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November 5, 2025  
Albany Capital Center



**INTERGEN**

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**Louis Pierro**

Pierro, Connor & Strauss, LLC



**Rustin Diehl**

Allegis Law



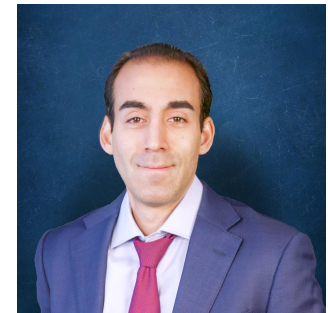
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**Frank Melia**

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**INTERGEN**

# ► Welcome

**Louis W. Pierro, Esq. | Founding Partner, Pierro, Connor & Strauss**

- ▶ Theme: **Stability. Confidence. Certainty.**
- ▶ Can today's legal, financial and political systems deliver these for our clients?
- ▶ OBBBA brings a **\$15M exemption** and sweeping changes across the board
- ▶ **Economic instability**, employment challenges (AI impact), inflation, geopolitical turmoil, etc. are causing chaos.
- ▶ **Wealth is concentrated** in fewer people, with those over 60 holding 65%, leaving far fewer opportunities for younger generations.

**INTERGEN**

# ► 20 Years of INTERGEN

- ▶ **Clients benefit when advisors collaborate.**
- ▶ Build plans that **help grow wealth, protect it from risk, and adapt for the future.**
- ▶ **20 years** of collaboration in law, tax, finance & business.
- ▶ **Flexibility. Control. Access.** The theme of **INTERGEN.**
- ▶ Together, we shape the **future of planning.**
- ▶ Is **Crypto** the next frontier? Are we prepared?

**INTERGEN**

# **CRYPTO TRUSTS AND LLC'S: HOW TO OWN, SECURE AND TRANSFER DIGITAL WEALTH**

**20<sup>TH</sup> ANNUAL INTERGENERATIONAL  
ESTATE PLANNING CONFERENCE**

Rustin Diehl, JD, LLM

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# Crypto Trusts and LLCs:

## Shielding Digital Wealth

The Complete Course

RUSTIN DIEHL



# DAOs Unlocked

Legal Structures, Tax Strategies, and Practical Applications  
for Decentralized Autonomous Organizations

RUSTIN DIEHL



# Trusts in the Cloud:

How Tech is Changing Fiduciary  
Duties



Rustin Diehl

# US Legislation and Executive Orders on Crypto

| Act / Executive Order                                           | Date                                                                                            | Purpose                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Biden – Executive Order 14067</b>                            | March 9, 2022                                                                                   | Sets a whole-of-government approach to digital assets: consumer/investor protection, financial stability, illicit finance, innovation, consideration of CBDC.                                                                                              |
| <b>Trump – Executive Order 14178</b>                            | January 23, 2025                                                                                | Revokes EO 14067, bans or restricts U.S. issuance/promotion of CBDCs, creates working group to recommend regulatory framework for digital assets.                                                                                                          |
| <b>GENIUS Act (12 U.S.C. 5901-5916)</b>                         | July 18, 2025 (Public Law 119-27) ( <a href="https://www.congress.gov">Congress.gov</a> )       | Federal regulatory framework for permitted payment stablecoins: definitions, reserves, issuer oversight, exclusions from securities/commodity laws for those stablecoins.                                                                                  |
| <b>CLARITY Act (“Digital Asset Market Clarity Act of 2025”)</b> | House passed ~July 17, 2025 (H.R. 3633) ( <a href="https://www.congress.gov">Congress.gov</a> ) | Framework to clarify regulatory roles for digital assets (digital commodities vs securities vs stablecoins), assigns jurisdiction between Securities and Exchange Commission (SEC) and Commodity Futures Trading Commission (CFTC), registration pathways. |



Working Group Paper:  
<https://www.whitehouse.gov/crypto/>



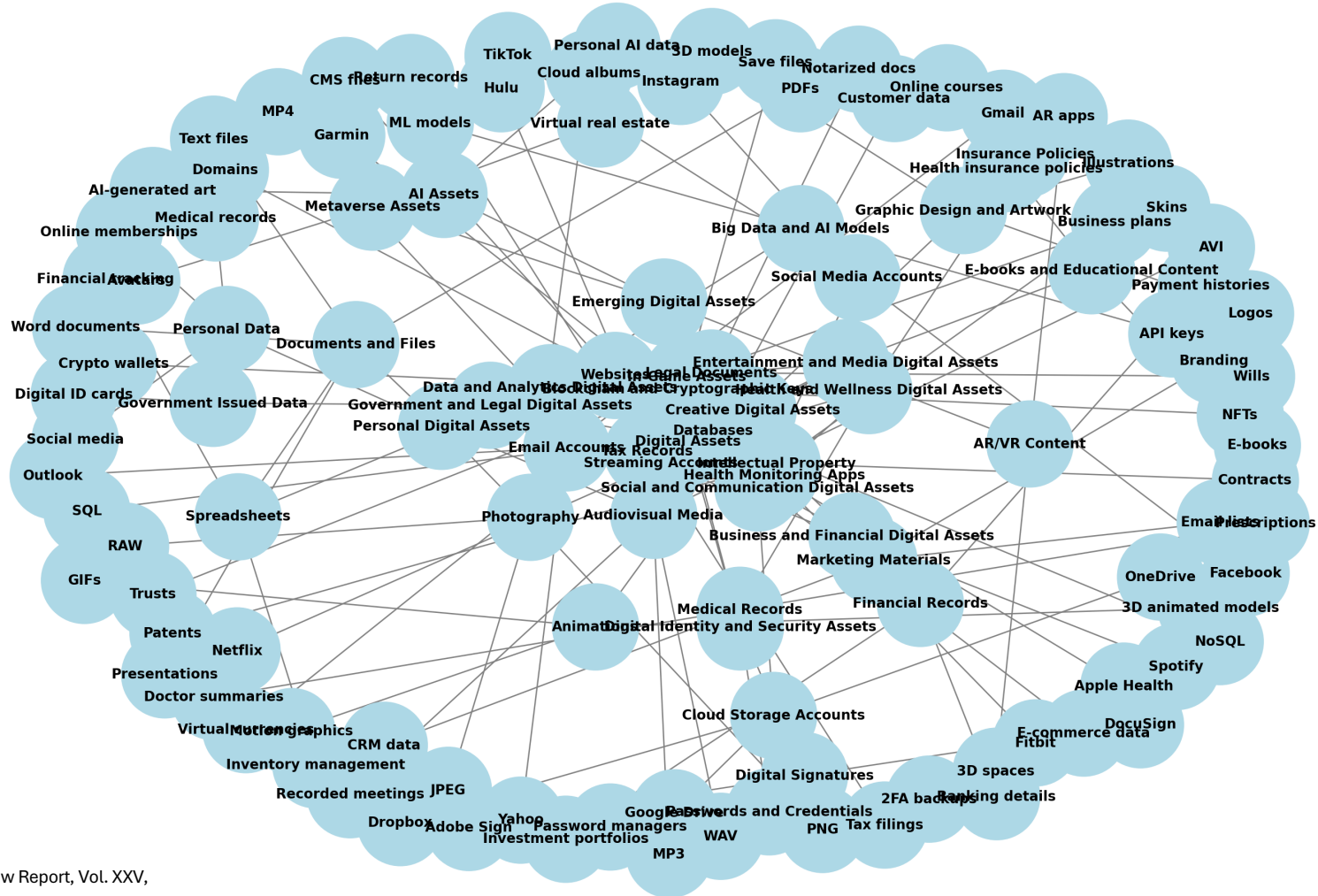
## Definition of Digital Assets Under IRC 6045 ( 2021 Infrastructure Investment and Jobs Act)

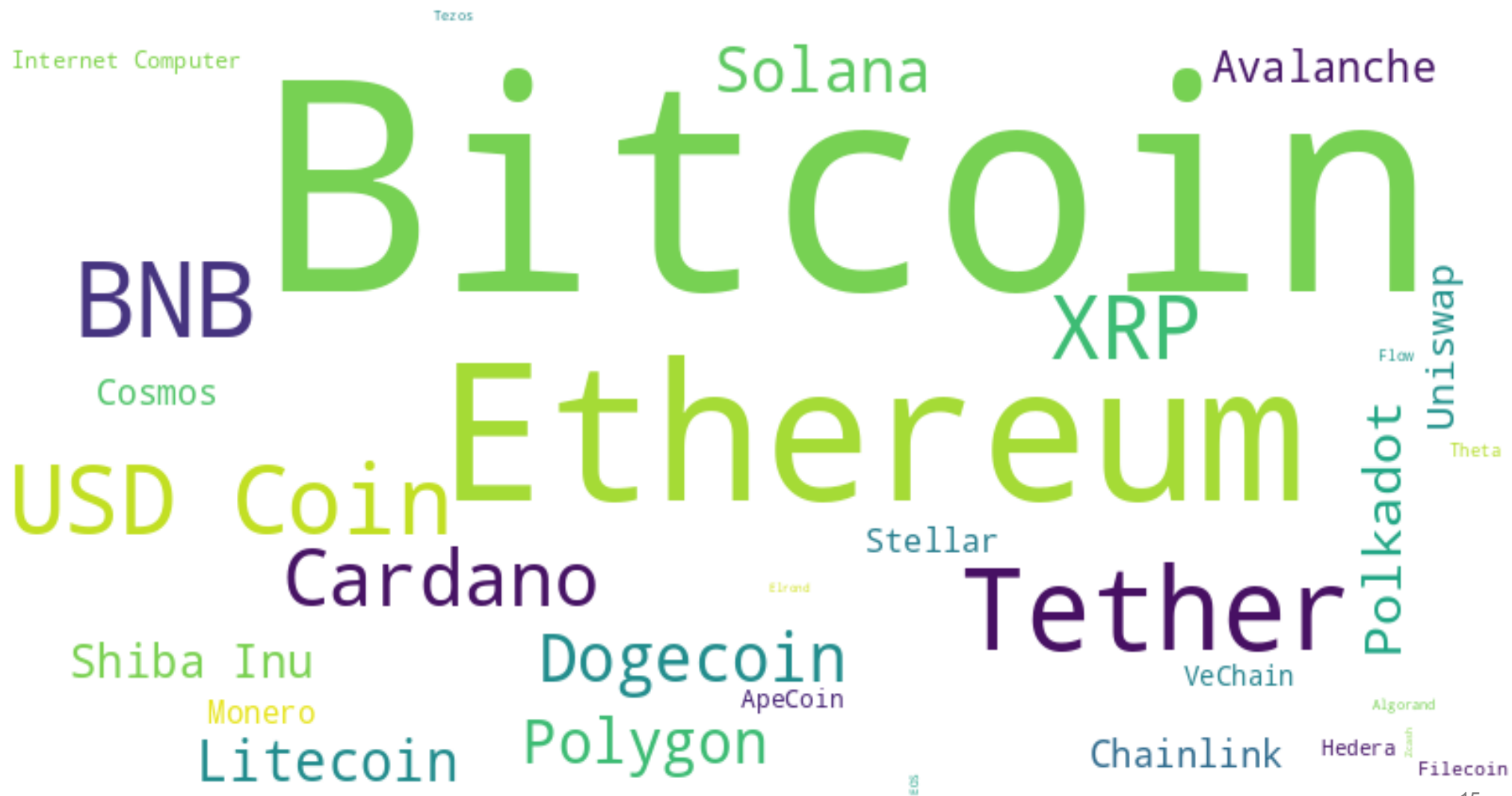
- IRC 6045(g)(3)(D): Digital asset. Except as otherwise provided by the Secretary, the term "digital asset" means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.
- Enacted by Congress in late 2021, pursuant to the Infrastructure Investment and Jobs Act.

# Treasury Reg 1.6045 Definition of Digital Assets

- <https://www.federalregister.gov/documents/2024/07/09/2024-14004/gross-proceeds-and-basis-reporting-by-brokers-and-determination-of-amount-realized-and-basis-for>
- Treas. Reg. § 1.6045-1(a)(19):
- **(19) Digital asset**—(i) *In general*. For purposes of this section, the term *digital asset* means any digital representation of value that is recorded on a cryptographically secured distributed ledger (or any similar technology), without regard to whether each individual transaction involving that digital asset is actually recorded on that ledger, and that is not cash as defined in paragraph (a)(12) of this section.
- **(ii) No inference**. Nothing in this paragraph (a)(19) or elsewhere in this section may be construed to mean that a digital asset is or is not properly classified as a security, commodity, option, securities futures contract, regulated futures contract, or forward contract for any other purpose of the Code.

# Digital Assets Multiverse





| Crypto Tax Regs / Rules / Notices | Effect of the Rule                                                                                                                         | Substance of the Rule                                                                                                                                     |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Notice 2014-21                    | Establishes initial tax treatment of transactions using convertible virtual currencies.                                                    | Defines virtual currency as property for tax purposes, and outlines the tax treatment of transactions involving virtual currencies.                       |
| Revenue Ruling 2019-24            | Addresses tax implications of a hard fork in virtual currency.                                                                             | States that receiving new cryptocurrency from a hard fork is taxable as gross income at fair market value when the taxpayer gains control.                |
| FinCEN Notice 2020-2              | Clarifies FBAR reporting requirements related to virtual currency.                                                                         | Confirms that virtual currencies are not subject to FBAR reporting under current regulations.                                                             |
| Private Letter Ruling 202019028   | Discusses tax-exempt status of entities in the digital asset industry.                                                                     | Addresses specific conditions under which organizations involved in digital assets can maintain tax-exempt status under IRC Section 501(c).               |
| CCA 202035011                     | Discusses tax consequences of receiving convertible virtual currency as payment for microtasks.                                            | Provides that receiving virtual currency as payment for microtasks constitutes taxable compensation at its fair market value upon receipt.                |
| CCA 202114020                     | Reviews the receipt of Bitcoin Cash resulting from a hard fork.                                                                            | Affirms that receiving Bitcoin Cash due to a hard fork is treated as taxable income based on the cryptocurrency's fair market value.                      |
| CCA 202124008                     | Clarifies that IRC Section 1031 does not apply to exchanges of Bitcoin for Ether, Bitcoin for Litecoin, or Ether for Litecoin.             | Confirms that cryptocurrency exchanges are not eligible for tax-deferred treatment under IRC Section 1031 because they are not "like-kind" property.      |
| Revenue Ruling 2023-14            | Clarifies the taxability of staking income from digital assets.                                                                            | States that staking rewards are taxable as ordinary income when the taxpayer gains dominion and control over the rewards.                                 |
| Notice 2023-27                    | Provides guidance on the treatment of certain NFTs as collectibles for tax purposes.                                                       | Defines specific criteria for classifying NFTs as collectibles, making them subject to higher capital gains tax rates.                                    |
| Notice 2023-34                    | Updates background in Notice 2014-21, including removing the statement that virtual currency lacks legal tender status.                    | Revises the treatment of virtual currencies by acknowledging their potential legal tender status in certain jurisdictions and other changes.              |
| CCA 202302011                     | Analyzes applicability of IRC Section 165 to cryptocurrency that has declined in value.                                                    | Clarifies that losses from the decline in value of cryptocurrency are generally not deductible under IRC Section 165, unless there is a sale or exchange. |
| CCA 202302012                     | Establishes qualified appraisal requirements for charitable contributions of cryptocurrency.                                               | Requires taxpayers to obtain a qualified appraisal for charitable contributions of cryptocurrency exceeding \$5,000.                                      |
| CCA 202316008                     | Explores individual tax consequences of holding cryptocurrency during blockchain protocol upgrades.                                        | Discusses whether protocol upgrades result in taxable events, with focus on the taxpayer's control and realization of economic benefit.                   |
| Final Regulations 2024-07-09      | Provides rules for gross proceeds and basis reporting by brokers and determining amount realized and basis for digital asset transactions. | Establishes reporting requirements for brokers to track gross proceeds and cost basis in digital asset transactions to aid compliance.                    |
| Revenue Procedure 2024-28         | Offers guidance on allocating basis in digital assets to wallets/accounts as of January 1, 2025.                                           | Specifies how to allocate basis among digital assets held in multiple wallets or accounts.                                                                |
| Notice 2024-56                    | Grants transitional relief for information reporting and backup withholding on digital assets by brokers.                                  | Provides temporary relief by extending deadlines and easing enforcement on new reporting rules for brokers.                                               |
| Notice 2024-57                    | Establishes broker reporting and penalty relief for certain digital asset transactions.                                                    | Details circumstances under which brokers may be exempt from penalties related to reporting errors during the initial implementation period.              |
| CCA 202444009                     | Addresses frozen rewards related to bankrupt digital asset platforms.                                                                      | Analyzes the taxability and reporting requirements for rewards that are frozen and inaccessible due to platform bankruptcy.                               |



