3.92%
▪ 7520 Rate =	1.4%	4.8%

Tax Planning & Interest Rates

Lower Rates Favor

- GRATs
- Sales to IDGT
- CLATs
- Private Annuities
- Split-Dollar Life Insurance
- SLATs
- BDITs

Higher Rates Favor

- QPRTs
- GRITs
- CRATs
- Graegin Loans
- Farmland Alternative Valuation

Generally Neutral

- CRUTs
- CLUTs

The Lockwood's Estate Planning Challenges

1) Dividing assets through Divorce
2) Unwinding SLATs – already funded
3) Business continuity and succession
4) Creating an income Stream for Kim to maintain her lifestyle after leaving MK Fuel
5) Creating a "fair and balanced" legacy for the children

Spousal Lifetime Access Trust (SLAT's)

SLAT ADVANTAGES:

- Use current $12.92 million Gift and GST exemptions of each spouse
- Remove assets for NYS estate tax (3-year rule)
- Gift & note sale to "Grantor" trust
- Family "Dynasty" Trusts- In perpetuity in Delaware, Nevada, etc.
- Full Control and access to funds during the spouse's lifetime

SLAT CHALLENGE:

What happens when the marriage doesn't last a lifetime?

Accessing Trust Assets in Divorce

Considerations:

1. Who are the beneficiaries?
2. On what basis can the trustee make distributions?
3. Is there a spendthrift provision?
4. Does a beneficiary have control powers?
5. Who is the trustee?

Consider the History…

Have distributions been relied on to fund Marcus and Kim’s lifestyle, or were they irregular and uneven?

Does their marital property transferred into an irrevocable trust lose its character as marital property?

Do the planning documents for this couple address what happens in the event of divorce?

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Trust Decanting Can Be A Powerful Tool:

Decanting Can Be a Tremendous Tool For:

1. Dealing with changed circumstances
2. Correcting mistakes
3. Facilitating tax benefits
4. Optimizing a trust's administration

Decanting Has Been Used For:

1. Limiting a beneficiary's rights
2. Eliminating a beneficiary
3. Changing trustees
4. Changing investment limitations or directions

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Life Insurance
Policy Reviews And Using Irrevocable Life Insurance Trusts

In many divorce proceedings, life insurance plays an integral role

Critical to review life insurance policies periodically to ensure they are performing as intended

Marcus and Kim's Trusts

The Delaware Self-Settled Directed Trust

- Current asset protection
- Multi-Generational Estate Tax Protection – Dynasty Provisions
- Client can be added as beneficiary if necessary
- Client can continue to manage assets through an LLC
- Retain family control

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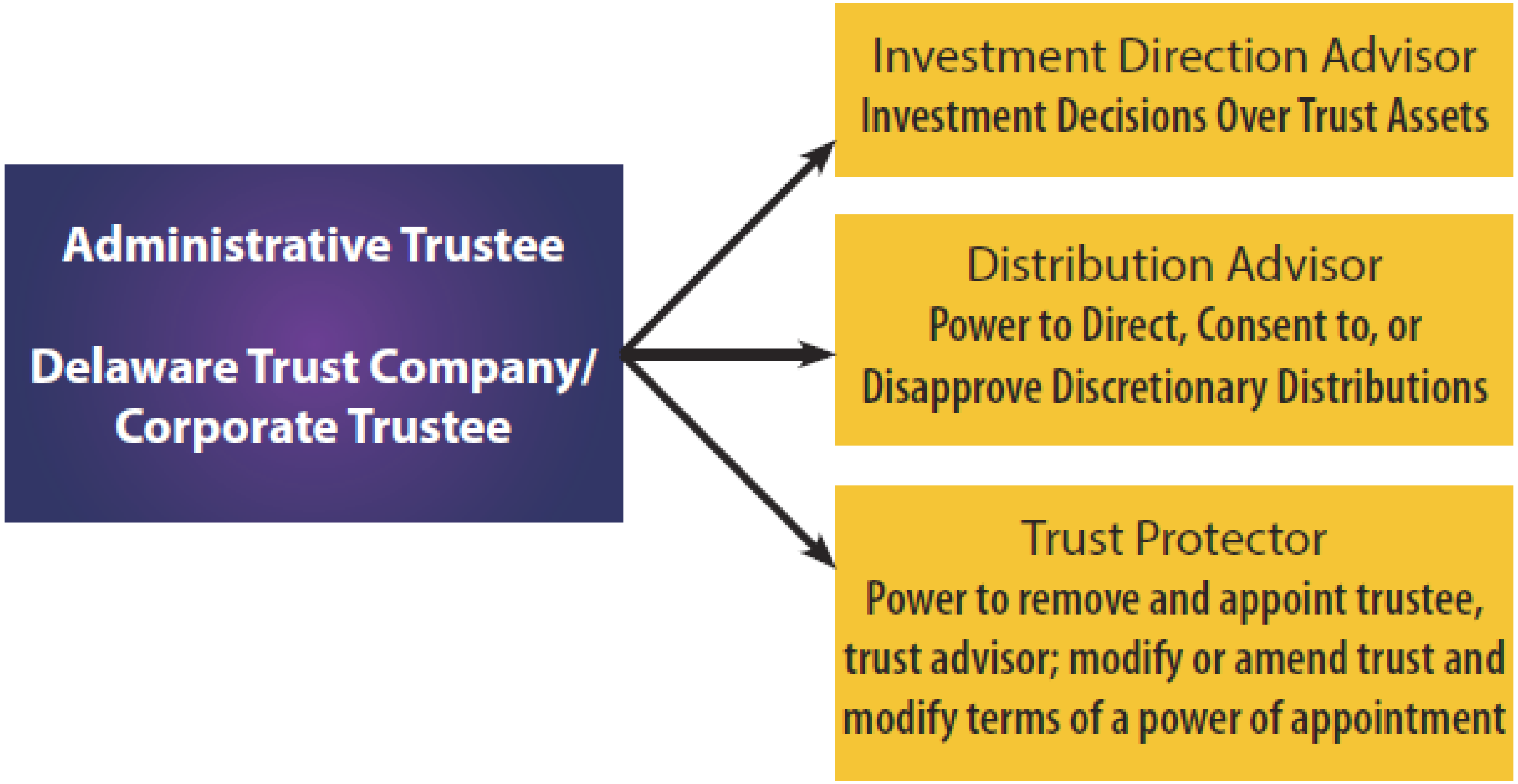
Delaware Directed Trust



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Delaware Asset Protection Trust (DAPT) – In Divorce

- DAPT generally limits the ability of an individual's creditors to reach trust assets
- DAPT allows trust creator to remain a trust beneficiary
- People who can pursue claims are limited: Does not include spouse if client marries after creating trust
- Allowing independent corporate trustee broad discretion to make distributions to class of beneficiaries recommended

Marcus and Kim Should Have A Trust Protector

- Irrevocable isn't so irrevocable anymore
- Avoid trust company interference in family business
- Adjust for future tax law changes
- Avoid loss of basis step-up
- Modify trust in the event of divorce

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SLATS in Divorce

- Internal Revenue Code §682
- Until 2019, alimony payments were taxable income to the recipient and deductible by the payor. That was changed by the Tax Cuts and Jobs Act. Beginning on January 1, 2019, alimony payments are no longer deductible by the payor and are not includible in the gross income of the recipient.
- This includes alimony pursuant to a divorce or separation agreement AND, because of Internal Revenue Code §677(a)(1), SLATS signed and funded before January 1, 2019.
- §682 does not sunset!

SLATS in Divorce (cont.)

- Under Internal Revenue Code §677(a)(1), a grantor is treated as the owner of any portion of a trust if the income may be distributed to the grantor or the grantor's spouse.
- Under the "spousal unity rule" (Internal Revenue Code §672(e)(1)), the grantor is treated as holding any power or interest held by an individual who was the grantor's spouse at the time the power or interest was created.
- A grantor trust remains a grantor trust even after a divorce.
- And §682 now means that the grantor continues to be taxed on the income being paid to his former spouse/beneficiary of the SLAT.