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☐ VOID ☐ CORRECTED

|                                                                                                                       |                 |                                                                                                                                                        |  |                                                                                                                |  |                                                                                                                                                                      |  |
|-----------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. |                 | Applicable checkbox on Form 8949                                                                                                                       |  | OMB No. 1545-XXXX<br><b>2025</b><br>Form <b>1099-DA</b>                                                        |  | <b>Digital Asset Proceeds From Broker Transactions</b>                                                                                                               |  |
|                                                                                                                       |                 | 1a Code for digital asset                                                                                                                              |  |                                                                                                                |  | <b>Copy 1<br/>For State Tax Department</b>                                                                                                                           |  |
|                                                                                                                       |                 | 1b Name of digital asset                                                                                                                               |  |                                                                                                                |  |                                                                                                                                                                      |  |
| FILER'S TIN                                                                                                           | RECIPIENT'S TIN | RECIPIENT'S name                                                                                                                                       |  | 1c Number of units                                                                                             |  |                                                                                                                                                                      |  |
| Street address (including apt. no.)                                                                                   |                 | 1d Date acquired                                                                                                                                       |  | 1e Date sold or disposed                                                                                       |  |                                                                                                                                                                      |  |
| City or town, state or province, country, and ZIP or foreign postal code                                              |                 | 1f Proceeds<br>\$                                                                                                                                      |  | 1g Cost or other basis<br>\$                                                                                   |  |                                                                                                                                                                      |  |
| Account number                                                                                                        |                 | 1h Accrued market discount<br>\$                                                                                                                       |  | 1i Wash sales loss disallowed<br>\$                                                                            |  |                                                                                                                                                                      |  |
| CUSIP number                                                                                                          |                 | 2 Check if basis reported to IRS<br><input type="checkbox"/>                                                                                           |  | 3a Reported to IRS:<br><input type="checkbox"/> Gross proceeds<br><input type="checkbox"/> Net proceeds        |  |                                                                                                                                                                      |  |
| 5 Check if loss is not allowed based on amount in 1f<br><input type="checkbox"/>                                      |                 | 6 Gain or loss:<br><input type="checkbox"/> Short-term <input type="checkbox"/> Ordinary<br><input type="checkbox"/> Long-term                         |  | 3b Check if proceeds from:<br><input type="checkbox"/> Reserved for future use<br><input type="checkbox"/> QOF |  | 4 Federal income tax withheld<br>\$                                                                                                                                  |  |
| 9 Check if digital asset is a noncovered security<br><input type="checkbox"/>                                         |                 | 10                                                                                                                                                     |  | 7 Check if 1f is only cash<br><input type="checkbox"/>                                                         |  | 8 Check if broker relied on customer-provided acquisition information<br><input type="checkbox"/>                                                                    |  |
| 11b If 11a checked, number of transactions                                                                            |                 | 11c For aggregate reporting of specified NFTs, aggregate gross proceeds reported in 1f that are attributable to first sales by creator or minter<br>\$ |  | 12a Number of units transferred in                                                                             |  | 11a Check if gross proceeds reported in 1f is an aggregate amount for:<br><input type="checkbox"/> Qualifying stablecoins<br><input type="checkbox"/> Specified NFTs |  |
| 14 State name                                                                                                         |                 | 15 State identification no.                                                                                                                            |  | 12b If transferred in, provide transfer-in date                                                                |  | 13                                                                                                                                                                   |  |
|                                                                                                                       |                 |                                                                                                                                                        |  | 16 State tax withheld<br>\$                                                                                    |  |                                                                                                                                                                      |  |
|                                                                                                                       |                 |                                                                                                                                                        |  | 16 State tax withheld<br>\$                                                                                    |  |                                                                                                                                                                      |  |

Form **1099-DA**

[www.irs.gov/Form1099DA](https://www.irs.gov/Form1099DA)

Department of the Treasury - Internal Revenue Service

# Key Insights on the 1099-DA

- 1.The 1099-DA provides granular details for digital asset transactions, dividing them into key categories: filer, recipient, transaction, and NFT-specific details.
- 2.The form requires brokers to report crucial details like proceeds, cost basis, and withholding, ensuring accurate tax compliance for digital asset transactions...Unless not a broker, and unless not required.
- 3.New inclusions like NFT-related information and transfers, debt instruments, and wash sales, highlight the evolving scope of tax reporting in the digital asset space.
- 4.The form accounts for both federal and state-level reporting, reflecting a comprehensive approach to tax reporting.

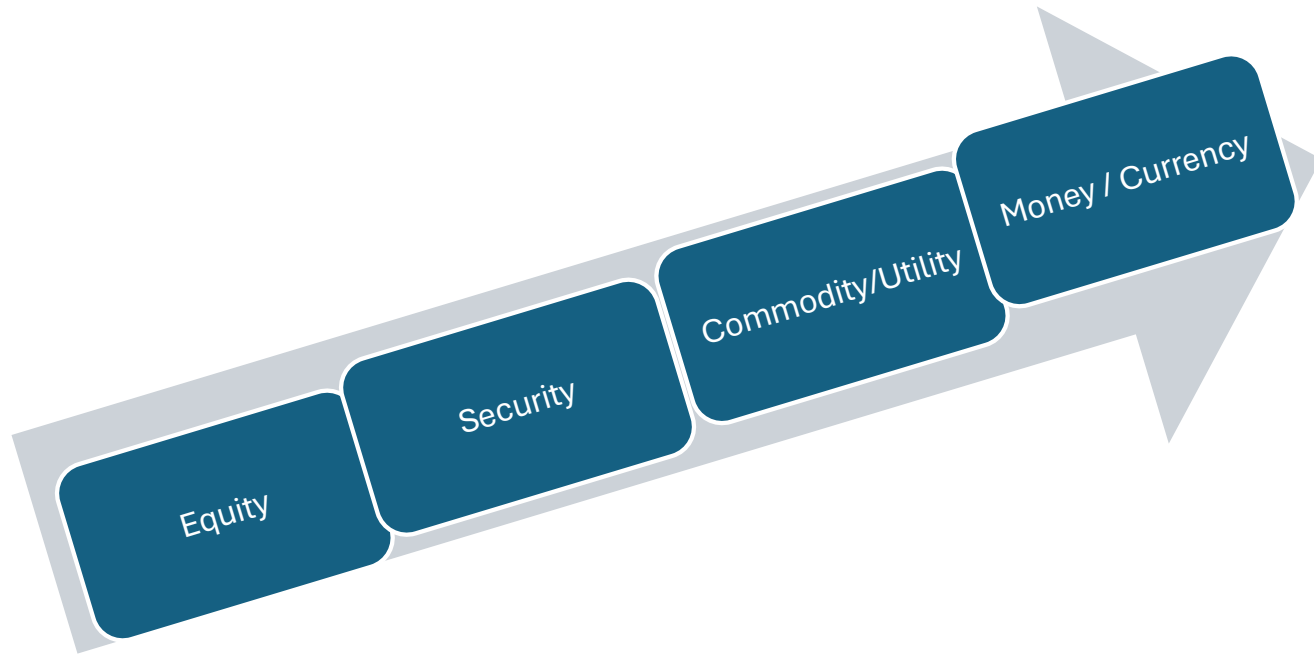
# Reportable Crypto Transactions Key Considerations

- 1. Crypto is taxed as property.** Every transaction involving sale, trade, or disposal is a taxable event.
- 2. Mining, staking, airdrops, and payments are ordinary income.** Taxed when received.
- 3. Trading and sales are subject to capital gains tax.** Short-term gains are taxed at regular income rates, while long-term gains enjoy lower tax rates.
- 4. Transfers between wallets are NOT taxable.** But exchanges of crypto for another crypto are taxable.
- 5. Gifts and inheritances have special rules.** Gifts don't trigger tax for the recipient, and inherited crypto gets a favorable step-up basis.

| Transaction Type                               | Description                                                      | Tax Effect & Explanation                                                                                                                                                                                                                                                                       | IRS Rules & Guidance                               |
|------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| <b>Crypto-to-Fiat Sale</b>                     | Selling cryptocurrency for USD or other fiat currency.           | - <b>Capital Gains Tax:</b> Profit = Sale Price - Cost Basis (Original Purchase Price). - <b>Short-term gains</b> (held ≤1 year) taxed at income rates. - <b>Long-term gains</b> (held >1 year) taxed at lower capital gains rates. - <b>Losses can offset gains</b> to reduce taxable income. | IRS Notice 2014-21, IRS FAQ 2021                   |
| <b>Crypto-to-Crypto Trade</b>                  | Trading one cryptocurrency for another (e.g., BTC → ETH).        | - <b>Each trade is a taxable event.</b> - Gain/loss = FMV of received crypto - Cost Basis of traded crypto. - Example: If you bought 1 BTC at \$10,000 and traded it for 20 ETH when BTC was worth \$40,000, you recognize a \$30,000 gain.                                                    | IRS Notice 2014-21, IRS FAQ 2021                   |
| <b>Using Crypto for Purchases</b>              | Using crypto to buy goods or services.                           | - <b>Treated as a sale:</b> - Gain/loss = FMV of goods purchased - Cost Basis of crypto used. - Example: If you bought BTC at \$5,000 and use it to buy a \$10,000 laptop, you report a \$5,000 gain.                                                                                          | IRS Notice 2014-21, IRS FAQ 2021                   |
| <b>Receiving Crypto as Payment</b>             | Receiving crypto as payment for goods or services.               | - <b>Taxed as Ordinary Income at FMV when received.</b> - Example: If a freelancer is paid 0.5 BTC when BTC is worth \$30,000, they report \$15,000 as income. - Self-employment tax may apply.                                                                                                | IRS Notice 2014-21, IRS FAQ 2021                   |
| <b>Earning Crypto via Staking</b>              | Earning rewards by staking crypto assets.                        | - <b>Taxed as ordinary income when received.</b> - Example: If you stake ETH and earn 5 ETH when ETH is worth \$2,000 each, you must report \$10,000 as income.                                                                                                                                | IRS Rev. Rul. 2023-14                              |
| <b>Earning Crypto via Mining</b>               | Receiving crypto as a reward for mining.                         | - <b>Taxed as ordinary income at FMV upon receipt.</b> - Self-employment tax applies if mining is a business.                                                                                                                                                                                  | IRS Notice 2014-21, IRS FAQ 2021                   |
| <b>Receiving Crypto from Airdrops</b>          | Free crypto received from a marketing event or fork.             | - <b>Taxed as ordinary income at FMV when received.</b> - Example: If you receive 100 tokens worth \$2 each, you must report \$200 as income.                                                                                                                                                  | IRS Rev. Rul. 2019-24                              |
| <b>Hard Fork (Without Airdrop)</b>             | A blockchain split where no new coins are received.              | - <b>No immediate tax effect unless new tokens are received.</b>                                                                                                                                                                                                                               | IRS Rev. Rul. 2019-24                              |
| <b>DeFi Lending Interest</b>                   | Earning interest or yield from lending crypto on DeFi platforms. | - <b>Taxed as ordinary income when received.</b> - Example: If you lend USDC and earn \$500 in interest, you report \$500 as taxable income.                                                                                                                                                   | IRS General Income Tax Rules                       |
| <b>DeFi Liquidity Pool Rewards</b>             | Providing liquidity to a DeFi protocol and earning rewards.      | - <b>Taxed as ordinary income at FMV when received.</b>                                                                                                                                                                                                                                        | IRS General Income Tax Rules                       |
| <b>DeFi Borrowing &amp; Repayment</b>          | Borrowing crypto from a DeFi platform and later repaying.        | - <b>No tax effect unless liquidation occurs.</b> - If collateral is liquidated, it triggers a capital gain/loss.                                                                                                                                                                              | IRS General Tax Principles                         |
| <b>NFT Sales &amp; Trades</b>                  | Selling or trading NFTs for crypto or fiat.                      | - <b>Capital gains tax applies.</b> - Short-term vs. long-term rates apply.                                                                                                                                                                                                                    | IRS NFT Tax Guidance 2022                          |
| <b>Receiving NFTs as Payment</b>               | Receiving an NFT as compensation for services.                   | - <b>Taxed as ordinary income at FMV.</b>                                                                                                                                                                                                                                                      | IRS General Income Tax Rules                       |
| <b>Transferring Crypto Between Own Wallets</b> | Moving crypto from one personal wallet to another.               | - <b>No tax effect.</b> - No sale occurs, so no capital gains/losses.                                                                                                                                                                                                                          | IRS FAQ 2021                                       |
| <b>Donating Crypto to Charity</b>              | Donating crypto to a qualified non-profit organization.          | - <b>Charitable deduction available.</b> - No capital gains tax if donated directly.                                                                                                                                                                                                           | IRS Notice 2014-21, IRS Charitable Deduction Rules |
| <b>Gifting Crypto</b>                          | Giving crypto as a gift to another person.                       | - <b>No immediate tax.</b> - Donor may be subject to gift tax if value exceeds annual exclusion limit (\$17,000 in 2023).                                                                                                                                                                      | IRS Gift Tax Rules                                 |
| <b>Receiving Crypto as a Gift</b>              | Receiving crypto as a gift from another person.                  | - <b>No tax upon receipt.</b> - Capital gains tax applies upon sale, using donor's basis.                                                                                                                                                                                                      | IRS Gift Tax Rules                                 |
| <b>Inheritance of Crypto</b>                   | Receiving crypto as part of an inheritance.                      | - <b>Step-up in basis to FMV at date of inheritance.</b> - Example: If inherited BTC was originally bought for \$1,000 but worth \$50,000 on the date of inheritance, the new cost basis is \$50,000.                                                                                          | IRS Estate Tax Rules                               |



# Crypto Morphology: Shifting Law & Regulations



See Matan Field & Primavera De Filippi, Backfeed – An Economic Model for Blockchain-Based Applications, 12 COINTELEGRAPH (June 7, 2016), p. 8, Figure 3 (Illustrating an adoption and maturation model for cryptocurrencies), available at <https://cointelegraph.com/news/backfeed-an-economic-model-for-blockchain-based-applications> [<https://perma.cc/7EVX-MGZH>].

## Shifting Crypto Legal, Regulatory and Tax Treatment of Crypto

| Category                              | Startup Equity                                                                                                                                                                                            | Securities                                                                                                                                                        | Commodity/Utility                                                                                                                                                  | Money/Currency                                                                                                                                                        |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicable U.S. Statutes</b>       | Securities Act of 1933, JOBS Act of 2012 – Regulates startup fundraising via equity issuance, including crowdfunding.                                                                                     | Securities Act of 1933, Investment Company Act of 1940 – Governs security offerings; crypto may be a security under the <i>Howey Test</i> .                       | Commodity Exchange Act (CEA) (7 U.S.C. § 1) – CFTC regulates commodities like Bitcoin.                                                                             | Legal Tender Laws – U.S. Constitution (Article I, Section 8) and 31 U.S.C. § 5103 define money; crypto is <b>not</b> legal tender.                                    |
| <b>Applicable U.S. Regulations</b>    | SEC Regulation Crowdfunding (Reg CF), Regulation A+, private placements under Regulation D.                                                                                                               | SEC Rule 144, Regulation ATS, Regulation Best Interest – Governs ICOs and tokenized securities.                                                                   | CFTC rules (e.g., <i>CFTC v. McDonnell</i> , 2018) confirm crypto as a regulated commodity.                                                                        | FinCEN (Bank Secrecy Act) requires crypto exchanges to register as Money Services Businesses (MSBs).                                                                  |
| <b>U.S. Tax Code (IRC) Treatment</b>  | <b>IRC § 83(a):</b> Income tax on property in connection with performance of Service. But <b>IRC § 83(b)</b> could allow taxation of startup equity at grant rather than vesting, reducing tax liability. | <b>IRC § 1202, 1256:</b> Security-related tax treatment includes capital gains, wash sale rules, and mark-to-market election for traders under <b>IRC § 475</b> . | <b>IRC § 1256:</b> Commodity gains follow the <b>60/40 rule</b> (60% long-term, 40% short-term). <b>IRS Notice 2014-21:</b> Crypto like Bitcoin taxed as property. | <b>IRC § 988:</b> Foreign currency transactions taxed as <b>ordinary income or loss</b> . <b>IRS Revenue Ruling 2019-24:</b> Crypto is property, <b>not</b> currency. |
| <b>IRS Pronouncements &amp; Rules</b> | <b>CCA 202316008:</b> Crypto received for services is taxed as ordinary income based on fair market value at receipt.                                                                                     | <b>CCA 202114020:</b> Security tokens may be subject to capital gains taxation and wash sale rules.                                                               | <b>Rev. Rul. 2023-14:</b> Commodity-designated crypto follows property taxation under <b>IRC § 1256</b> .                                                          | <b>Rev. Rul. 2019-24:</b> Crypto is treated as <b>property</b> , and income from staking, mining, or airdrops is <b>taxable when received</b> .                       |

# Treas. Regs 2024-07-09 Affected Sections:

- Determining Amount realized in sale, exchange or disposition: § 1.1001-7(c)
- Calculating Basis of Digital Assets: 1.1012-1(h)(5); § 1.1012-1(j)(6)
- Employment Tax Under: § § 31.3406(b)(3)-2(c); 31.3406(g)-1(f); 31.3406(g)-2(h)
- Broker Reporting: § § 1.6045-1(q); 1.6045-4(s) 1.6045B-1(j);
- Third Party Settlement: 1.6050W-1(j)
- Penalties for Failure to File or Furnish: § § 301.6721-1(j); 301.6722-1(g).

# Basis Allocation under Treas. Reg. 2024-07-09

- Wallet by Wallet (or Account by Account) Accounting now required
- FIFO and Specific ID are the only cost basis methods allowed.
- Universal Method (multi-wallet method) no longer allowed. Not permissible to act as though all crypto held in one **wallet or account.**
  - Previously “permissible” under IRS Virtual Currency frequently asked questions (FAQs) #39 to #41
  - Problem: Universal method can create a mismatch where, as an example, an asset is sold out of Account A, but the taxpayer's records for income tax reporting show basis was removed from Account B.
- Issues to resolve:
  - Unit of unused basis with no digital asset attached (orphaned basis)
  - Digital Asset with no basis attached

# Crypto Reporting and Basis Issues

- **Definitional Confusion:** Confusion by what the 1099-DA means by “Digital Asset”
  - NFT confusion / Memecoin confusion
  - Stock vs Security vs Debt instrument
- **Transactional Confusion:** Taxpayer doesn’t understand they made reportable transactions with crypto and no 8949 was filed:
  - Taxpayer received crypto as compensation and didn’t report
  - Taxpayer traded between currencies
  - Taxpayer received an “Airdrop” or “award” and didn’t report
  - Taxpayer participated in wash sale transactions (loss harvesting and repurchase)
- **Records:**
  - Taxpayer bought from a Bitcoin ATM and has no record
  - Taxpayer assumes there is no need to report cold storage assets
- **Reporting Confusion:**
  - Taxpayer made universal basis allocations without respect to wallets and accounts
  - Taxpayer reported FIFO mismatched with broker reporting FIFO

# Options for Curing Universal Basis Allocations and Transitioning to FIFO under Rev. Proc. 2024-28

- Specific Unit Allocation:
  - Allocate specifically identified units of unused basis to a pool of remaining digital asset units or to specific units of remaining digital assets within each wallet.
  - Basis assigned to these units must tie to existing basis and the acquisition date related to that basis remains with the units assigned the related basis.
- Global Unit Allocation
  - Allocation must identify and order all units of unused basis
  - Allocate them to a pool of remaining digital asset units (like kind) in each wallet.
  - Observation/Query: ?Does Global allocation “to a pool” provide a one-time opportunity to create an average cost basis in “the pool” even though FIFO going forward?

# AICPA Request for Treasury and IRS Guidance on Rev Proc 2024-28

- Emphasize that Rev. Proc. 2024-28 provides taxpayers who previously used the universal method a safe harbor with two possible allocation methods, both of which must result in the taxpayer having unused basis allocated to remaining digital assets by January 1, 2025;
- Clarify the consequences of not adopting Rev. Proc. 2024-28;
- Clarify whether taxpayers who may have used the universal method on a handful of digital asset accounts are permitted to use the safe harbor for all digital asset accounts, some of which may have never used the universal method;
- Clarify whether updating the taxpayer's software from the universal method to the wallet-by-wallet method before the timing requirement described in section 5.02(4) of Rev. Proc. 2024-28 satisfies the requirements to meet the safe harbor (or eliminates the need to follow the safe harbor);
- Provide in-depth examples for more complex fact patterns, including situations in which the taxpayer holds the digital asset units in both wallets and broker accounts and applied the universal method;
- Specify factors indicating that a taxpayer has unused basis of digital assets to help all taxpayers determine if the safe harbor is relevant to them.
- See: <https://www.taxnotes.com/research/federal/other-documents/irs-tax-correspondence/aicpa-wants-publicity-overlooked-digital-asset-guidance/7m6jj>



# Crypto Account Funding: Wallet vs Account

| Component                               | Description                                                                                                                                                                                    | Banking / Real-World Analogy                                                                                                                                                        | Key Points                                                                                                                                                                                                                        |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Custodial Wallet</b>                 | A wallet where a third party (custodian or wallet provider) holds total control of your money/crypto until you present your credentials (password, biometrics, etc.) to withdraw it.           | Similar to a bank's online home page where the bank controls access to all of your accounts until you log in and verify your identity.                                              | - The custodian or bank has full control until you withdraw funds.- Requires you to present credentials (ID, password, biometrics) to access your assets.- Functions like a centralized platform managing multiple accounts.      |
| <b>Non-Custodial Wallet</b>             | A wallet where you alone have control over your crypto because you hold the only key needed to access the assets.                                                                              | Roughly compares to a safety deposit box at a bank, <b>except</b> that with a safety deposit box, the bank also holds a key while in a non-custodial wallet, only you have the key. | - Full user control over assets with no third-party access.- Responsibility to safeguard your private key is paramount.- Unlike a bank safety deposit box, no backup key exists with the provider.                                |
| <b>Digital Asset Account</b>            | A subdivision within a wallet that organizes your crypto holdings into different "buckets" (for example, short-term use "checking," vacation savings, emergency liquid savings, money market). | Similar to a bank's online interface that lists multiple accounts for different purposes, such as checking, savings, or money market accounts.                                      | - Allows categorization of funds for various purposes.- Each account represents a unique blockchain address within the wallet.- Helps with budgeting and asset management much like multiple bank accounts in a single dashboard. |
| <b>Crypto Access (After Withdrawal)</b> | Once crypto is moved out of a custodial wallet or stored in a non-custodial wallet, accessing and using it requires a pairing of an identifier (public info) with a secret key (private key).  | Like a gift card where you need to provide both the gift card's public code (often 16 digits) and the secret PIN/code to redeem the value.                                          | - Both an identifier (akin to a public code or account number) and a secret code (private key) are needed.- Emphasizes the dual-factor approach required for unlocking and using crypto assets.                                   |

# Crypto Funding Comparison with Deposit Box and Emails

| Aspect                         | Bank Security Deposit Boxes                                                  | Emails Holding Gift Certificates                                                                                                                                                   | Digital Assets (e.g., Cryptocurrency)                                                                            |
|--------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| Example Providers/Platforms    | Chase Bank, Wells Fargo, HSBC                                                | Google (Gmail), Microsoft (Outlook), Yahoo Mail                                                                                                                                    | Bitcoin network, Ethereum, Coinbase, Binance                                                                     |
| Public Facing Aspects          | Bank records showing the existence of a box, but not its contents            | Email address visible to senders and recipients                                                                                                                                    | Public wallet address visible on blockchain                                                                      |
| Private Facing Aspects         | Physical key or PIN to access the box                                        | Email password and any two-factor authentication (2FA) credentials                                                                                                                 | Private keys stored securely (on paper, in a hardware wallet, or in an online custodial wallet with seed phrase) |
| Mechanism for Sharing/Transfer | Adding authorized users or granting access via legal documents (e.g., wills) | Sharing login credentials or forwarding specific emails                                                                                                                            | Transferring private keys then must generating new access credentials to retrieve currency from ledger           |
| Government Regulators          | Federal and state financial regulators (e.g., FDIC, OCC)                     | RUFADAA; Stored Communications Act, 18 U.S.C. §§2701—2712; Computer Fraud and Abuse Act, 18 U.S.C. §1030; Wire Communication Interception Act, 18 U.S.C. § 2510 et seq; GDPR, CCPA | Financial regulators (SEC, CFTC), tax authorities (IRS), cybersecurity regulations                               |

# Crypto Funding Comparison with Stocks

| Category          | Cryptocurrency                                                                                                                                                                        | Stocks                                                                                                                                                                                             |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Definition        | Digital assets using blockchain for decentralized transactions.                                                                                                                       | Ownership shares in a company representing equity stake.                                                                                                                                           |
| Types             | - <b>Coins</b> (e.g., Bitcoin, Ethereum) - <b>Stablecoins</b> (e.g., USDT, USDC) - <b>Utility Tokens</b> (e.g., Chainlink, Uniswap) - <b>Security Tokens</b> (e.g., tokenized stocks) | - <b>Common Stocks</b> (Voting rights, dividends) - <b>Preferred Stocks</b> (Fixed dividends, priority in liquidation) - <b>ETFs</b> (Basket of stocks) - <b>Mutual Funds</b> (Managed portfolios) |
| Regulatory Body   | Varies by country (SEC, CFTC, FinCEN, etc. in the U.S.).                                                                                                                              | SEC, FINRA, and national stock exchanges regulate stocks.                                                                                                                                          |
| Trading Hours     | 24/7 availability.                                                                                                                                                                    | Limited to exchange hours (e.g., 9:30 AM - 4:00 PM EST).                                                                                                                                           |
| Transactions      | - Buying/Selling crypto on centralized or decentralized exchanges - Peer-to-peer (P2P) transfers - Staking, mining, lending, DeFi activities                                          | - Buying/Selling through brokerages - Margin trading - Short selling, dividends, stock splits                                                                                                      |
| Exchanges         | - <b>Centralized (CEXs)</b> (e.g., Binance, Coinbase, Kraken) - <b>Decentralized (DEXs)</b> (e.g., Uniswap, PancakeSwap, Curve)                                                       | - <b>Stock Exchanges</b> (e.g., NYSE, NASDAQ, London Stock Exchange) - <b>Over-the-Counter (OTC)</b> Markets                                                                                       |
| Marketplaces      | - <b>NFT Marketplaces</b> (e.g., OpenSea, Rarible) for digital collectibles - <b>DeFi Platforms</b> (e.g., Aave, MakerDAO) for lending/borrowing                                      | - <b>Brokerage Firms</b> (e.g., TD Ameritrade, E-Trade, Robinhood) - <b>Dark Pools</b> for institutional trading                                                                                   |
| Custody & Storage | Stored in hot/cold wallets (custodial or non-custodial), exchanges, or DeFi protocols.                                                                                                | Held in brokerage accounts, typically by custodians like DTCC, JP Morgan, Schwab, Fidelity, HSBC, etc.                                                                                             |
| Volatility        | Highly volatile due to speculation, innovation, and regulatory uncertainty.                                                                                                           | Generally less volatile but still impacted by earnings reports, economic conditions, and global events.                                                                                            |
| Liquidity         | Depends on the coin/token and exchange (large-cap coins like BTC, ETH highly liquid).                                                                                                 | High liquidity for major stocks; small-cap stocks may have lower liquidity.                                                                                                                        |
| Dividends/Yield   | No traditional dividends, but staking/yield farming provides rewards.                                                                                                                 | Some stocks pay dividends; bonds provide fixed income.                                                                                                                                             |
| Taxation          | Capital gains tax on sales; income tax on staking/mining rewards.                                                                                                                     | Capital gains tax on sales; dividend income is taxable.                                                                                                                                            |

# Crypto Transfers Best (and worst) Practices

- Don't: Don't list or send around private keys as the estate plan.
- Do maintain careful account information (and more importantly), client should safeguard the private key
- Mid Probate and Protection: Utilize a general assignment of assets, identifying wallet addresses and/or accounts. Client will maintain the private key
- Good Probate and Protection Planning: Find a qualified custodian / custodial-wallet and if possible, add beneficiary.
- Better Protection: Add distribution trustee to custodial account as counter signer for transfers out. Management by LLC former/trust maker.
- Best Protection and Completed Gift Planning: Add Management Trustee, LLC Manager, who engages investment manager

# Crypto Asset Entity Planning Options

- Crypto LLC
  - Access to Institutional Services
  - Probate Planning: transfer on death issues
  - Derivative Liability
  - Non-Recognition?
    - If Multi-member, then under IRC 721 would apply to the contributions of securities, and in turn, 721(b) implicates the investment company rules of IRC 351(e), which causes immediate deemed capital gains recognition on most investments.
- Digital Asset Revocable Trust (DART™)
  - Single vs Joint Revocable Trust
  - Probate planning
    - Tax issues: Is the trust deemed disregarded?
    - See Thomas Gray and Joel M. Post, Grantor Trusts – Disregarded or Not? (Sept 2024)
- Self-Settled Irrevocable Trust
  - **Tax characteristics?**

# Comparison of State Crypto Statutory Regimes

| State   | Legal Recognition of Crypto                                                  | Money Transmitter Laws                                                           | Crypto Banking and Custody                                                                                    | Taxation of Crypto                     | Smart Contracts & Blockchain                                          | Securities Regulations                                                                       | Decentralized Finance (DeFi) | Crypto in Political Donations                                      |
|---------|------------------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|----------------------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------------------------------|------------------------------|--------------------------------------------------------------------|
| Wyoming | Recognized as a medium of exchange and property under <b>SF0125 (2019)</b> . | Exempts crypto from money transmission laws ( <b>HB 19, 2020</b> ).              | Allows <b>Special Purpose Depository Institutions (SPDIs)</b> to act as crypto banks ( <b>SF0125, 2019</b> ). | No state income tax; crypto not taxed. | Recognized under <b>HB 70 (2018)</b> , enforceable by law.            | Crypto treated as a commodity, not a security ( <b>SF0125, 2019</b> ).                       | No DeFi-specific laws.       | Allowed with restrictions under <b>SF0125, 2019</b> .              |
| Florida | No state recognition. Crypto treated as intangible property.                 | Requires licensing for crypto exchanges under <b>CS/HB 273 (2023)</b> .          | No provisions for crypto banks.                                                                               | No income tax; crypto not taxed.       | No clear legal status for smart contracts.                            | Considered a security under <b>Florida Securities Act</b> if part of an investment contract. | No DeFi-specific laws.       | Banned for political donations under <b>Florida Election Law</b> . |
| Texas   | Defined in <b>HB 4474 (2021)</b> as a "virtual currency."                    | No specific licensing required per <b>Texas Department of Banking Guidance</b> . | Banks may provide custody services under <b>Texas Banking Department ruling (2021)</b> .                      | No state income tax; no crypto tax.    | Recognized under <b>HB 1576 (2021)</b> , permitted for recordkeeping. | Some crypto assets may be securities per <b>Texas Securities Board rulings</b> .             | No DeFi-specific laws.       | Permitted under <b>Texas Ethics Advisory Opinion</b> .             |

For a 50-State basic summary of crypto laws, see Joseph Jasperse, Wharton, 50-State Review of Cryptocurrency and Blockchain Regulation, available at: [https://stevenscenter.wharton.upenn.edu/publications-50-state-review/?utm\\_source=chatgpt.com](https://stevenscenter.wharton.upenn.edu/publications-50-state-review/?utm_source=chatgpt.com)

## Transfer Taxes (death estate tax, gift tax, GST)

### Income Taxes (Sale or Exchange, staking, lending interest)

Grantor – trust maker pays income tax at usually lower tax rates with large standard deduction and reduces trust maker estate

Non-Grantor Complex – trust pays income tax at usually at higher rate. Non-Grantor Simple - beneficiaries pay tax on received distributions...