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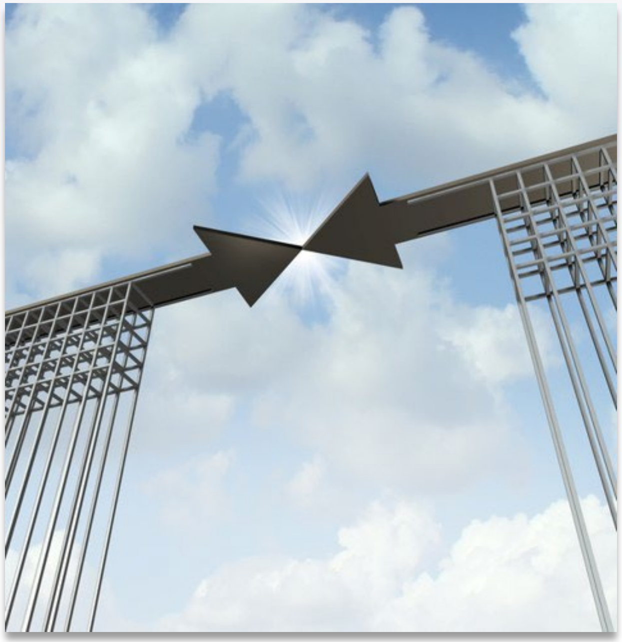
Potential Solutions:

- Terminate the trust through the divorce
- Modifying the trust in favor of other beneficiaries
- Disclaimer (but that could have gift tax consequences if the trust is more than 9 months old)
- Decanting
- Use the trust as part of the equitable distribution

Additional Solutions to Consider

- **Other Possible Solutions:**
  - Equalizing the trusts with other assets
  - Including a tax reimbursement provision in a separation agreement



Other Assets to Consider: $5 Mil Property, $200K Basis

- Marcus and Kim Plan to Sell the Schuylerville Property
  - Sell and pay the tax (~34%)
  - 1031 Exchange
  - Qualified Opportunity Zone
  - Charitable Remainder Trust

Create an Income Stream for Kim

- **Schuylerville Property presents an Option to Use a Charitable Remainder Trust**
  - Irrevocable Trust
  - Generates income stream for donor or other beneficiaries
  - Remainder assets donated to charity (or charities)

Two Kinds of Capital

Assets + Income = Total Financial Capital

Personal Financial Capital

Personal Social Capital

Lifestyle (Consumed)

Inheritance

Self-Directed (Gift)

Government-Directed (Tax)

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Assets Contributed to Charity

- Traditional
  - Cash
  - Publicly Traded Securities
- More Complex
  - Real Estate
  - Closely Held Corporations
  - Restricted Securities
  - Tangible Personal Property
  - Partnerships, LLCs, FLPs, S Corps

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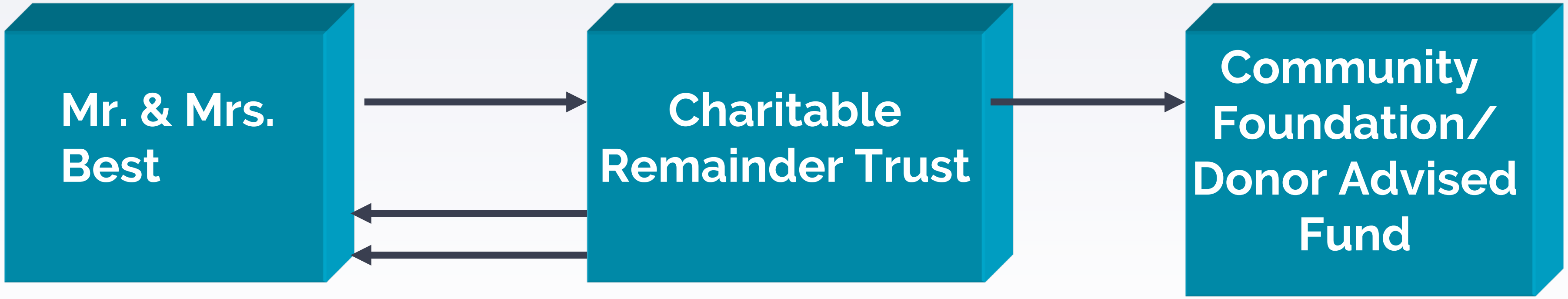
Charitable Remainder Trusts (CRT)

- Irrevocable trust
- Income stream to non-charitable beneficiary (usually the donor, spouse or children)
- Current income tax deduction
- At end of trust, remainder passes to charity
- Multiple Tax Benefits
  - Liquidate appreciated assets tax free

CRT



How it Works:

- Must Comply with IRC ' 664 Regs.
- Two Classes of Beneficiaries
    - Individual Income Beneficiaries
    - Charitable Remainder Beneficiary
- Unitrust or Annuity Trust Payouts
- Life, Lives, or a Term of Years
- Payout Rates:
    - 5% Minimum Payout Rate
    - 50% Maximum Payout Rate
    - Typical payout rate is 5% to 8%

What it Can Do:

- Income Tax Savings from Deduction
- Capital Gains Tax Avoidance
- Increase Capital at Work
- Increase Lifetime Cash Flow
- Increase Benefit to Heirs
    - May Require other Planning (ILIT)
- Estate Taxes Reduced or Eliminated
- Increase Future Charitable Gifts

INTERGEN

Gifts of Complex / Illiquid Assets

- Pose challenges for the donor and trustees of charitable trusts
- Not typically income producing
  - Tangible Personal Property, Real Estate, Restricted Securities, Closely Held Stock
- Lack of income prior to liquidation makes it impossible to meet Unitrust payout requirements
- Resolved by substituting NIMCRUT or FLIPCRUT for standard charitable CRUT

Private Foundation

- A private foundation is a nongovernmental, nonprofit organization set up by an individual, a family or a group of individuals, for a purpose such as philanthropy.
- Established to aid social, educational, religious or other charitable activities, primarily through grantmaking.
- Can be used to support the Arts.

Planning for MK Fuel: Beneficiary Defective Inheritor's Trust ("BDIT")

- Leverages the benefits of an Irrevocable Delaware Trust while maintaining control and access for Marcus
- BDIT assets are protected from creditors and are not subject to estate, gift or generation-skipping transfer taxes for any future generations while the assets remain in trust

BDIT – Structure

- BDIT is established by a parent, grandparent, friend (any third party) with a $5,000 gift to the trust
- No other gifts are made to the BDIT after this initial contribution
- Primary beneficiary is the business owner (Marcus) who is given the power to withdraw initial $5,000 contribution
- Lapse of withdrawal power causes BDIT income to be taxed to Marcus (grantor for income tax purposes) IRC 678.

INTERGEN

Unique Advantages of BDIT

- **Feel the "Burn"** – Income taxed to beneficiary business owner (Marcus), reducing his taxable estate rather than BDIT's assets

- Marcus can utilize trust assets and <u>control investments</u> as **Investment Adviser** (excluding life insurance)

- Marcus can <u>control distributions</u> of trust assets as **Distribution Adviser** if limited to an ascertainable (HEMS) standard (not cash value of life insurance)

- An Independent Trustee provides continuity and full administrative support – can distribute for any purpose