Completed gift (trust maker retains no powers/ no beneficial rights) out of taxable estate - no step up, must pay capital gains if appreciated and later sale

Incomplete gift in the taxable estate will get a step up in basis to avoid capital gains

|  |  |
|--|--|
|  |  |
|  |  |

# Quantify: Capital Gains and Transfer Tax Tradeoff

| Estate Planning Strategy Consequences |                                                   |                              |                      |           |
|---------------------------------------|---------------------------------------------------|------------------------------|----------------------|-----------|
| Scenario:                             | Capital Gains Tax Versus Estate Tax               |                              |                      |           |
|                                       | XRP:                                              | 3,000,000                    |                      |           |
|                                       | Purchase Price:                                   | \$0.50                       |                      |           |
|                                       | Current Price:                                    | \$3.00                       |                      |           |
|                                       |                                                   |                              |                      |           |
|                                       | Total Asset Value                                 | \$9,000,000                  | 2025                 | 2026      |
|                                       | Exemption Available (Married 2025)                | \$27,980,000                 | \$13,990,000         | 7,490,000 |
|                                       | Federal Estate Tax Rate:                          | 40%                          | *inflation dependent |           |
|                                       | State Estate Tax:                                 | 0%                           |                      |           |
|                                       | State Inheritance Tax                             | 0%                           |                      |           |
|                                       | Total Estate Tax on Asset:                        | <b><u>\$0</u></b>            |                      |           |
|                                       |                                                   |                              |                      |           |
|                                       | Basis in Assets:                                  | \$1,500,000                  |                      |           |
|                                       | Federal Capital Gains Tax Rate:                   | 20%                          |                      |           |
|                                       | Federal NIIT                                      | 3.80%                        |                      |           |
|                                       | State Capital Gains Tax                           | 5.00%                        |                      |           |
|                                       | Federal Capital Gains if after death recognition: | <b><u>\$2,160,000.00</u></b> |                      |           |



# Quantify 10X: Capital Gains and Transfer Tax Tradeoff

| Estate Planning Strategy Consequences             |                               |              |                      |  |  |
|---------------------------------------------------|-------------------------------|--------------|----------------------|--|--|
| Scenario: Capital Gains Tax Versus Estate Tax     |                               |              |                      |  |  |
| XRP:                                              | 3,000,000                     |              |                      |  |  |
| Purchase Price:                                   | \$0.50                        |              |                      |  |  |
| Current Price:                                    | \$30.00                       |              |                      |  |  |
|                                                   |                               |              |                      |  |  |
| Total Asset Value                                 | \$90,000,000                  | 2025         | 2026                 |  |  |
| Exemption Available (Married 2025)                | \$27,980,000                  | \$13,990,000 | 7,490,000            |  |  |
| Federal Estate Tax Rate:                          | 40%                           |              | *inflation dependent |  |  |
| State Estate Tax:                                 | 0%                            |              |                      |  |  |
| State Inheritance Tax                             | 0%                            |              |                      |  |  |
| Total Estate Tax on Asset:                        | <b><u>\$24,808,000</u></b>    |              |                      |  |  |
|                                                   |                               |              |                      |  |  |
| Basis in Assets:                                  | \$1,500,000                   |              |                      |  |  |
| Federal Capital Gains Tax Rate:                   | 20%                           |              |                      |  |  |
| Federal NIIT                                      | 3.80%                         |              |                      |  |  |
| State Capital Gains Tax                           | 5.00%                         |              |                      |  |  |
| Federal Capital Gains if after death recognition: | <b><u>\$25,488,000.00</u></b> |              |                      |  |  |

# Advanced Crypto Topics and Use Cases

- Tokenization and Crypto Product Development
  - NFTs
  - Real Estate
  - Other Equities
  - ETFs
- Smart Contract Development
- Business Entity Reporting by means of Crypto:
  - FinCEN and CTA planning
  - KYC Assurance
  - Restriction enforcement: PTP, S-Corp
- Decentralized Autonomous Organizations
- Nonprofit Planning for and by means of Crypto
  - Crypto IRAs or Pensions
  - Charities
- Foreign Planning for Crypto

# Fungible and Non-Fungible Crypto Assets

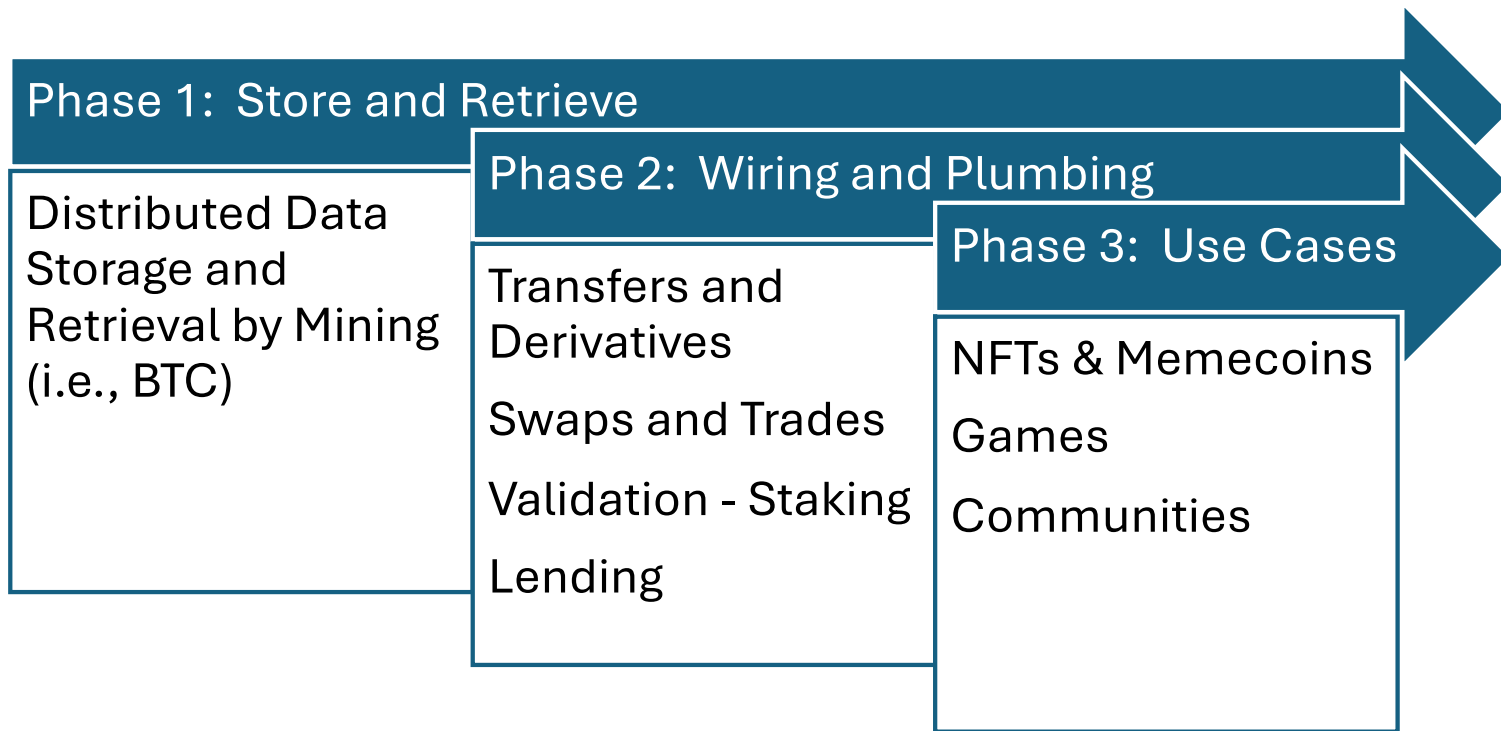
| Aspect          | Fungible Crypto Assets                                                                                                                                                                                                                                                                                                                              | Non-Fungible Crypto Assets                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Definition      | Interchangeable digital assets where each unit is identical in value and function.                                                                                                                                                                                                                                                                  | Unique digital assets with distinct characteristics, making each one different from another.                                                                                                                                                                                                                                                                                                                               |
| Characteristics | - <b>Interchangeability:</b> Each unit is identical and can be exchanged for another of the same type without any loss of value. ( <a href="https://trustwallet.com">trustwallet.com</a> )- <b>Divisibility:</b> Can be divided into smaller units without losing value.- <b>Uniformity:</b> Each unit has the same value across the entire system. | - <b>Uniqueness:</b> Each token has unique identifiers and cannot be replicated. ( <a href="https://moonpay.com">moonpay.com</a> )- <b>Indivisibility:</b> Typically cannot be divided; must be bought, sold, or held as a whole unit.- <b>Proof of Ownership:</b> Provides verifiable proof of ownership and authenticity through blockchain technology. ( <a href="https://investopedia.com">investopedia.com</a> )      |
| Examples        | - <b>Cryptocurrencies:</b> Bitcoin (BTC), Ethereum (ETH), Litecoin (LTC), Cardano (ADA). ( <a href="https://moonpay.com">moonpay.com</a> )- <b>Stablecoins:</b> Tether (USDT), USD Coin (USDC), Dai (DAI).- <b>Utility Tokens:</b> Basic Attention Token (BAT), Chainlink (LINK).                                                                   | - <b>Digital Art:</b> Unique digital artworks tokenized on the blockchain. ( <a href="https://investopedia.com">investopedia.com</a> )- <b>Collectibles:</b> Virtual trading cards, in-game items, virtual real estate. ( <a href="https://moonpay.com">moonpay.com</a> )- <b>NFTs:</b> Non-fungible tokens representing ownership of unique digital assets. ( <a href="https://cointelegraph.com">cointelegraph.com</a> ) |
| Use Cases       | - <b>Medium of Exchange:</b> Used for buying and selling goods and services.- <b>Store of Value:</b> Held as an investment to preserve value over time.- <b>Unit of Account:</b> Standard measure for pricing goods and services.                                                                                                                   | - <b>Digital Ownership:</b> Proof of ownership for digital assets like art and music.- <b>Gaming:</b> Ownership of unique in-game items.- <b>Virtual Real Estate:</b> Ownership of parcels in virtual worlds.- <b>Collectibles:</b> Digital collectibles w rifiable scarcity.                                                                                                                                              |
| Marketplaces    | - <b>Cryptocurrency Exchanges:</b> Platforms like Coinbase, Binance, and Kraken flitate the trading of fungible tokens.                                                                                                                                                                                                                             | - <b>NFT Marketplaces:</b> Platforms like OpenSea, Rarible, and NBA Top Shot facilitate the buying and selling of NFTs. ( <a href="https://techtargat.com">techtargat.com</a> )                                                                                                                                                                                                                                            |
| Standards       | - <b>ERC-20:</b> A standard for fungible tokens on the Ethereum blockchain.                                                                                                                                                                                                                                                                         | - <b>ERC-721:</b> A standard for non-fungible tokens on the Ethereum blockchain.- <b>ERC-1155:</b> A standard that allows for both fungible and non-fungible tokens within the same contract. ( <a href="https://en.wikipedia.org">en.wikipedia.org</a> )                                                                                                                                                                  |

# NFTs as a New Vector for IPR Appropriability

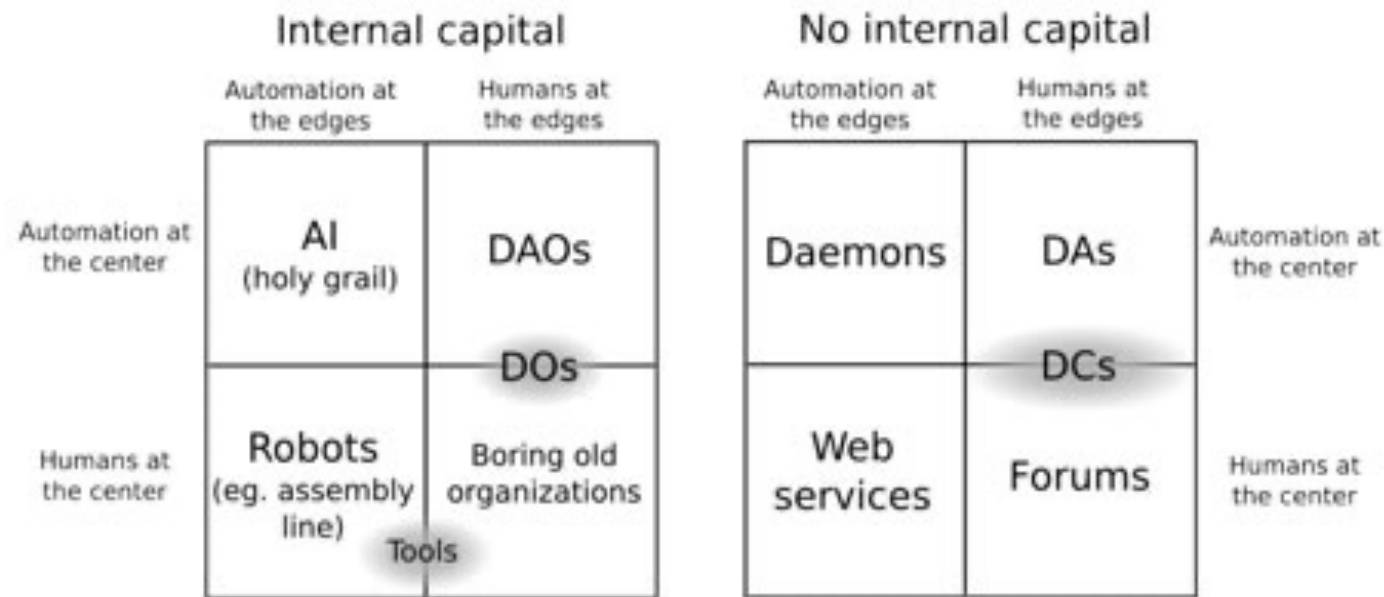
|             | Connected                            | Siloed                |
|-------------|--------------------------------------|-----------------------|
| Protected   | Copyright<br>TM<br>Patent<br>License | NDA<br>Trade Secret   |
| Unprotected | Open<br>Source<br>Public<br>Release  | Undisclosed<br>Secret |

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# Distributed Ledger Technology Development Phases



# Web 3.0 – Taxonomy of Autonomous Actors



See Vitalik Buterin, DAOs, DACs, DAs and More: An Incomplete Terminology Guide, May 6, 2014, Available at <https://blog.ethereum.org/2014/05/06/daos-dacs-das-and-more-an-incomplete-terminology-guide/>

# DAO US Jurisdictions

| State            | Legal Recognition                                            | Liability Protection                                        | Governance                                         | Legal Citation                                          |
|------------------|--------------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------------|
| <b>Wyoming</b>   | Recognized as LLC (DAO LLC)                                  | Limited liability for DAO members                           | Smart contract-based; members set rules            | <a href="#">WY Stat. § 17-31-101 et seq.</a>            |
| <b>Vermont</b>   | Recognized as Blockchain-Based LLC                           | Limited liability, but requires compliance with regulations | Hybrid governance: smart contracts + legal entity  | <a href="#">VT Stat. 11 V.S.A. § 4171</a>               |
| <b>Tennessee</b> | Recognized as DAO LLC                                        | Limited liability similar to LLC                            | DAO members define governance within LLC framework | <a href="#">TN DAO Act (2022)</a>                       |
| <b>Utah</b>      | Recognized as Limited Liability DAO (LLD) under Utah DAO Act | Limited liability with specific statutory protections       | Smart contract-based governance with legal entity  | <a href="#">Utah DAO Act (2023)</a>                     |
| <b>Delaware</b>  | No specific DAO statute, but flexible LLC laws               | No specific protections for DAOs                            | Governance under general LLC statutes              | <a href="#">Del. Code Ann. tit. 6, § 18-101 et seq.</a> |

# DAO Approaches: Wyoming and Utah

| Category                      | Wyoming DAO Statute                                                            | Wyoming Statute Citation | Utah DAO Statute                                                                                           | Utah Statute Citation |
|-------------------------------|--------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------------------------|-----------------------|
| <b>Legal Recognition</b>      | DAOs recognized as legal entities under LLC framework                          | W.S. § 17-31-104         | Utah recognizes DAOs as a new type of business entity: the 'Limited Liability DAO' (LLD)                   | Utah Code § 48-5-101  |
| <b>Blockchain Requirement</b> | DAOs must specify the blockchain protocol used for governance and transactions | W.S. § 17-31-105         | DAOs must disclose blockchain governance framework in filings                                              | Utah Code § 48-5-104  |
| <b>Formation</b>              | Must file Articles of Organization with Wyoming Secretary of State             | W.S. § 17-31-106         | Must register as a 'Limited Liability DAO' (LLD) with the Utah Division of Corporations                    | Utah Code § 48-5-201  |
| <b>Liability</b>              | Members have limited liability, similar to LLCs                                | W.S. § 17-31-107         | Liability limitations similar to LLCs, but includes specific rules for algorithm-driven DAOs               | Utah Code § 48-5-301  |
| <b>Governance</b>             | Can be managed by members or smart contracts                                   | W.S. § 17-31-108         | LLDs can be algorithmically managed or member-managed                                                      | Utah Code § 48-5-401  |
| <b>Smart Contracts</b>        | Smart contracts govern decision-making and operations                          | W.S. § 17-31-109         | Smart contracts are recognized, but governance must also include a registered agent for legal interactions | Utah Code § 48-5-501  |
| <b>Dissolution</b>            | DAO can be dissolved if it lacks necessary functionality                       | W.S. § 17-31-110         | DAOs must include a dissolution plan in their initial filing                                               | Utah Code § 48-5-601  |



# International Crypto Rules, Regs, and Orders

| Source                                                           | Proposal/Action                                                                                                                                                                                                                                                                             | Citation                                                                                                      |
|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <b>European Union</b>                                            |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - Markets in Crypto-Assets Regulation (MiCA) (June 2023)         | Established a comprehensive regulatory framework for crypto-assets, focusing on consumer protection, market integrity, and financial stability.                                                                                                                                             | <a href="#">European Parliament - MiCA Regulation</a>                                                         |
| - ESMA Guidelines (December 2024)                                | Provided guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments under MiCA.                                                                                                                                                              | <a href="#">ESMA - Final Report on Guidelines</a>                                                             |
| <b>OECD</b>                                                      |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - Crypto-Asset Reporting Framework (CARF) (2022)                 | Developed a framework for the automatic exchange of tax-relevant information on crypto-assets to address tax transparency challenges.                                                                                                                                                       | <a href="#">OECD - CARF</a>                                                                                   |
| <b>Latin America</b>                                             |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - Regional Economic Organizations (Mercosur, LAIA, SELA, UNASUR) | As of now, these organizations have not issued unified regulatory frameworks for cryptocurrencies. Member countries regulate digital assets individually.                                                                                                                                   |                                                                                                               |
| <b>Africa</b>                                                    |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - African Union (AU) and Digital Strategy for Africa             | The AU adopted the IMF-FSB Synthesis Paper (Oct 2023), advocating for comprehensive crypto oversight, while the Digital Transformation Strategy for Africa (2020-2030) calls for a harmonized regulatory approach to blockchain and digital assets.                                         | <a href="#">Technext - G20. AU adopt IMF strategy</a><br><a href="#">AU - Digital Transformation Strategy</a> |
| <b>Asia</b>                                                      |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - South Korea's Regulation on Virtual Assets (October 2024)      | Announced plans to regulate cross-border trade of virtual assets, requiring businesses to register and report transactions to the Bank of Korea starting in the second half of 2025.                                                                                                        | <a href="#">Reuters - South Korea to regulate cross-border trade of virtual assets</a>                        |
| - Hong Kong's Licensing of Crypto Exchanges (December 2024)      | Approved licenses for four additional cryptocurrency exchanges, enhancing its position as a global hub for digital asset trading.                                                                                                                                                           | <a href="#">Reuters - Hong Kong approves four more cryptocurrency exchanges</a>                               |
| <b>Middle East</b>                                               |                                                                                                                                                                                                                                                                                             |                                                                                                               |
| - United Arab Emirates (UAE) Regulatory Framework                | The UAE has implemented a comprehensive regulatory framework for crypto assets, with the Securities and Commodities Authority (SCA) overseeing crypto activities and the Dubai Virtual Asset Regulatory Authority (VARA) providing specific guidelines for virtual asset service providers. | <a href="#">Lexology - Crypto Assets in the UAE - regulatory landscape</a>                                    |

# International Crypto Jurisdictions

| Country               | Key Advantages and Relevant Regulations                                                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Portugal</b>       | Portugal offers a favorable tax environment for cryptocurrencies, with individuals exempt from Value Added Tax (VAT) and benefiting from favorable tax rates on crypto-related activities.                                                      |
| <b>Singapore</b>      | Singapore is recognized as a crypto-friendly country due to its favorable regulations, vibrant crypto community, and supportive government policies.                                                                                            |
| <b>Switzerland</b>    | Switzerland is known for its Crypto Valley and has a strong regulatory framework supporting blockchain and cryptocurrency businesses, ensuring legal clarity and investor protection.                                                           |
| <b>Malta</b>          | Malta, known as the "Blockchain Island," offers favorable regulations and a supportive environment for cryptocurrency activities through the Virtual Financial Assets (VFA) Act, which provides clear licensing and compliance requirements.    |
| <b>Estonia</b>        | Estonia provides a streamlined licensing process for cryptocurrency businesses and a favorable regulatory environment that supports blockchain innovation.                                                                                      |
| <b>Germany</b>        | Germany has clear regulatory guidelines recognizing cryptocurrencies as private money and offering tax exemptions for long-term holdings. The Federal Financial Supervisory Authority (BaFin) provides oversight for crypto-related activities. |
| <b>Canada</b>         | Canada has a progressive approach to cryptocurrency regulation, offering clear tax guidelines and a supportive environment for crypto businesses, with oversight from the Canada Revenue Agency (CRA) and securities commissions.               |
| <b>Gibraltar</b>      | Gibraltar provides a comprehensive regulatory framework under the Financial Services (Distributed Ledger Technology Providers) Regulations 2020, ensuring security and compliance for crypto businesses.                                        |
| <b>Netherlands</b>    | The Netherlands ensures a clear regulatory environment for cryptocurrencies, focusing on compliance and innovation, with supervision by the Dutch Central Bank (DNB) under anti-money laundering regulations.                                   |
| <b>Luxembourg</b>     | Luxembourg offers a favorable regulatory environment for cryptocurrencies, recognizing them as intangible assets and providing clear guidelines for crypto businesses, overseen by the Commission de Surveillance du Secteur Financier (CSSF).  |
| <b>The Bahamas</b>    | The Bahamas has implemented the Digital Assets and Registered Exchanges (DARE) Act, establishing a comprehensive regulatory framework for digital asset businesses, including registration, licensing, and oversight.                           |
| <b>Bermuda</b>        | Bermuda introduced the Digital Asset Business Act (DABA) in 2018, providing a licensing regime for businesses conducting digital asset activities, with a focus on regulatory clarity and compliance.                                           |
| <b>Cayman Islands</b> | The Cayman Islands provides a regulatory framework balancing oversight with innovation, making it an attractive jurisdiction for crypto businesses under the Virtual Asset Service Providers (VASP) Act.                                        |

# **CRYPTO TRUSTS AND LLC'S: HOW TO OWN, SECURE AND TRANSFER DIGITAL WEALTH**

Rustin Diehl, JD, LLM

[Rustin@AllegisLaw.com](mailto:Rustin@AllegisLaw.com)

**20<sup>TH</sup> ANNUAL INTERGENERATIONAL  
ESTATE PLANNING CONFERENCE**



# Investing – to Risk or not to Risk

20<sup>th</sup> Annual Intergenerational Estate Planning Conference

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11/5/2025

*Confidential & Proprietary*

Presented By:

**Dan Nolan**     **Sean Leonard**

*Partner &     Partner*

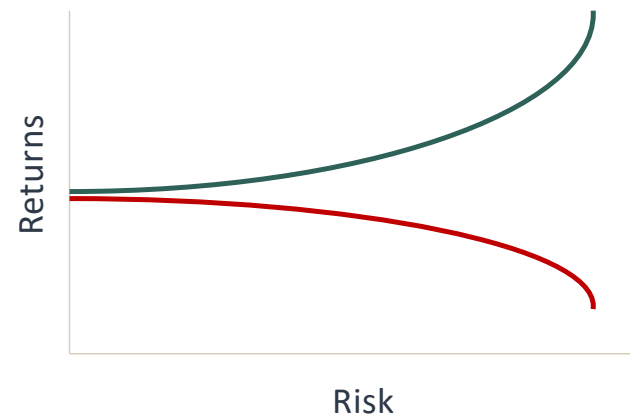
*Vice Chairman*

Your wealth managed on your terms.  
Experience an approach to financial services focused on your objectives.

# Risk vs. Returns

Risk can lead to:

- » Devastating Losses OR
- » Monumental Fortunes



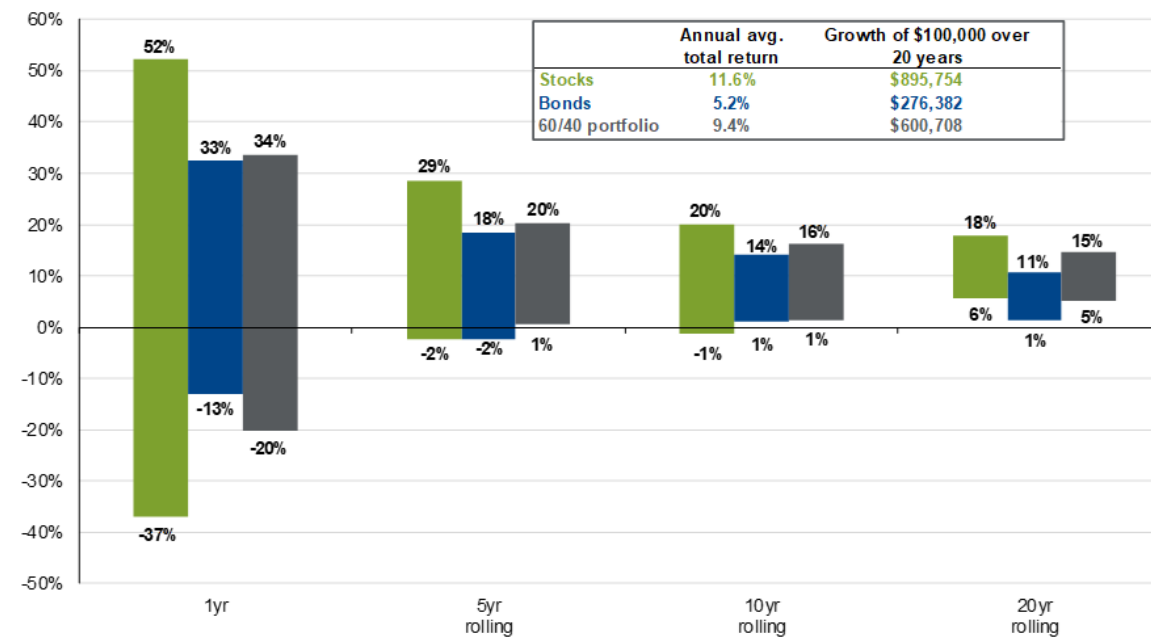
Risk Mitigation

- » Stay Conservative
- » Diversify
- » Time not Timing

# Time in the Market, not Timing the Market, Matters

## Range of stock, bond and blended total returns

Annual total returns, 1950 - 2024



Source: Bloomberg, FactSet, Federal Reserve, Standard & Poor's, Strategas/Ibbotson, J.P. Morgan Asset Management.

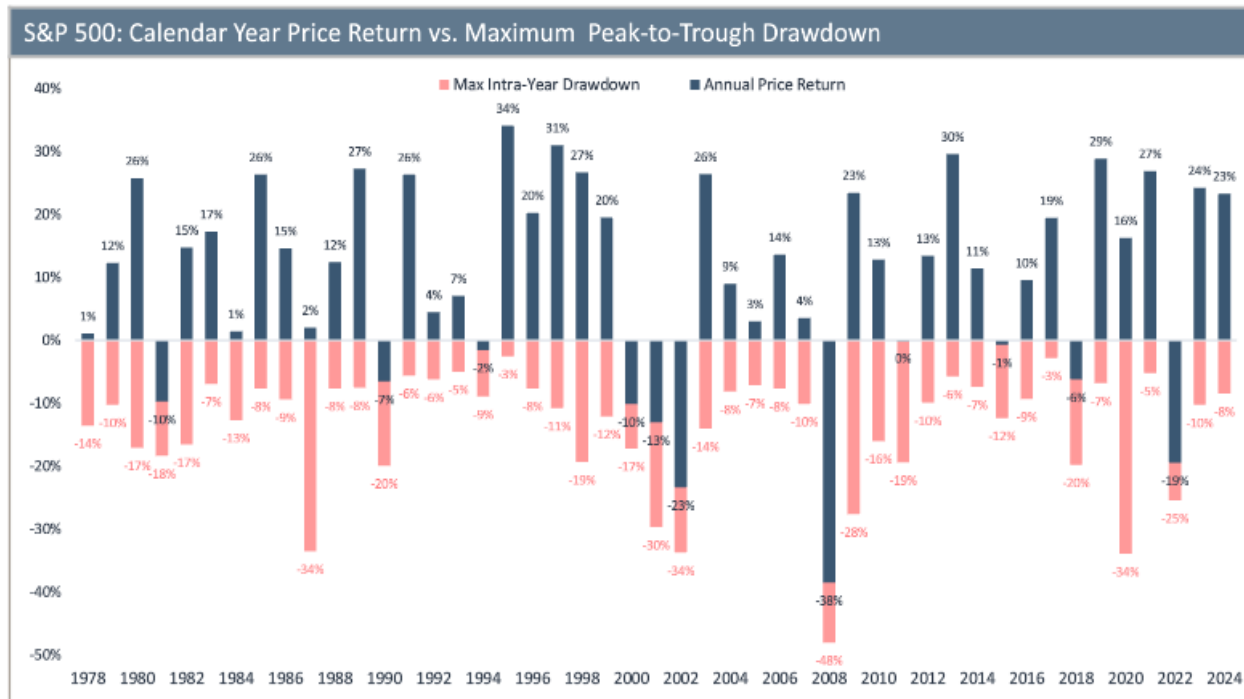
Returns shown are based on calendar year returns from 1950 to 2024. Stocks: S&P 500; Bonds: Strategas/Ibbotson for periods prior to 1976 and the Bloomberg U.S. Aggregate thereafter. Growth of \$100,000 is based on annual average total returns from 1950 to 2024.

Guide to the Markets - U.S. Data are as of October 27, 2025.

**J.P.Morgan**  
ASSET MANAGEMENT

# Market Corrections Are a Feature, Not a Bug

On average, investors should expect a 14% drawdown every year



Source: Factset, Morningstar Direct, Cerity Partners, 12/31/2024

## Develop a Plan and Stick to it

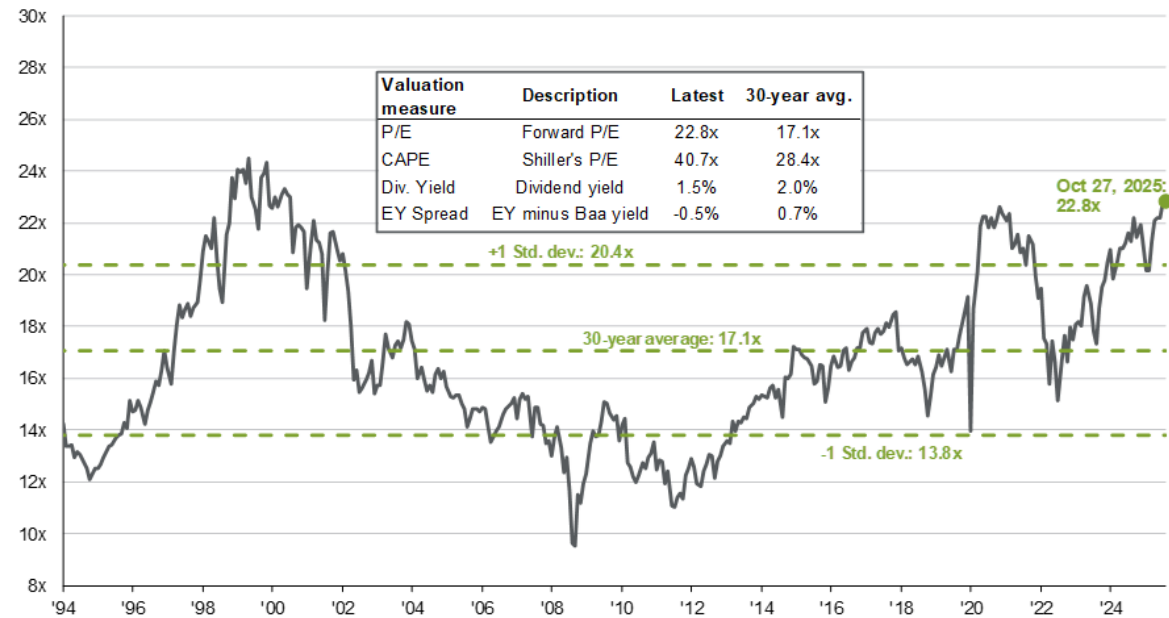
- › Define your Objectives
  - › Create a Portfolio
  - › Reassess routinely
  - › Have courage
- 
- › What can go wrong?
    - » Recency Bias
    - » Confirmation Bias
    - » Follow the “Heard”



# US Markets at all time Highs

Are we in an AI bubble?