INTERGEN

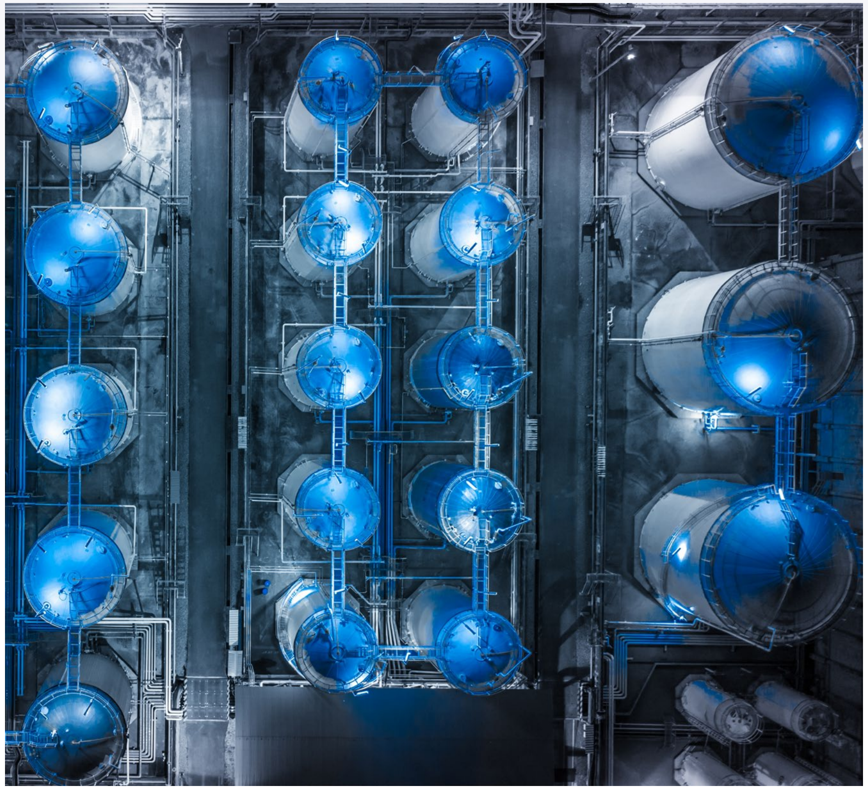
Unique Advantages of BDIT

- Marcus can have a limited power of appointment over trust assets (not life insurance)
- Can leave the business to Marcia
- Marcus sells MK Fuel to the BDIT for a Promissory Note
- Interest payments to Marcus on promissory note from sale of business are not taxable because Marcus is considered the grantor of BDIT for tax purposes

Unique Advantages of BDIT

- Estate Tax "Freeze" – Sale of business removes all future appreciation of the business from Marcus' estate and for all future generations

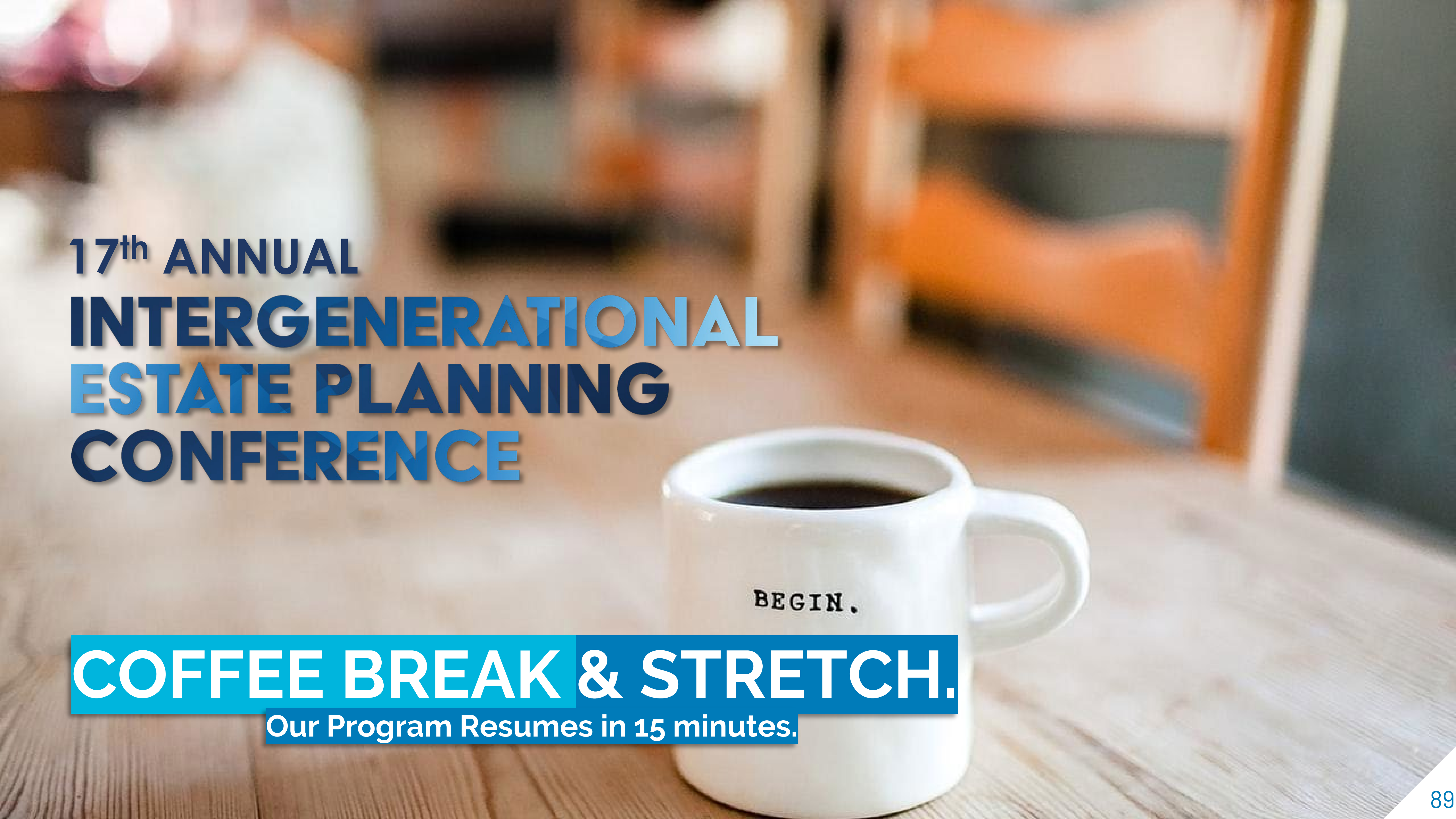
- Does not require use of Marcus' GST exemption – business was sold not gifted to BDIT



INTERGEN

Results

1. Retain Control and Use of Assets
2. Enhanced Asset Protection
3. Minimize Estate Tax – Discount value and freeze it
4. All Future Growth protected from Estate Tax, Creditors
5. Tax on Trust Income Paid by the Grantor
6. Multi-generational Tax, Divorce and Lawsuit Protection for Children & Grandchildren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PIERRO, CONNOR & STRAUSS, LLC
Trusted Counsel

Corporate Planning for M.K Fuel

Theresa Skaine,
Of Counsel

INTERGEN

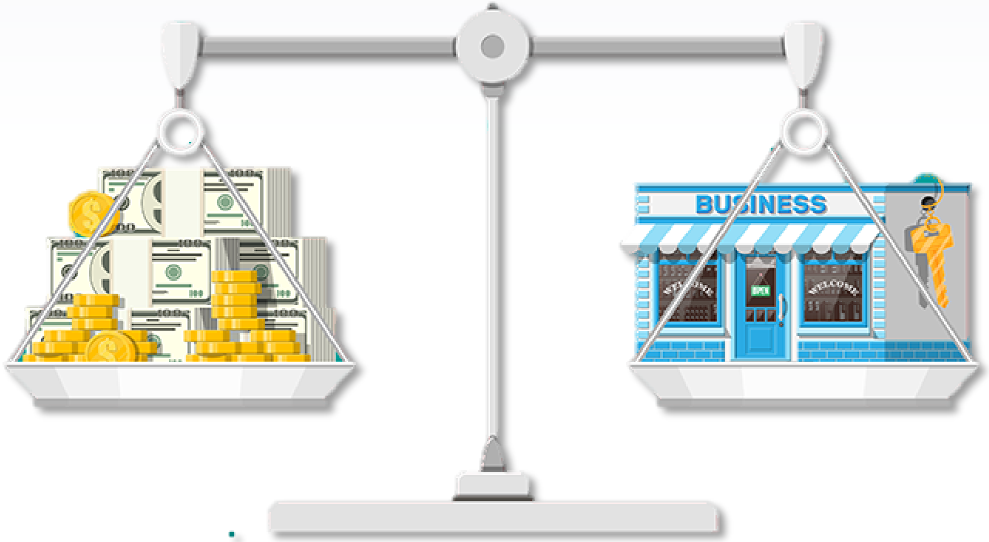
Ownership of MK Fuels LLC

- The Company interests are owned 50% by Kim's SLAT and 50% by Marcus outright.
- Marcus wishes to continue to own and operate the business with Marcia
- Kim wishes to receive FMV for her interests as part of the divorce and wishes to ensure Marcia's role in the Company.

Options for Kim's Buyout

Option 1 – Company Purchase

- Restructure LLC interests to create voting and non-voting interests and to create a convertible preferred non-voting class
- Kim's 50% interest becomes half preferred non-voting and half non-voting common
- Marcus retains his 50% interest (which is now 100% of the voting interests)



INTERGEN

Option 1 Continued

- Kim retains the 25% convertible preferred non-voting interests which carry a liquidation preference, so she receives distributions of profit from the Company every year
- Once the preference is paid in an amount equal to Kim's buy-out amount from the divorce, interests revert to non-voting common interests
- Kim uses LPOA in SLAT to give Marcia the 25% non-voting common interests
- Once the preferred non-voting interests convert to non-voting common, Kim can use LPOA to give those interests to Marcus

Options for Kim's Buyout

Option 2 – Marcus Purchase

- Restructure LLC interests to voting and non-voting interests.
- Kim's interests become ½ voting and ½ non-voting.
- Marcus purchases the ½ voting interests through a promissory note a with down payment and payments over time equal to Kim's buyout. Note is secured with life insurance on Marcus, security agreement in assets of Company, including patent.

- Kim uses LPOA to give Marcia non-voting interests.

INTERGEN

Options for Kim's Buyout

Option 3 - Hybrid

- Exchange $6 mil of liquid assets in Marcus' SLAT for $6 mil of Company interests in Kim's SLAT.

- Remaining interests in Kim's SLAT can be purchased by Marcus using a promissory note or restructured to include non-voting interests to be given to Marcia through LPOA.

Tarrytown Building

- The new building was purchased in Marcus and Kim's names.
- Transfer ownership of the building to a newly formed LLC owned by Marcus.
- Lease between new LLC and MK Fuels to generate funds in LLC and to separate liability of the operating company the from real estate company
- Marcus can leave new LLC interests to Ted and Carol

INTERGEN

MK Fuels After Interest Transfers

- Create a buy-sell agreement for MK Fuels between Marcus and Marcia
- Prevent either party from selling to outside third parties without consent

  CAVEAT – Marcus has drag-along rights

  Marcia has tag-along rights
- Upon Marcus' death, Marcia to purchase Marcus' interests
  - Use of life insurance on Marcus
  - Testamentary gift of partial interests
  - SAR/deferred comp credits

Incentivize Marcia

- Incentive to Marcia to grow MK Fuels
- Embed in buy-sell agreement an SAR plan so growth of the Company (or the new technology division) is credited to Marcia and becomes a credit to the purchase price due when Marcus dies or retires
- Create key-person deferred comp plan with insurance for Marcia

Tax Planning for Individuals and Businesses

Kevin P. O'Leary, CPA
Managing Director

What Does Succession Look Like?

My Basic Tips:

- Be open and honest with all of those involved. Even the kids who aren't in the business – how will this impact them?
- Play all of the what ifs – some of them can be ugly too because you are dealing with family and talk of death.
- Have the right professionals on your team – can't all be done by your "real estate attorney friend".
- Do it as early as possible and leave room for change if needed.
- Have all family members attend the planning meetings and let the professionals be the bad guys/gals…

Impacts on Business

- LLC’s provide a lot of flexibility and are especially useful when dealing with family businesses.
- Marcus remains in control of business.
- The partnership can use guaranteed payments to structure Marcia’s compensation package.
- Could also provide Marcia with profit/loss interest (non-taxable event) or equity interest (taxable or gifting event).
- Inflation Reduction Act passed in 2022 has many new credits related to energy production and has modified some old credits as well.

Idea for Marcia

- Marcia’s patent
  - Could the patent be owned in a C corp with exclusive licensing to the LLC?
  - If the patent had or potentially could have tremendous value might be a good option for 1202 stock.
  - Rules related to 1202 have changed and will probably continue to change but still nice opportunity if exit is planned.
  - R&D Credit and other credits may be pertinent as well.

In Relation to the Building

- In the past, many couples own a building as a tenant in common and just file the income on their personal return on schedule E.
- Going forward – it would be more beneficial to have this structured as a true partnership especially if there is a good amount of profit.
- NYS now has the pass-through entity tax which allows passthrough entities (Partnerships and S Corps) a deduction at the Federal level for the partners/shareholders estimated state tax responsibility.

Potential Planning Items:

- Impact of filing as married with a potential dependent or head of household or single. Currently the two loser kids are able to be dependents – who would get them post divorce – usually settled in divorce proceeding.
- Is the value of the company too good to leave to the kids? Marcia is great but with everything going on in the world would an exit be best.
- “I’m going to move to Florida and then sell the company”
- Cap gain exclusions for sale of principal residence.

Other Planning Ideas:

- Always know and understand what your business is worth (valuation is different for sale vs gift).
- Structure of deal can have major tax implications (stock vs assets – tax and NEXUS issues).
- Retention seems to be playing a much larger role in business planning – an ESOP might be a viable option especially when an owner might want to get some skin out of the game.

Other General Items:

- What happens if Republicans take House and/or Senate:
  - Republicans would love to make TCJA permanent
  - SALT cap at $10,000 would certainly be here for good.
  - No more new agents and rolling back the new Corp AMT tax on large corps (> $1B in book income)
- Be wary of ERC selling companies out there.
- If there is an influx of auditors – what to expect?
- The importance of entity selection.
- Bonus depreciation decreases 20% each year starting in 2023 (2023 bonus depreciation will be 80%)
- Foreign reporting requirements

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Life Insurance Overview

November 15, 2022 Presented by: Gary Sancilio

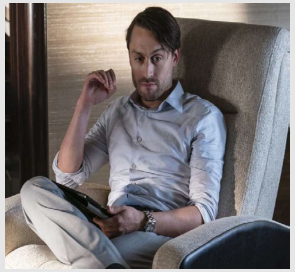
Succession – The Roy Family

- "Succession Planning takes the skills and experience that made you successful in the first place and focuses them on what your business and business heirs need to thrive in a changing world".
- Biggest issues are not financial or structural, they are personal and psychological.
- Business is my baby
- Succession, The Roy Family –