**S&P 500 index: Forward P/E ratio**



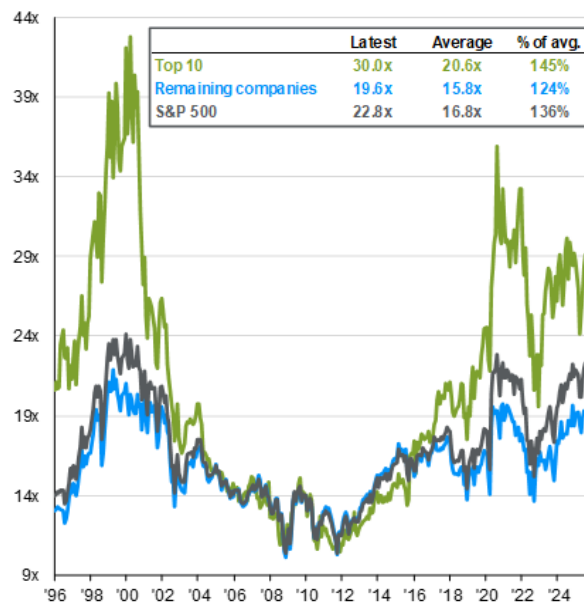
Source: Bloomberg, FactSet, Moody's, Refinitiv Datastream, Robert Shiller, Standard & Poor's, J.P. Morgan Asset Management.  
 Forward P/E ratio is the most recent S&P 500 index price divided by consensus analyst estimates for earnings in the next 12 months, provided by IBES since March 1994 and FactSet since January 2022. Shiller's P/E uses trailing 10-years of inflation-adjusted earnings as reported by companies. Dividend yield is calculated as consensus estimates of dividends in the next 12 months, provided by FactSet, divided by the most recent S&P 500 index price. EY minus Baa yield is the forward earnings yield (the inverse of the forward P/E ratio) minus the Bloomberg U.S. corporate Baa yield since December 2008 and interpolated using the Moody's Baa seasoned corporate bond yield for values beforehand.  
 Guide to the Markets — U.S. Data are as of October 27, 2025.

**J.P.Morgan**  
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# What do valuations say?

Valuations are high, but being driven by largest companies producing record growth in profits

**P/E of top 10 and remaining companies in S&P 500**  
Next 12 months



**Weight of the top 10 companies in the S&P 500**  
% of market capitalization, % of last 12 months' earnings



Source: FactSet, Standard & Poor's, J.P. Morgan Asset Management.

Forward P/E ratio is the most recent price divided by consensus estimates for earnings in the next 12 months, provided by IBES since January 1996 and FactSet since January 2022. The remaining stocks represent the rest of the 490 companies in the S&P 500, and their P/E ratio is calculated by backing out the nominal earnings and market cap of the top 10 from that of the S&P 500.

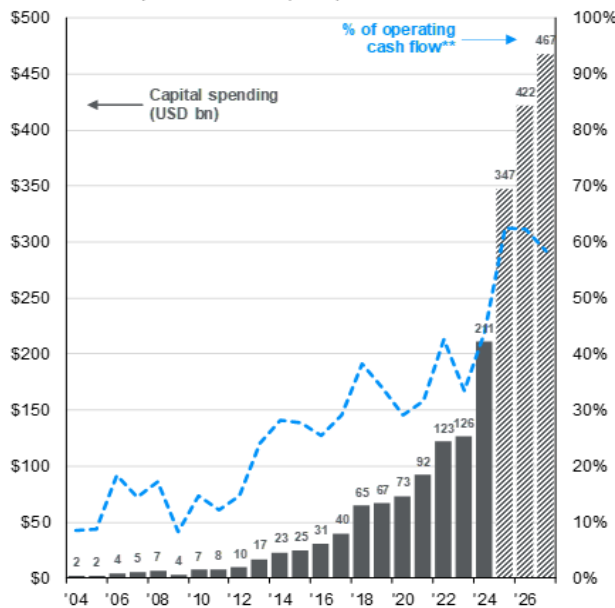
Guide to the Markets – U.S. Data are as of October 27, 2025.

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# Capital Investment in AI is massive and growing

**Capex from the major AI hyperscalers\***

USD billions; Alphabet, Amazon (AWS), Meta, Microsoft, Oracle

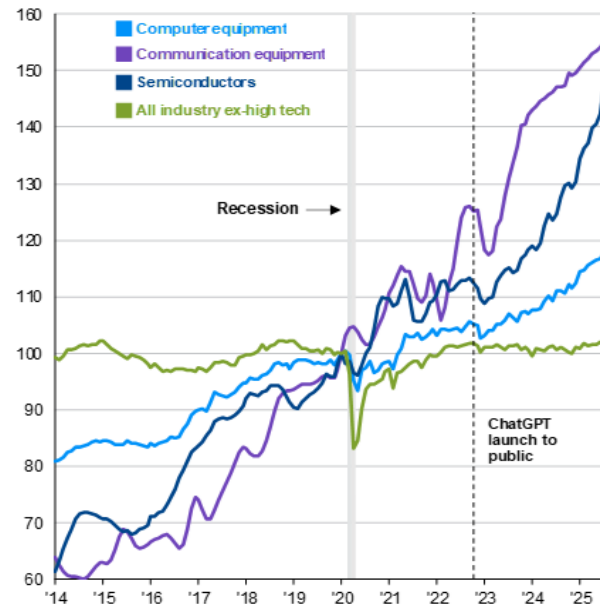


Source: J.P. Morgan Asset Management; (Left) Bloomberg; (Right) Federal Reserve Board.

Data for 2025, 2026 and 2027 reflect consensus estimates. Capex shown is company total, except for Amazon, which reflects an estimate for AWS spend (2004 to 2012 are J.P. Morgan Asset Management estimates and 2012 to current are Bloomberg consensus estimates). \*Hyperscalers are the large cloud computing companies that own and operate data centers with horizontally linked servers that, along with cooling and data storage capabilities, enable them to house and operate AI workloads. \*\*Reflects cash flow before capital expenditures in contrast to free cash flow, which subtracts out capital expenditures. Guide to the Markets – U.S. Data are as of October 27, 2025.

**U.S. industrial production of high tech industries**

Indexed to 100 in Jan 2020

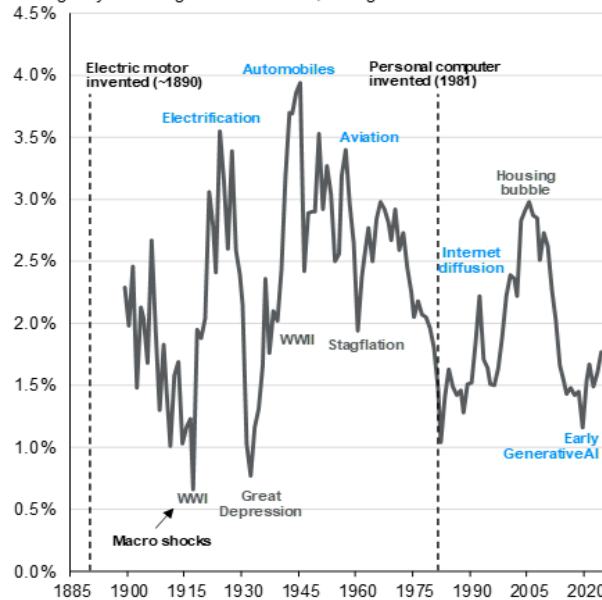


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# Productivity (and Earnings) Can Grow as Adoption Increases

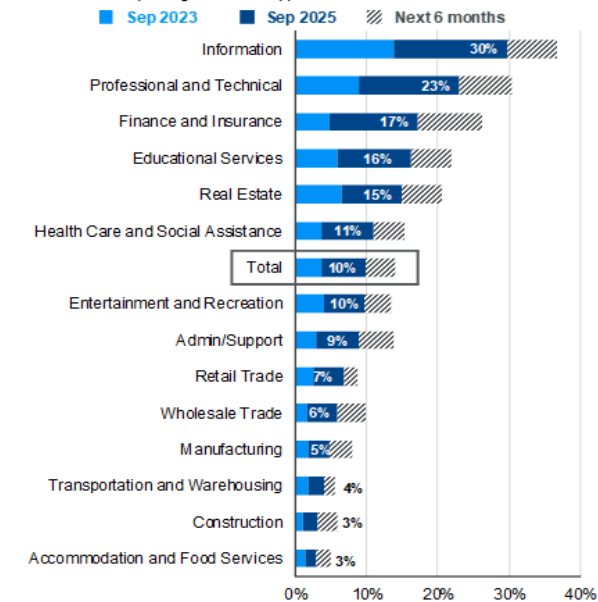
## U.S. labor productivity growth

Trailing 10-year average annualized rate, through 2024



## Businesses using AI to produce goods and services

% of all firms reporting use of AI applications

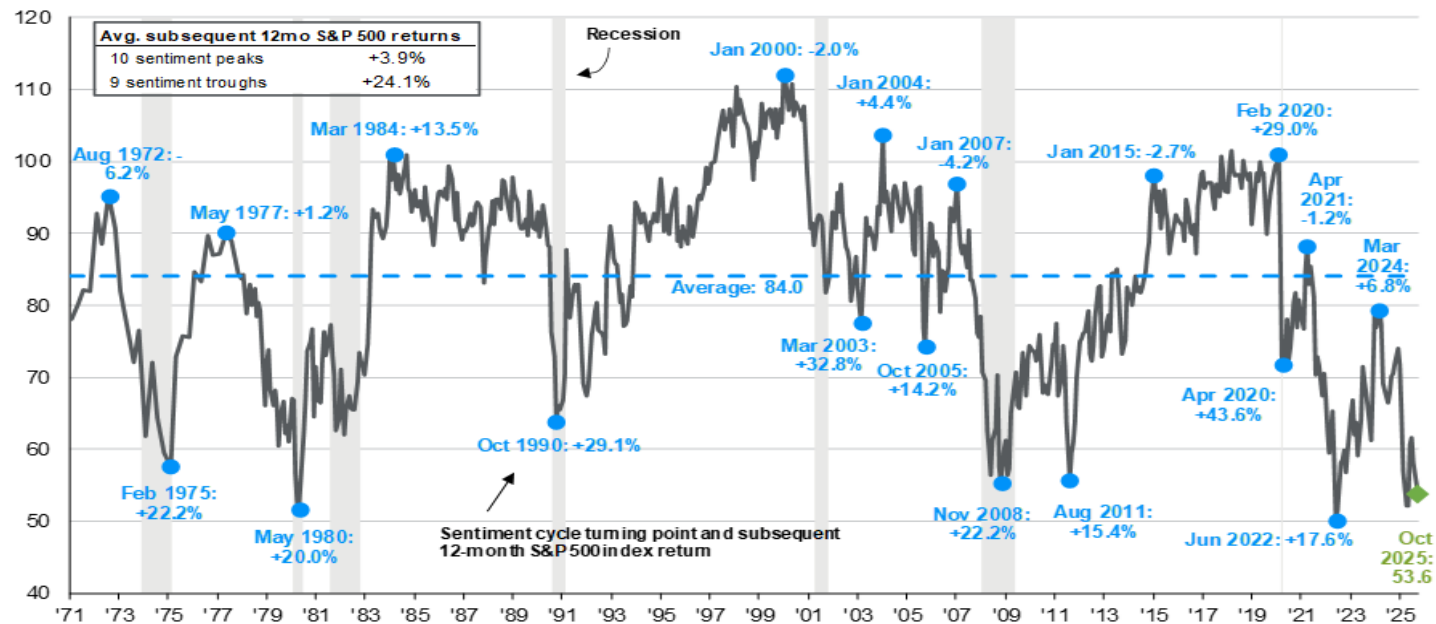


Source: J.P. Morgan Asset Management; (Left) BLS, NBER; (Right) Census Business Trends and Outlook Survey (AI Supplement).  
Data from 1888 to 1957 reflect productivity data for the total private economy from John Kendrick, "Productivity Trends in the United States," NBER. Data from 1958 to 2024 reflect nonfarm productivity data from the BLS.  
Guide to the Markets — U.S. Data are as of October 27, 2025.

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# Consumer Sentiment Remains Depressed

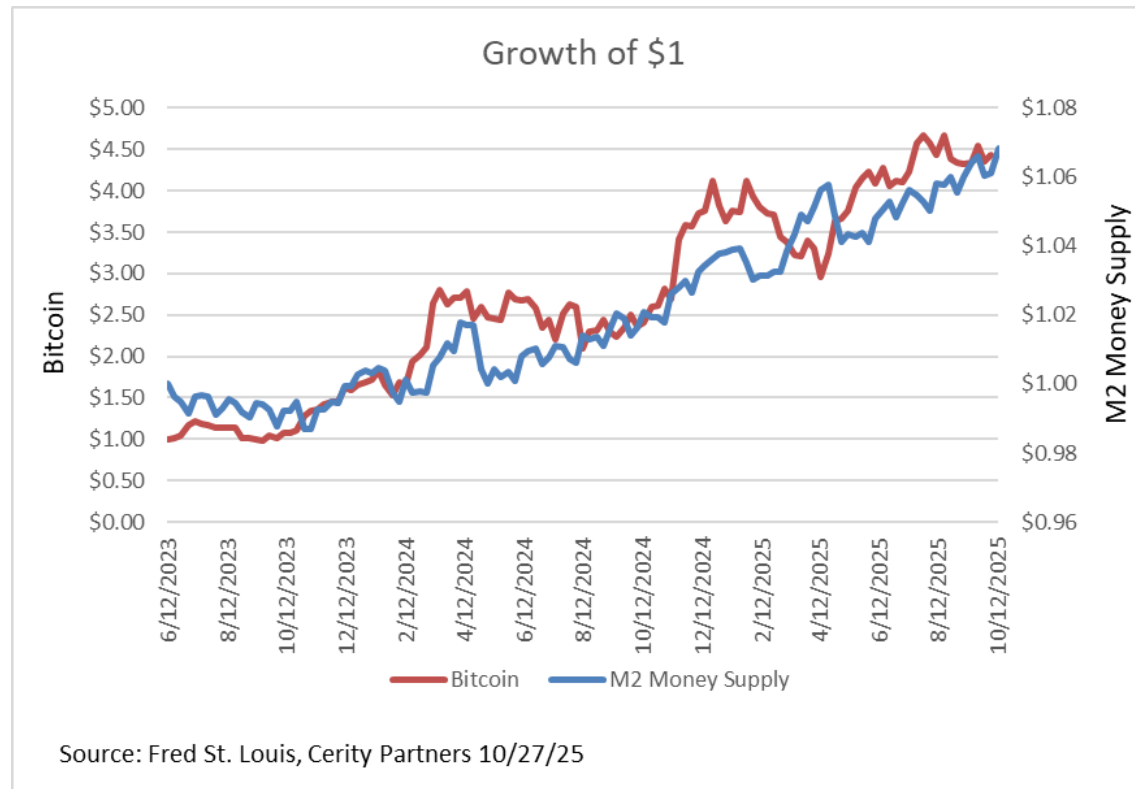
**Consumer Sentiment Index and subsequent 12-month S&P 500 returns**



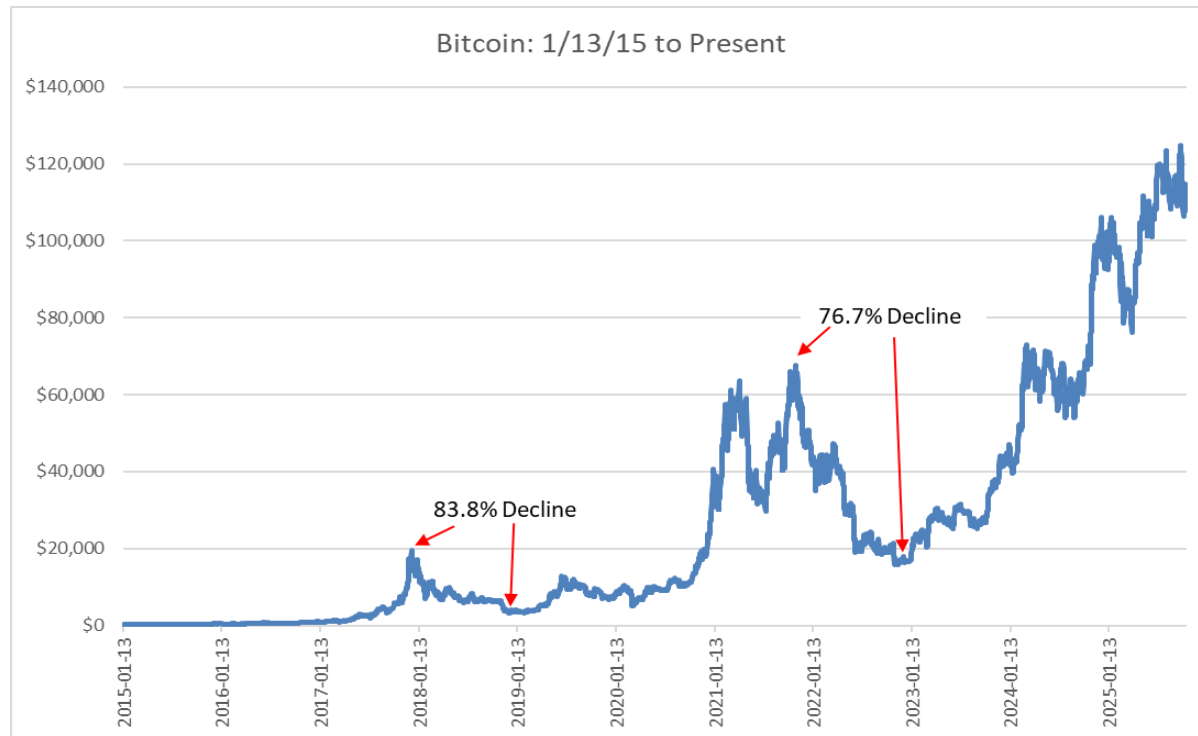
Source: FactSet, Standard & Poor's, University of Michigan, J.P. Morgan Asset Management.  
 Peak is defined as the highest index value before a series of lower lows, while a trough is defined as the lowest index value before a series of higher highs.  
 Subsequent 12-month S&P 500 returns are price returns only starting from the end of the month and excluding dividends. Past performance is no guarantee of future results.  
 Guide to the Markets – U.S. Data are as of October 27, 2025.