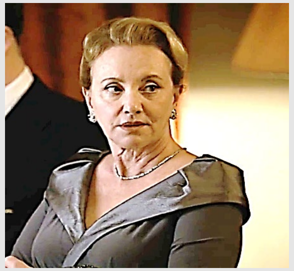

LOGAN


KENDALL


SHIV


ROMAN

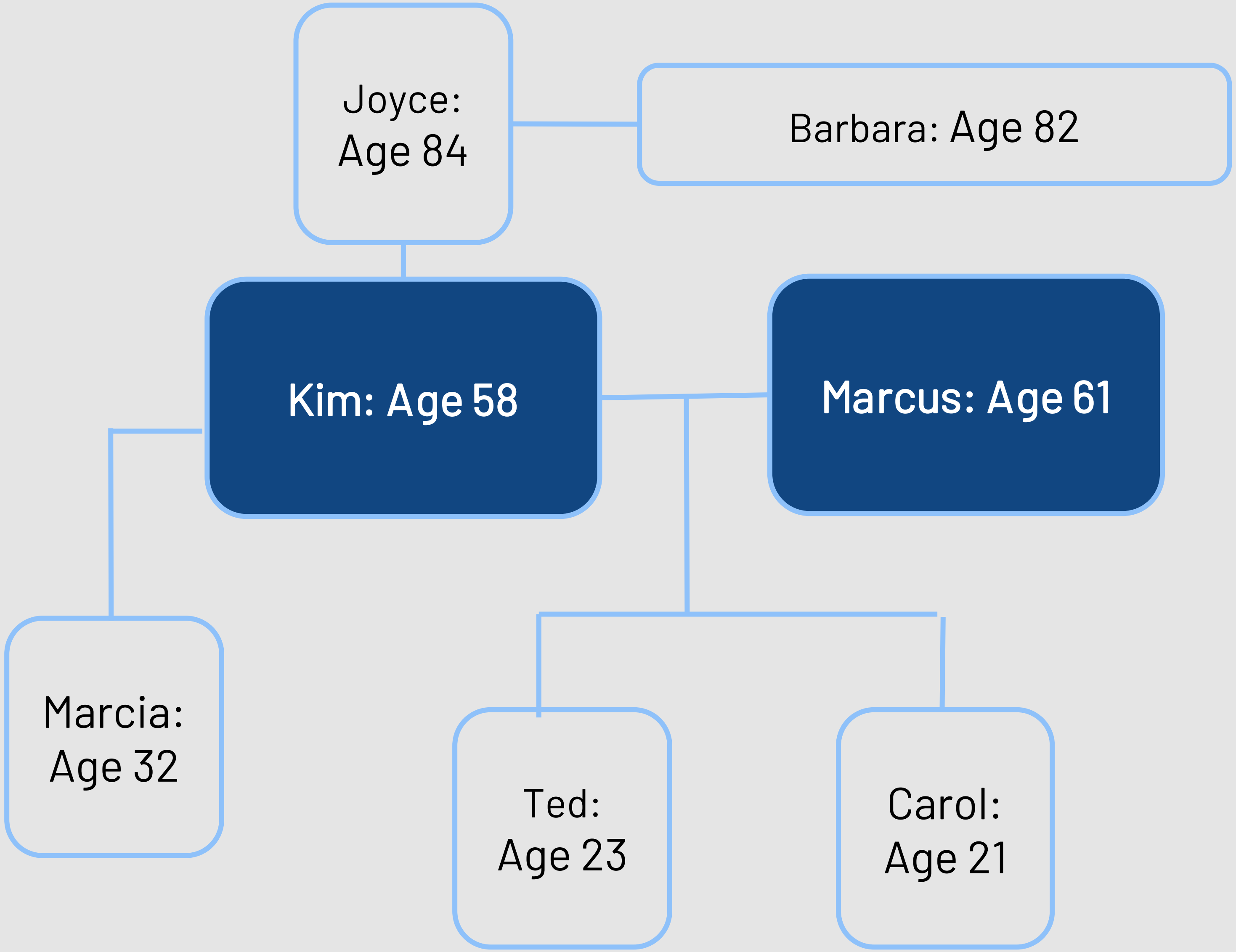

TOM


GERRI


KARL

- Who till take over?
    - What are the business needs and what are their capabilities
- Who else needs to be involved?
    - Top Management team, (retention bonuses?) bankers?
- What's next for the retiring owner/CEO?
    - How will they be paid out?
    - What will the rest of their life be?
- Don't be 90/10!!

Family Structure



Buying Life Insurance

- Identify need, Insured and Owner of policy
- Determine amount
- Choose suitable product (Term, Permanent or Hybrid)
- Choose financially strong insurance company
- Conversion Options

Possible Insurance Needs

Marcus (61) and Kim (58)

Three Children

- Child 1(Ted) – Age 23 – not in the business
- Child 2 (Carol) – Age 21– not in the business
- Child 3 (Marcia) – Age 32 – In business – Key Employee

  - ✓ **Significant Wealth**
  - ✓ **Potential estate tax issues**
  - ✓ **Valuable business**
  - ✓ **Illiquid estate**
  - ✓ **Kim – Business Interest – Protect the payout of the sale of her interest**
  - ✓ **Child 1 and Child 2 – Buyout for potential Ownership**
  - ✓ **Marcus – Key person – deferred compensation**
  - ✓ **Marcia – Key Person and/or deferred compensation**
  - ✓ **Mom – Long-Term Care (Partnership)**

Joyce (84)

Marcus

- ➢ Currently owns:
  - Whole Life: Initial $2m Death Benefit
    Current Death Benefit $3.6m
    Cash Value: $2.4m
- ➢ 30 Year Term: $10m Death Benefit (10 yrs. left)

Kim

- ➢ 30 Year Term: $5m Death Benefit (10 yrs. left)

Possible Insurance Needs/Life Insurance Ideas

<u>Marcus (61) and Kim (58)</u>

- Estate Value of approximately $30-40m
- Estate tax liability $7-8m – assume $12 million federal exemption
  $11-12m – assume $6 million federal exemption
- Immediate Liquidity Needs

<u>Term Insurance</u>

- ✓ **$10-15 million**
- ✓ **10 – 20-year term**
- ✓ **Check conversion option**

<u>Guaranteed UL</u>

- ✓ **No cash value**
- ✓ **Lifetime premiums**
- ✓ **Guaranteed death benefit**

Potential Estate Tax Liability After Divorce Kim and Marcus - $6 million each (assume death after 2025)

- Buy $6m Term for each
- 3 children are beneficiary of Irrevocable Trust
- $6m out of each' estate
- $6m paid income and estate tax free
- Cost relatively inexpensive, approximately $15-20k per year

Kim – 20 Year Term - $6m Death Benefit

Tabular Values

Year	Age End Year	Guaranteed Values: Annual Premium for Basic Policy	Total Annual Premium	Cumulative Total Annual Premium	Total Death Benefit End Year
1	59	19,515	19,515	19,515	6,000,000
2	60	19,515	19,515	39,030	6,000,000
3	61	19,515	19,515	58,545	6,000,000
4	62	19,515	19,515	78,060	6,000,000
5	63	19,515	19,515	97,575	6,000,000
6	64	19,515	19,515	117,090	6,000,000
7	65	19,515	19,515	136,605	6,000,000
8	66	19,515	19,515	156,120	6,000,000
9	67	19,515	19,515	175,635	6,000,000
10	68	19,515	19,515	195,150	6,000,000
11	69	19,515	19,515	214,665	6,000,000
12	70	19,515	19,515	234,180	6,000,000
13	71	19,515	19,515	253,695	6,000,000
14	72	19,515	19,515	273,210	6,000,000
15	73	19,515	19,515	292,725	6,000,000
16	74	19,515	19,515	312,240	6,000,000
17	75	19,515	19,515	331,755	6,000,000
18	76	19,515	19,515	351,270	6,000,000
19	77	19,515	19,515	370,785	6,000,000
20	78	19,515	19,515	390,300	6,000,000
21	79	421,815	421,815	812,115	6,000,000
22	80	483,195	483,195	1,295,310	6,000,000
23	81	557,715	557,715	1,853,025	6,000,000
24	82	643,755	643,755	2,496,780	6,000,000
25	83	728,715	728,715	3,225,495	6,000,000
26	84	821,415	821,415	4,046,910	6,000,000
27	85	932,835	932,835	4,979,745	6,000,000
28	86	1,103,655	1,103,655	6,083,400	6,000,000
29	87	1,255,215	1,255,215	7,338,615	6,000,000
30	88	1,424,955	1,424,955	8,763,570	6,000,000
31	89	1,624,035	1,624,035	10,387,605	6,000,000
32	90	1,845,255	1,845,255	12,232,860	6,000,000

Marcus – 20 Year Term - $6m Death Benefit

Tabular Values

		Guaranteed Values			
Year	Age End Year	Annual Premium for Basic Policy	Total Annual Premium	Cumulative Total Annual Premium	Total Death Benefit End Year
1	62	39,375	39,375	39,375	6,000,000
2	63	39,375	39,375	78,750	6,000,000
3	64	39,375	39,375	118,125	6,000,000
4	65	39,375	39,375	157,500	6,000,000
5	66	39,375	39,375	196,875	6,000,000
6	67	39,375	39,375	236,250	6,000,000
7	68	39,375	39,375	275,625	6,000,000
8	69	39,375	39,375	315,000	6,000,000
9	70	39,375	39,375	354,375	6,000,000
10	71	39,375	39,375	393,750	6,000,000
11	72	39,375	39,375	433,125	6,000,000
12	73	39,375	39,375	472,500	6,000,000
13	74	39,375	39,375	511,875	6,000,000
14	75	39,375	39,375	551,250	6,000,000
15	76	39,375	39,375	590,625	6,000,000
16	77	39,375	39,375	630,000	6,000,000
17	78	39,375	39,375	669,375	6,000,000
18	79	39,375	39,375	708,750	6,000,000
19	80	39,375	39,375	748,125	6,000,000
20	81	39,375	39,375	787,500	6,000,000
21	82	890,355	890,355	1,677,855	6,000,000
22	83	1,006,815	1,006,815	2,684,670	6,000,000
23	84	1,142,355	1,142,355	3,827,025	6,000,000
24	85	1,299,495	1,299,495	5,126,520	6,000,000
25	86	1,482,195	1,482,195	6,608,715	6,000,000
26	87	1,693,695	1,693,695	8,302,410	6,000,000
27	88	1,937,055	1,937,055	10,239,465	6,000,000
28	89	2,212,275	2,212,275	12,451,740	6,000,000
29	90	2,510,895	2,510,895	14,962,635	6,000,000

Marcus – ULG – Age 61 - $6m Death Benefit

Prepared for: Valued Client — Male, 61, Select Preferred Non-Tobacco

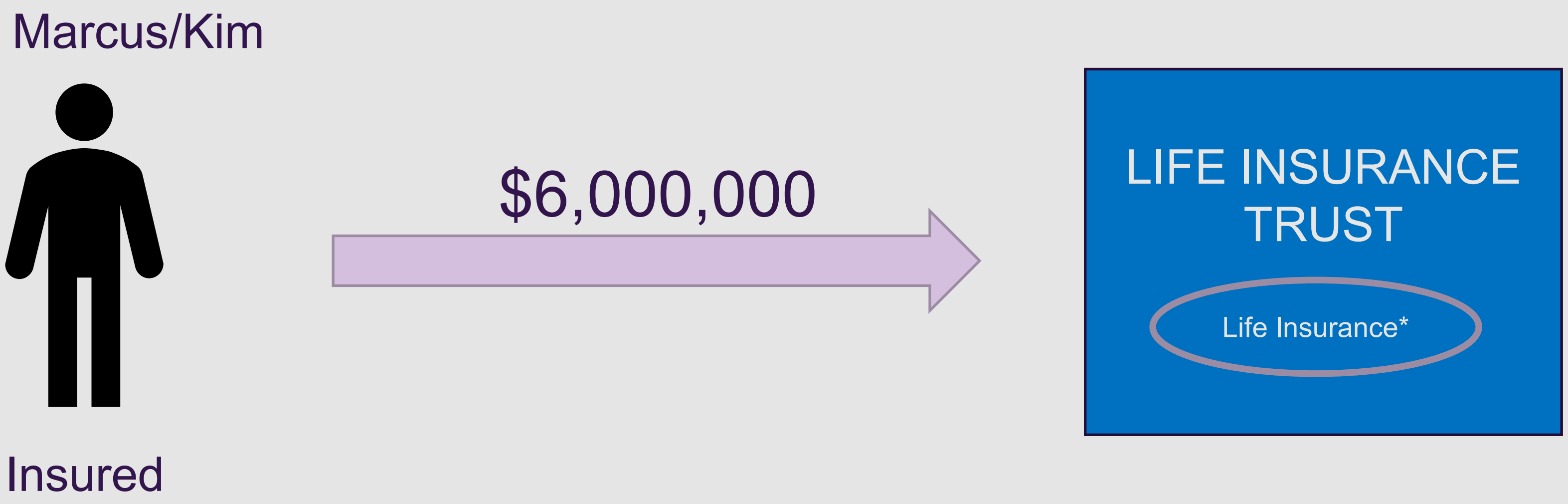
Policy: UL Guard
Face Amount: $6,000,000
Riders: SIR

Planned Premium: $159,447.71
Premium Frequency: Annual

Values shown do not reflect loans and/or withdrawals.

			1.00% Guaranteed Interest Rate		
Year	Age End Year	Annual Premium Outlay*	Account Value End Year	Net Surrender Value End Year	Death Benefit End Year
1	62	159,448	51,023	0	6,000,000
2	63	159,448	99,409	0	6,000,000
3	64	159,448	144,763	0	6,000,000
4	65	159,448	186,630	4,737	6,000,000
5	66	159,448	224,666	56,083	6,000,000
6	67	159,448	258,519	101,027	6,000,000
7	68	159,448	287,826	139,207	6,000,000
8	69	159,448	311,983	174,455	6,000,000
9	70	159,448	330,197	201,541	6,000,000
10	71	159,448	341,249	219,248	6,000,000
11	72	159,448	343,592	234,900	6,000,000
12	73	159,448	335,265	237,664	6,000,000
13	74	159,448	314,191	227,682	6,000,000
14	75	159,448	278,137	204,936	6,000,000
15	76	159,448	224,773	162,664	6,000,000
16	77	159,448	151,624	102,823	6,000,000
17	78	159,448	55,647	17,938	6,000,000
18	79	159,448	0	0	6,000,000
19	80	159,448	0	0	6,000,000
20	81	159,448	0	0	6,000,000
21	82	159,448	0	0	6,000,000
22	83	159,448	0	0	6,000,000
23	84	159,448	0	0	6,000,000
24	85	159,448	0	0	6,000,000
25	86	159,448	0	0	6,000,000

Pre-Fund Estate Tax



*Owned by Trust at inception

Child 1, Child 2 and Marcia outright or in further trust

Out of estate – income and estate tax free

Buyout of Kim’s Business Ownership
Assumes $10 million Buyout Price – with $1m first payment

- $10 mil term policy?

Permanent Insurance

- Lifetime death benefit
- Cash value accumulation
- Guaranteed Death Benefit, premiums and cash value
- Income tax advantages
- FLEXIBILITY

Potential Buy/Sell Agreement

- Insured – Marcus (Dad)
- Ted (Child 1), Carol (Child 2) and Marcia (Child 3) split ownership of company
- Agreement that Marcia (Child 3) will use life insurance proceeds to buy their ownership (Ted, Child 1 and Carol, Child 2)
- Marcia's buyout price will be based upon valuation
- Marcia becomes 100% Owner after payout to Ted and Carol

Marcus – WL – Age 41 - $2m Death Benefit

Retirement Supplement

Initial Death Benefit: $2,000,000 | Initial Premium: $132,520.00

Owner Tax Bracket: 28%

Dividend Option(s): Paid-Up Additions

		Costs		Supplemental Retirement Income, Cash Value, and Death Benefit				
Year	Age End Year	Net Annual Premium	Cumulative Annual Premium	Annual Retirement Income (After-Tax)	Cumulative Retirement Income	Net Cash Value	Net Death Benefit	Combined Total Benefit
1	42	132,520	132,520	0	0	48,980	2,011,931	2,011,931
2	43	132,520	265,040	0	0	135,919	2,034,720	2,034,720
3	44	132,520	397,560	0	0	266,284	2,068,387	2,068,387
4	45	132,520	530,080	0	0	405,254	2,113,364	2,113,364
5	46	132,520	662,600	0	0	553,338	2,169,843	2,169,843
6	47	132,520	795,120	0	0	708,345	2,232,808	2,232,808
7	48	132,520	927,640	0	0	870,642	2,302,457	2,302,457
8	49	132,520	1,060,160	0	0	1,040,654	2,378,995	2,378,995
9	50	132,520	1,192,680	0	0	1,218,795	2,462,655	2,462,655
10	51	132,520	1,325,200	0	0	1,405,507	2,553,702	2,553,702
11	52	0	1,325,200	0	0	1,482,764	2,647,792	2,647,792
12	53	0	1,325,200	0	0	1,564,083	2,745,208	2,745,208
13	54	0	1,325,200	0	0	1,649,673	2,846,031	2,846,031
14	55	0	1,325,200	0	0	1,739,807	2,950,525	2,950,525
15	56	0	1,325,200	0	0	1,834,660	3,058,837	3,058,837
16	57	0	1,325,200	0	0	1,934,447	3,171,068	3,171,068
17	58	0	1,325,200	0	0	2,039,370	3,287,344	3,287,344
18	59	0	1,325,200	0	0	2,149,657	3,407,826	3,407,826
19	60	0	1,325,200	0	0	2,265,559	3,532,760	3,532,760
20	61	0	1,325,200	0	0	2,387,412	3,662,461	3,662,461
21	62	0	1,325,200	0	0	2,515,526	3,797,307	3,797,307
22	63	0	1,325,200	0	0	2,650,297	3,937,566	3,937,566
23	64	0	1,325,200	0	0	2,791,940	4,083,455	4,083,455
24	65	0	1,325,200	0	0	2,940,550	4,234,968	4,234,968
25	66	0	1,325,200	266,014	266,014	2,818,199	4,113,932	4,379,946
26	67	0	1,325,200	266,014	532,027	2,690,525	3,985,982	4,518,010
27	68	0	1,325,200	266,014	798,041	2,557,492	3,850,842	4,648,883
28	69	0	1,325,200	266,014	1,064,055	2,418,789	3,708,091	4,772,146
29	70	0	1,325,200	266,014	1,330,069	2,274,141	3,557,363	4,887,432
30	71	0	1,325,200	266,014	1,596,082	2,123,099	3,398,276	4,994,359