**J.P.Morgan**  
 ASSET MANAGEMENT

# Crypto Assets Increasing as US Dollar Money Supply Grows?



## Bitcoin Has Had Material Sell Offs in the Past

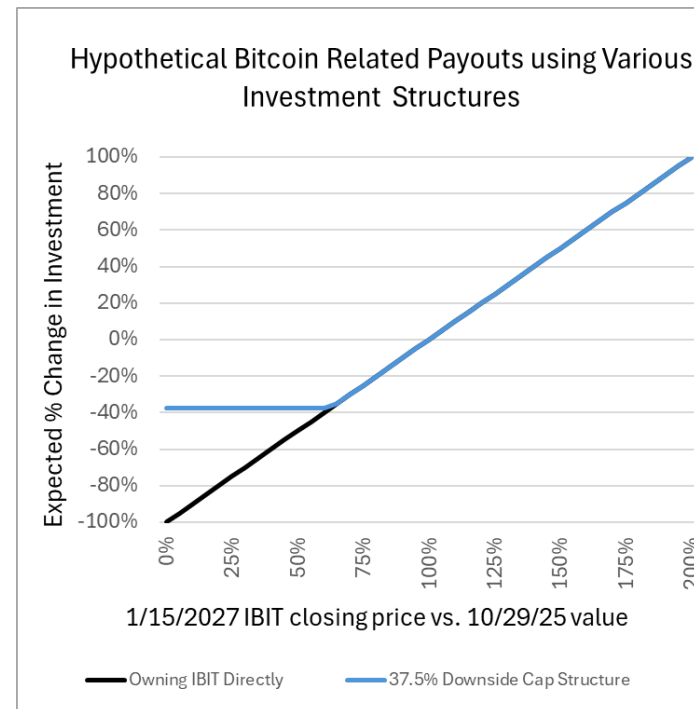


Source: Fred St. Louis, Cerity Partners 10/27/25

# Can other approaches mitigate risk?

Neither Bitcoin nor Options are suitable for all investors. You should have in depth discussions with your advisor.

- › Bitcoin can now be held indirectly through Exchange Traded Funds, e.g., iShares Bitcoin Trust (IBIT)
  - » No passkeys to remember
  - » Can be held in traditional investment accounts
  - » Normal investment taxation
- › Combining investment strategies (e.g., using expected cash earnings to buy options) can replicate Bitcoin upside at option expiration while reducing Bitcoin downside exposure.
  - » Illustration to the right assumes underlying private credit investment with expected cash earnings used to buy various option structures
  - » Private assets, options and crypto currency are not suitable for all investors
  - » Ending values may diverge from expected values



NOT ACTUAL PERFORMANCE. See page 15 for assumptions and limitations.

Source: Bloomberg, Cerity Partners 10/29/2025



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# Important Notes

## SLIDE 13: HYPOTHETICAL PERFORMANCE DISCLOSURES

This chart presents hypothetical, forward-looking performance for illustrative purposes only. It does not reflect actual results, any client account, or a recommendation. Actual results will differ materially.

Chart illustrates different approaches to Bitcoin exposure using various investment structures. Specific assumptions regarding investment types, option structures, strike prices, expiration dates, rebalancing methodology, and implementation details would be determined based on individual circumstances and market conditions. Different assumptions would produce materially different results.

This is a simplified illustration that does not reflect fees, expenses, taxes, or real-world implementation complexities. Results involve significant model risk and uncertainty. Bitcoin investments are highly volatile. The illustration projects from a future date involving substantial uncertainty about future market conditions. Actual outcomes will depend on numerous factors including market timing, implementation details, and individual circumstances.

**Past performance is not indicative of future results.** This is not a solicitation or recommendation to buy, sell or hold any security, and not an indication of portfolio holdings or trading intent.

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A large, solid dark blue triangle pointing to the right, positioned to the left of the main title.

# Top Trust Techniques Under the OBBBA

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**INTERGEN**



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**Theresa Skaine**



**Arkley Mastro**



**Michael Mullaney**



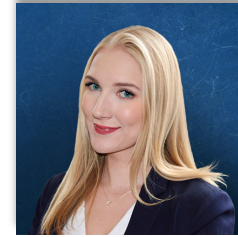
**Verley Brown**



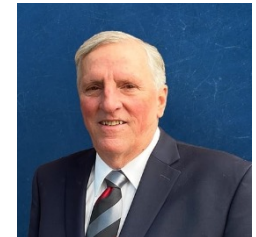
**Brent Stack**



**Tommaso Marasco**



**Patricia Whelan**



**Bob Bosman**

### **Serving New York State Residents Through Offices in:**

Albany, New York City, Ronkonkoma, Garden City, Hudson, Lake Placid, Utica  
Serving Clients in NJ, MA, HI, FL

**Not Pictured:**  
Ethan Van Vorst, JD  
Avery Mickle, JD

# ► What Are Your Client's Goals?

## Protection and Control

- Keep Control Over Wealth and Health
- Financial Security for Clients and Family
- Reduce Taxes- Income, Capital Gains, Estate and Gift, GSTT
- Protection from Risks- creditors, predators, disability and long-term care
- Philanthropic Goals



# ► Goals for Children and Grandchildren

- ▶ Education
- ▶ Financial Security
- ▶ Immaturity Protection
- ▶ Divorce Protection
- ▶ Lawsuit Protection
- ▶ Tax Protection- Gift, Estate, Generation Skipping and Income Taxes



# ► Laying the Foundation

**The failure to execute a Power of Attorney and Health Care Proxy can result in loss of individual control and autonomy.**

- ▶ Persons with little knowledge of a client's health care wishes may become the decision maker
- ▶ A court appointed guardian may obtain the right to make health care and end of life decisions
- ▶ A partner in a non-traditional, loving relationship may have no authority to make financial or health decisions
- ▶ These concerns apply for both health care and financial affairs

# ► New York State Tax Law

- ▶ New York State estate tax exemption for 2025 is \$7.16 million
- ▶ A “Cliff” applies at 1.05% - the entire exemption is lost
  - ▶ Tax on \$7,160,000= \$0.00
  - ▶ Tax on \$7,518,000= \$740,000
  - ▶ Use marital, charitable deductions in drafting to avoid the cliff
- ▶ Unlimited gifting opportunities in New York - *No Gift or GST Tax!*
- ▶ But a 3 year throwback rule brings gifts made within 3 years of death back into the estate - motivation to gift now



# ► NYS Example- Marital Deduction Plan

## Revocable Living Trust

- ▶ Provides an excellent vehicle for lifetime management and avoids Probate at death
- ▶ Upon death of a married Grantor, if the Grantor's spouse is surviving, Trustee will divide trust assets between a Family Trust and Marital Trust
- ▶ Family Trust will receive assets up to the lesser of the Grantor's remaining federal estate tax exemption or New York State estate tax exemption (\$7.16 Million)
  - ▶ Grantor's Generation-Skipping Transfer Tax ("GST") exemption will be allocated to these assets so that the Family Trust is GST exempt (federal tax only)
  - ▶ Various techniques used to fund the Family trust: formula clause, Disclaimer, Clayton QTIP election.

## ► NYS Example continued...

- ▶ Assets in excess of Grantor's federal or New York State estate tax exemption will be held in two Marital Trusts
  - ▶ Reverse QTIP Election: GST Exempt Marital Trust which uses the Grantor's remaining federal GST exemption
  - ▶ Marital Trust: all assets in excess of deceased Grantor's federal GST exemption
- ▶ The Marital Trust defers estate tax until the death of the surviving spouse allowing \$14.32 Million to pass free of NYS Estate Tax

## ► NYS Example continued...

- ▶ Gifting assets more than 3 years prior to death is KEY: avoid NYS estate tax and the cliff (no Gift or GST Tax in NY)
- ▶ In contrast to the federal gift and estate tax exemption, there is no portability for the GST exemption (use it or lose it)
- ▶ Gifting to trusts can eliminate NYS estate tax and minimize federal gift, estate and GST Tax.



# Federal Gift, Estate and Generation Skipping Transfer (GST) Taxes

- ▶ **Gift Tax:** You can gift individuals
  - ▶ Gift Splitting\$19,000 without filing a gift tax return  
\$38,000 per married couple
- ▶ **Federal Gift and GST Tax Exemption:**
  - ▶ Made Permanent in OBBBA2025: \$13,990,000  
2026: \$15,000,000 on Jan 1<sup>st</sup>, 2026
- ▶ **Federal Estate Tax Exemption:**  
2025: \$13,990,000  
2026: \$15,000,000 on Jan 1<sup>st</sup>, 2026
- ▶ **Portability of Estate Tax Exemption- Election on 706**
  - ▶ Married Couple Can Transfer\$30,000,000
- ▶ **NO Portability for GST Tax**  
\$15,000,000 per person (GST exemption requires careful planning)

**INTERGEN**

# ► Combined Federal & New York State Income Tax

## Maximum Income Tax Rate

- ▶ Federal: 37%
- ▶ NYS: 10.9%
- ▶ NYC: 3.6%
- ▶ Net Investment Inc. Tax: 3.8%
- ▶ Combined: 55.3%

## Maximum Capital Gains Rate

- ▶ Federal: 20%
- ▶ NYS: 10.9%
- ▶ NYC: 3.6%
- ▶ Net Investment Inc. Tax: 3.8%
- ▶ Combined: 38.3%

**Applies to all clients- IRAs, Basis Step-up**

# ► Interest Rate Volatility

| (Nov.)                 | 2005  | 2006  | 2007  | 2008  | 2009  | 2010  | 2011  | 2012  | 2013  | 2014  | 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021  | 2022  | 2023  | 2024  | 2025  |
|------------------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Short-term<br>(0-3yrs) | 4.04% | 4.89% | 4.11% | 1.63% | 0.71% | 0.35% | 0.19% | 0.22% | 0.27% | 0.39% | 0.49% | 0.68% | 1.38% | 2.70% | 1.68% | 0.13% | 0.22% | 4.10% | 5.30% | 4.00% | 3.69% |
| Mid-Term<br>(3-9yrs)   | 4.23% | 4.69% | 4.39% | 2.97% | 2.59% | 1.59% | 1.20% | 0.89% | 1.73% | 1.90% | 1.59% | 1.33% | 2.00% | 3.04% | 1.59% | 0.39% | 1.08% | 3.97% | 4.69% | 3.70% | 3.83% |
| Long-Term<br>(9+yrs)   | 4.57% | 4.90% | 4.89% | 4.24% | 4.01% | 3.35% | 2.67% | 2.40% | 3.37% | 2.91% | 2.57% | 2.07% | 2.60% | 3.22% | 1.94% | 1.17% | 1.86% | 3.92% | 4.83% | 4.15% | 4.62% |
| 7520<br>Rate           | 5.0%  | 5.60% | 5.20% | 3.60% | 3.20% | 2.0%  | 1.4%  | 1.0%  | 2.0%  | 2.20% | 2.0%  | 1.60% | 2.40% | 3.60% | 2.0%  | 0.40% | 1.40% | 4.80% | 5.60% | 4.40% | 4.60% |

Annual Applicable Federal Rates (AFR) 2005-2025

# ► Tax Planning and Rates

## Lower Rates Favor

- ▶ GRATs
- ▶ Sales to Grantor Trusts (IDGTs)
- ▶ CLATs
- ▶ Private Annuities
- ▶ Split-dollar Life Insurance, Loan Method
- ▶ § 453 Installment Sales between related parties

## Higher Rates Favor

- ▶ QPRTs
- ▶ GRITs
- ▶ CRATs
- ▶ Graegin Loans
- ▶ Farmland alternative valuation

## Generally Neutral

- ▶ CRUTs
- ▶ CLUTs

## ► Gift and Sale Techniques

- Spousal Lifetime Access Trusts (SLATs)
- Beneficiary Defective Inheritors Trust (BDIT)





# ► Where to Form the Trust?

## **New York**

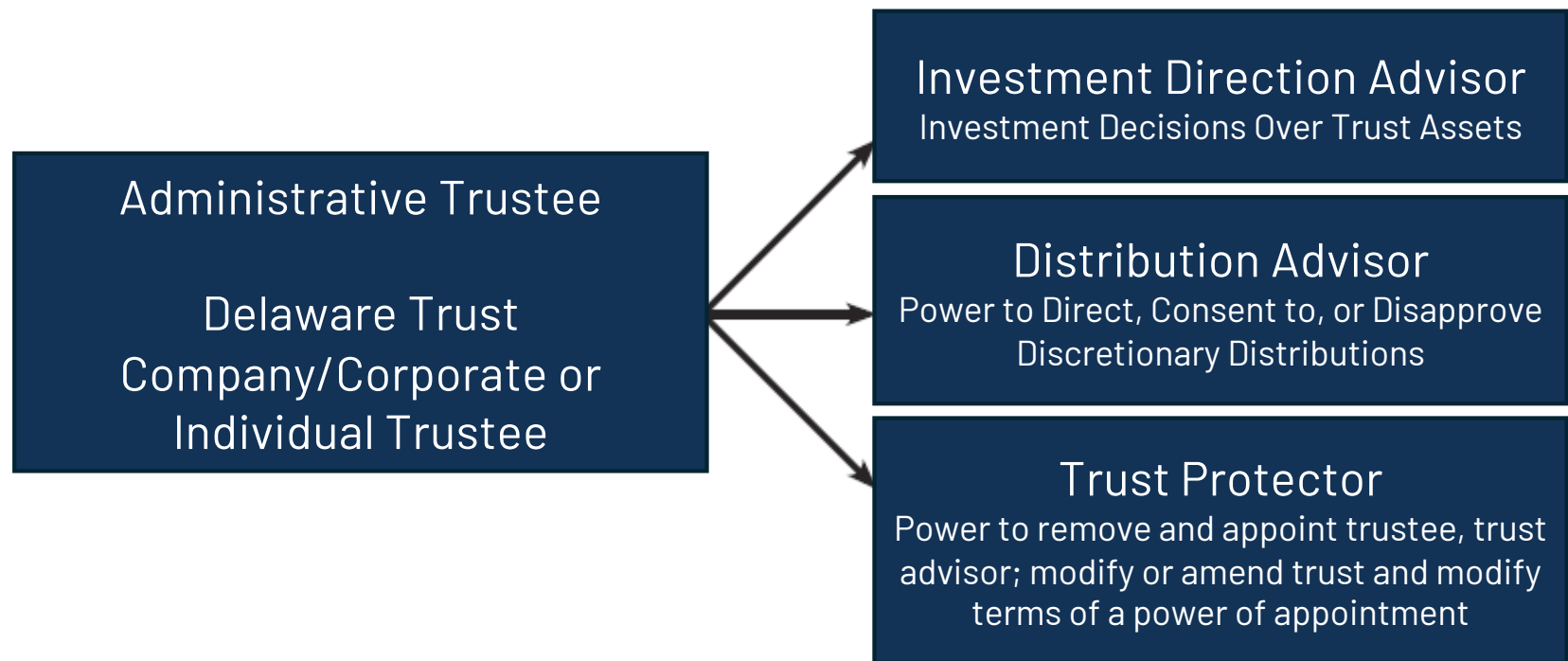
- ▶ Rule against perpetuities – lives in being + 21 years
- ▶ No directed trusts – delegated trust statute
- ▶ Fiduciary income tax
- ▶ Politically elected judges in each county
- ▶ Common law trust advisor