Marcus – Retirement Supplement

Benefit Summary

Retirement Supplement Using Whole Life Insurance

Initial Premium Payment of $132,520

$1,325,200 In Total up to Age 65

Can Provide

Pre-Retirement Death Benefits

$2,745,208 at Age 53

$4,234,968 at Age 65

Supplemental Retirement Income at Age 65

$266,014 Initial Annual Retirement Income (after-tax)

Cumulative After-Tax Retirement Income of $3,990,206 is paid over 15 years

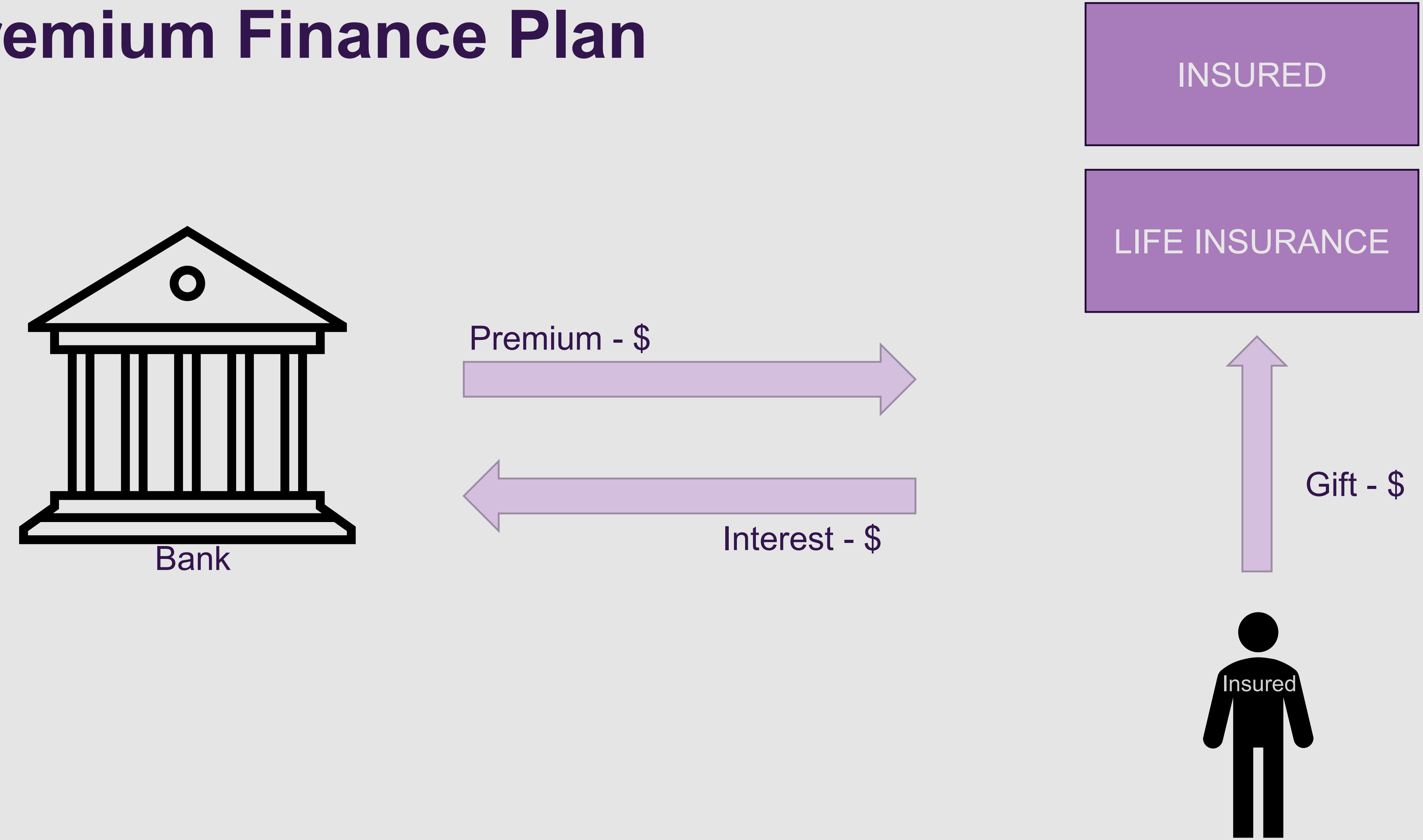
Death Benefit at End of Specified Retirement Income Period

$1,517,739 at Age 80

Premium Financing Plan

- In premium financial arrangements, insured or a trust owns the policy and borrows money from a bank.
- Each year the premiums are funded by a loan, and loan interest has to be paid and increases annually.
- In prior year low interest rate environment, premium financing had become more popular (3-4%).
- Today more difficult but can still work for high growth business (6-7%)

Premium Finance Plan



Long Term Care Insurance

- Partnership Plan
- Standalone policies are almost non-existent
- Use life insurance with a LTC Rider or a hybrid policy
- Premium fully guaranteed
- Recovery of premium up to 100%

Summary

<u>Term</u>

- Cheaper out of pocket cost
- Only for a set number of years (10, 20, 30)
- Payout % is very low – have to die within the term
- Death benefit typically income tax free
- Can be very expensive when you really need it
- Convertible

<u>GUL</u> – No cash value – lifetime premiums

<u>Permanent</u>

- Premiums higher – won't increase
- Higher out of pocket cost, but for set number of years
- Builds cash value
- Guaranteed to pay out
- Cash value build up tax-deferred
- Dividend earnings
- Flexible
- Death benefit typically income tax free

Thank you!

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Elder Law & Special Needs Planning Considerations

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Caring for the Older Generation

- Joyce is in good health – but shows signs of memory loss
- Financial and healthcare decision-making may be needed
- Paying for her long-term care costs is a concern
- Joyce's relationship with Barbara – she wants to get married, but should she?

INTERGEN

Evaluating Capacity

- Can Joyce participate and execute planning?
  - Consider having a physician or psychologist do a capacity test if there is doubt about whether Joyce can engage in advance planning
  - If Joyce were to become ill, could she proceed with her planning?
  - Does Joyce have the capacity to get married?

INTERGEN

Guidelines to Determine Who Can Execute Advance Directives

A person would be determined to have sufficient capacity to engage in advance planning or for management decisions if she or he:

- Is aware that she has <u>difficulty with decision making</u> for health care or managing day-to-day decisions at the present time or in the future
- The choice of a fiduciary to assist is reasonable

INTERGEN

Options for Kim & Marcus to Cover Joyce's LTC Costs

- Private Pay – their income
- Long-Term Care Insurance or Life Insurance Hybrids purchased by Kim and Marcus for Joyce at an earlier age
- Supplemental Needs Trust for Joyce, set up by Kim in the event she dies first

INTERGEN

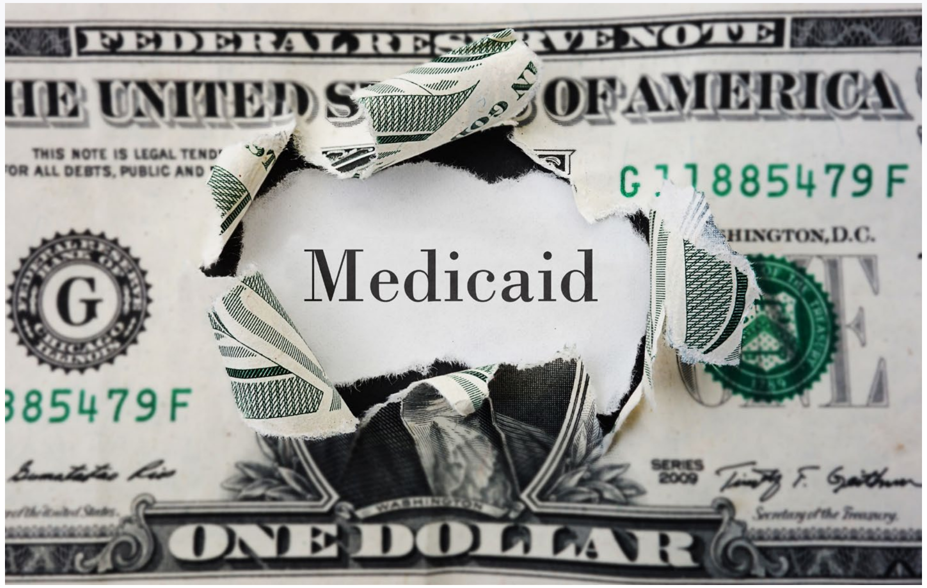
Joyce and Barbara – To Be or Not to Be?

- Spousal Duty of Support – if Joyce needs care Barbara's assets are at risk
- Spousal refusal available – but assets are still at risk
- If Joyce needed nursing home care now – transfers to Barbara are exempt, and assets could be sheltered using spousal refusal
- Consider Social Security and survivors pension benefits

Options for Joyce to Cover Her Own Care

- Reverse Mortgage on her Schenectady Home
  - Equity $225,000

- Obtain Medicaid Eligibility
- Create a Medicaid Asset Protection Trust
- Outright gifting to Kim?



How soon could Joyce be eligible for Medicaid?
December 1, 2022!

INTERGEN

2022 Medicaid Eligibility Numbers

Monthly Income	
Individual (at home)	$934 (+$20)[1]
Couple (both at home)	$1,367 (+$20)[1]
Minimum Monthly Maintenance Needs Allowance (MMMNA)[2]	$3,435
Resources	
Individual	$16,800
Couple (both at home)	$24,000
Comm. Spouse ResourceAllowance	$74,820 (or the spousal share of 1/2 combined resources up to a maximum of $130,380)

1-The first $20 of monthly income per household will not be counted when determining the eligibility of those Medicaid applicants who are aged, blind, or disabled. Income includes monies coming in each month such as Social Security, pension, rent payments, and disability payments

2 – If Community Spouse makes less than $3,435 of their own income, they will receive a portion of their spouse's to reach $3,435

INTERGEN

Joyce's Legal Planning for Medicaid

- Income $1,250/ Month
- Assets
  - Bank Account: $60K
  - Condo $250,000 ($100K Mortgage)
  - Joyce's IRA = $350K
  - Income $2,800/month

  - NYS Partnership LTC Insurance Policy
    - Daily Benefit = $275 (Max benefit $300K)

INTERGEN

Medicaid Home Care Example

- Step 1 – Joyce creates and funds a Medicaid Asset Protection Trust with her home and a portion of her cash assets
  - IRA is an exempt resource when in pay-out status

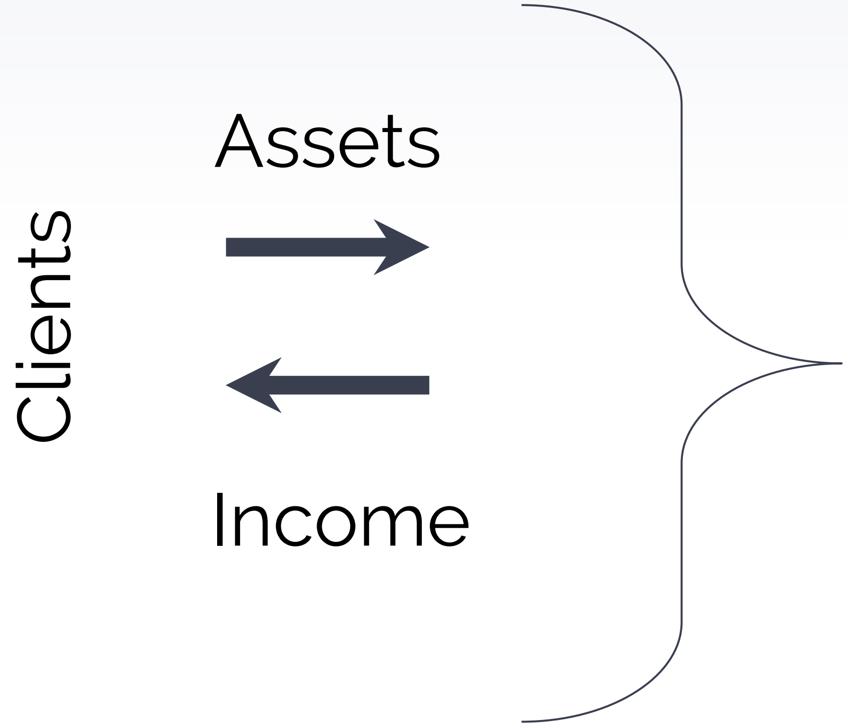
- Step 2 – Joyce creates a Pooled Trust and assigns $1,846 of income per month ($2,800 - $954 allowed)

INTERGEN

Medicaid Home Care Example

- Step 3 – Joyce applies for Medicaid – What is exempt?
  - IRA in payout status
  - Assets = $16,800
  - Home (transferred to her trust)
  - Allowable Income = $954
- Medicaid Trust and Pooled Trust funded- income and asset protected
- No Waiting Period Under Current Rules
  - New Transfer of Asset Penalty Rules for Community Medicaid in 2024

Medicaid Asset Protection Trust (MAPT)



- Trustee – manages trust assets
  - Barbara can be trustee for Joyce if not married
- Beneficiaries
  - Joyce – income for life and right to use real property
  - Remaindermen – Barbara and family can inherit when trust ends

MAPT

- Home
- Bank Accounts
- Stocks & Bonds
- Annuities
- Life Insurance
- Business
- Real Estate

Medicaid Asset Protection Trust

- Income payable to Joyce if she wants it
- Principal can NOT be given back to Joyce directly, but
- Principal can be given to Barbara or her children

INTERGEN

MAPT

KEEP OUT

Cash

Bank Acct.

IRA, 401(k)

Security Features

- Choose initial Trustee, and change at any time
- Choose initial beneficiaries, and change at any time
- With the consent of all beneficiaries, in some jurisdictions the trust can be "amended or revoked"

INTERGEN

Solution:
Kim Establishes a Third Party SNT

- Created for the benefit of Joyce and funded by Kim
- Properly drafted, the trust will not be considered an asset to Joyce which would make her ineligible for Medicaid
- Trust assets may be used as the trust directs at the discretion of the trustee – flexible, easy to administer
- Must be a discretionary trust, not a support trust

Advantages of Third-Party SNT

- NO PAYBACK REQUIREMENT
- Less stringent distribution rules than First-Party SNTs (such as the MAPT)
- Can be incorporated easily into existing planning
- Other relatives or friends may also want to contribute to the trust
- In such case, the creator may wish to establish the SNT during her or his lifetime
- It may be wise for divorced parents to set up the SNT during lifetime

THANK YOU

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INTERGEN

Wrap Up and Questions

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THANK YOU!

Please complete the brief survey with your feedback.

See you next year for the

18th ANNUAL

INTERGENERATIONAL ESTATE PLANNING CONFERENCE