## **Delaware**

- ▶ Trusts can last in perpetuity
- ▶ Fully directed trusts allowed – Investment and Distribution Advisors
- ▶ No fiduciary income tax
- ▶ Court of Chancery
- ▶ Statutory trust protector provisions

Other favorable jurisdictions include: Wyoming, South Dakota, Nevada, Alaska

# ► Delaware Directed Trust- Client Control



# ► Trust Protectors

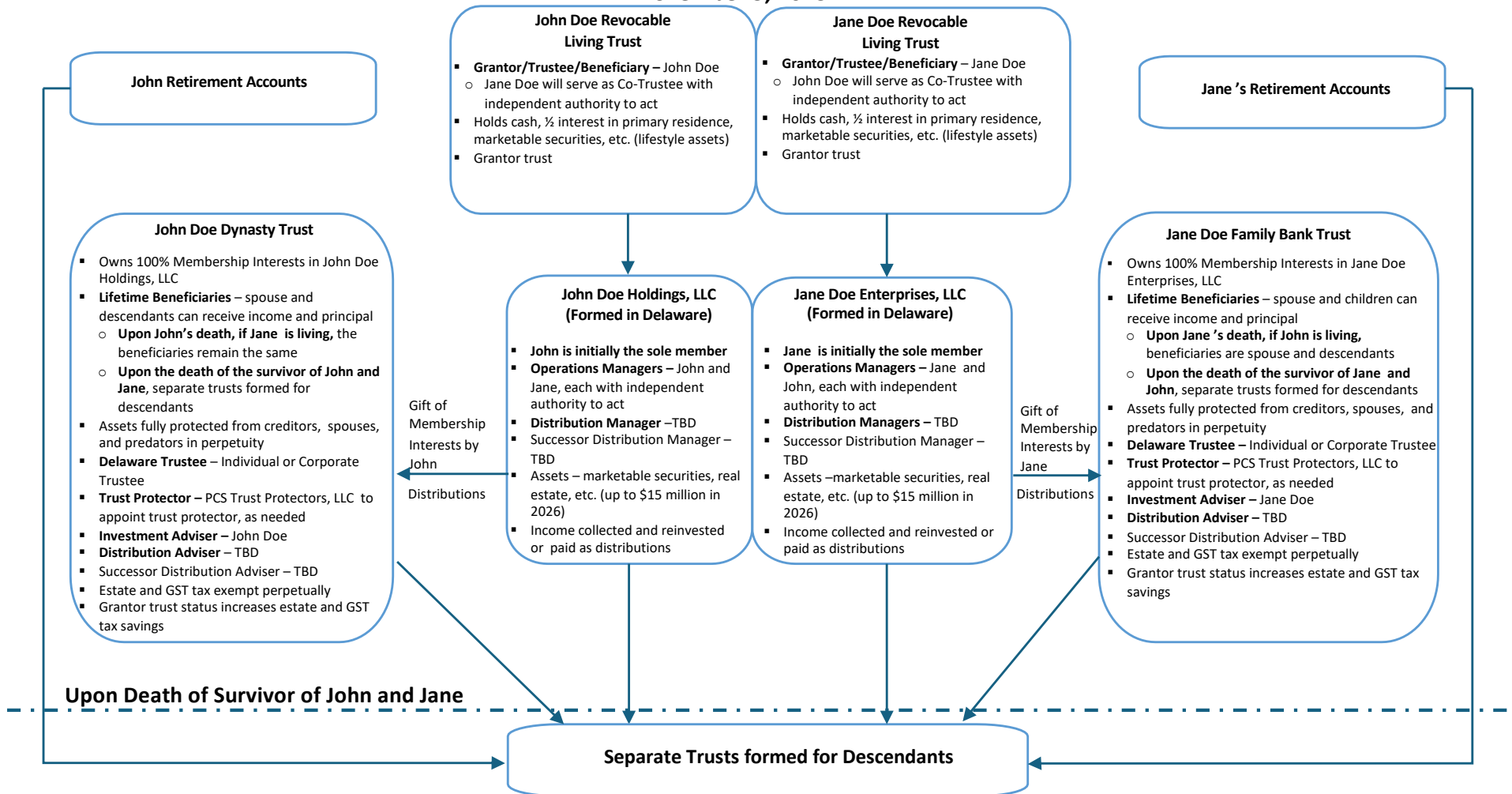
- ▶ Increasing Acceptance of Trust Protectors
  - ▶ Irrevocable isn't so irrevocable anymore
  - ▶ Avoid trust company interference in family business
  - ▶ Adjust for future tax law changes
  - ▶ Avoid loss of basis step-up (grant GPOA)
  - ▶ Can add a Grantor on as beneficiary
- ▶ Reduces Restrictions on the Plan



# ► Spousal Lifetime Access Trusts (SLATs)

- ▶ Use \$15 million Gift and GST exemptions per spouse- \$30 Million total
- ▶ Remove assets for NYS estate tax (3 year rule)
- ▶ Gift to IDGT of \$15 Million and sale for any excess value
- ▶ Family “Dynasty” Trusts- In perpetuity
- ▶ Grantor trust for income tax purposes
- ▶ **FULL CONTROL AND ACCEESS TO FUNDS DURING LIFETIME**

## Proposed Family Estate Plan for John Doe and Jane Doe November 5, 2025



## ► SLAT Mechanics– Clients Over \$30 Million

- ▶ Create and fund two LLCs with a minimum of \$13.99 million of assets each (\$15 Million in 2026)
- ▶ Gift 98% of non-voting membership interests in each LLC to a SLAT
- ▶ Discounts for lack of marketability and control may be available to non-voting interests, historically in the range of 30%-35% (see Empire Valuation outline)
- ▶ Sell 2% voting membership interests in each LLC to a separate “management” trust
- ▶ Spouses can serve as Operations Managers of LLC, maintaining control but having an independent Distribution Manager
- ▶ Collectively, spouses and family have access to all assets as trust beneficiaries

# ► SLAT RISKS

- ▶ Reciprocal Trust Doctrine
  - ▶ Ways to differentiate SLATs
    - ▶ Crummey powers, Limited Power of Appointment, Power to add charitable beneficiaries, different trustees and advisors, different assets, funding trusts on different dates
- ▶ Step Transaction Doctrine – split tax years if possible
- ▶ Estate Inclusion under IRC Sec. 2036 or Sec. 2038 – Proper drafting and administration avoid these rules

# ► Results of a SLAT Plan

- ▶ Retained Control and Use of Assets
- ▶ Enhanced Asset Protection
- ▶ Zero Estate Tax – Use Full \$30 mil. (after discounts)
- ▶ Gift and GSTT Exemptions
- ▶ All Future Growth protected from Estate Tax, Creditors
- ▶ Multi-generational Tax, Divorce and Lawsuit Protection for Children & Descendants





# **The Intersection of Business Succession and Estate Planning**

**INTERGEN**

# ► Using An LLC for Estate Planning

- ▶ Strategy for Holding Assets
  - ▶ Can hold any form of Asset such as active businesses, real estate, marketable securities
  - ▶ Retain protections against liability
    - ▶ Each asset->> Separate Identity ->> Risk Insulation
  - ▶ Membership Interests up to or equaling \$15 million post-valuation can be gifted to one or more trusts in 2026.

# ▶ LLC Formation and Structure

- ▶ Formed as a single-member LLC with two classes of Membership
  - ▶ 2% Voting Interest and 98% Non-Voting Interest
  - ▶ Single Member gifts/sells interests to separate trusts (Delaware Dynasty Trust and a Management Trust)
  - ▶ Married Couples should use 2 LLCs
- ▶ Once sold/gifted, the LLC becomes a partnership of the two trusts
  - ▶ Taxed as Partnership (1065 Return required)
  - ▶ Detailed Operating Agreement = Key

# ▶ LLC Operating Agreement

- ▶ Operations Manager
  - ▶ Client and/or Spouse can still control assets in this role (no estate-taxable powers)
  - ▶ Trustee is a member of the LLC
- ▶ Distribution Manager
  - ▶ LLC distributions controlled by independent 3<sup>rd</sup> Party (IRC 2038)
  - ▶ Client retains operational control of assets

## ► LLC Operating Agreement continued...

- ▶ 2% Voting Interest sold to a Management Trust (a NY Trust)
  - ▶ Trustee is generally a family member, so family retains control and no “strings” for the owner
- ▶ 98% Non-voting interest gifted to an Intentionally Defective Grantor Trust (ideally a Dynasty Trust) – IDGT, SLAT, BDIT
  - ▶ Receives discounted valuation based on lack of control and lack of marketability
  - ▶ Bifurcate Ownership and Control
- ▶ Through provisions of SLAT, family has access to all assets as trust beneficiaries

## ▶ **LLC Operating Agreement continued...**

- ▶ No buy-sell, ROFR or transfer on death provisions
  - ▶ Terms of SLAT control distribution of assets to beneficiaries
  - ▶ No new Members admitted – terms of Management Trust determine succession of trustees who will exercise 2% voting rights
- ▶ Control retention
- ▶ Liability protection

## ► **Beneficiary Defective Inheritor's Trust ("BDIT")**

- ▶ Leverages the benefits of an Irrevocable Delaware, Nevada, etc. trust while maintaining control and access for Client
- ▶ 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
- ▶ Major difference – Assets are sold to a trust with client as Trustee and Beneficiary

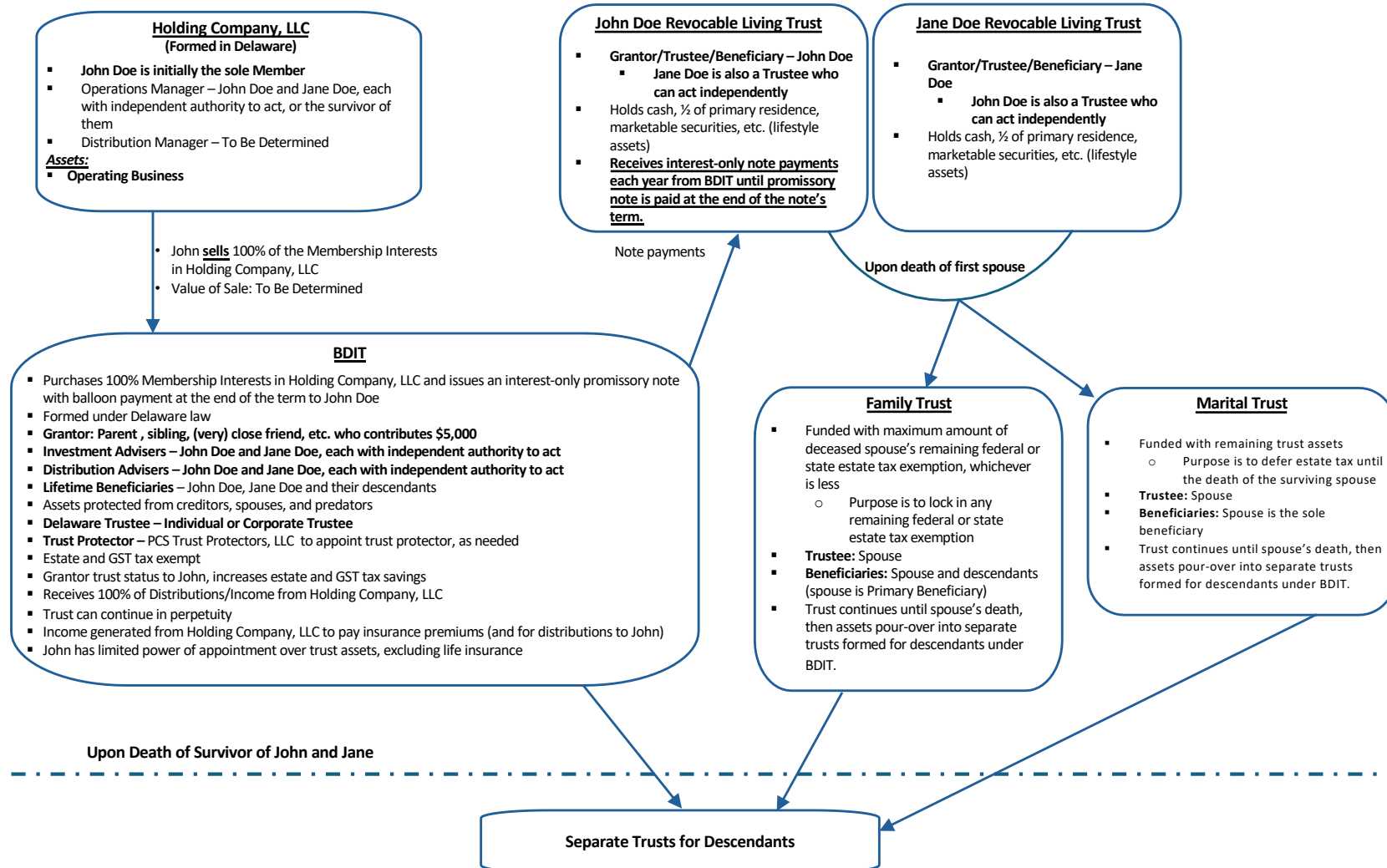
## ► BDIT Structure- Grantor Trust

**BDIT is established by a parent, grandparent, friend (any third party) with a \$5,000 gift to the trust to serve as the 'nominal Grantor'.**

- ▶ No other gifts are made to the BDIT after this initial contribution
- ▶ Primary beneficiary is the client (High Net Worth, Business Owner) who is given the power to withdraw initial \$5,000 contribution
- ▶ Existence of withdrawal power causes BDIT income to be a **Grantor Trust** as to the Client- Beneficiary for income tax purposes. IRC 678
- ▶ Client-Beneficiary/Business Owner sells asset (Discounted LLC interest) to the BDIT for a Promissory Note (SCIN?)



## John and Jane Doe – Proposed Family Estate Plan as of November 5, 2025



## ► Unique Advantages of a BDIT

- ▶ Client-Beneficiary can manage trust assets and control investments as Investment Adviser (excluding life insurance)
- ▶ Client-Beneficiary can control distributions of trust assets for Health, Education, Maintenance and Support as Distribution Adviser (not cash value of life insurance)
- ▶ An Independent Trustee provides continuity and full administrative support – can distribute for any purpose
- ▶ Feel the “Burn” – Income taxed to beneficiary business owner rather than the trust “burning” or reducing otherwise taxable assets

## ► Too Good to Be True?

- ▶ Estate Tax “Freeze” – Sale of business (LLC) at a discounted value removes all future appreciation of the business and other assets from Grantor’s estate and for all future generations
- ▶ Client-Beneficiary can be granted a limited power of appointment over trust assets (not life insurance) to name the ultimate beneficiaries
- ▶ Interest payments to the beneficiary on promissory note from sale of business are not taxable because Beneficiary is considered the grantor of BDIT for income purposes
- ▶ All value and appreciation remains with the Beneficiary and then passes to his/her descendants

# ► Advantages of a BDIT for Life Insurance-Gaining Leverage

- ▶ Pay for multiple life insurance policies because the trust owns businesses and other assets generating significant cash flow
- ▶ No annual gifts to BDIT = no need to file annual gift tax returns or send Crummey letters (as required for typical ILIT)
- ▶ Beneficiary can access cash value of life insurance policy through an independent Trustee
- ▶ Does not require use of the client's GST exemption – business was sold not gifted to BDIT – proceeds are fully estate and GST exempt. Use whole life, variable or PPLI to manage income taxes in the Grantor Trust.



# THANK YOU!

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# Remarks from Our Reception Sponsor

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# **COFFEE BREAK**

**Our Program Resumes in 15 Minutes**



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# NAVIGATING 2025 AND BEYOND: A NEW ERA OF TAXES



# TCJA Provisions Made Permanent

- Lower tax brackets, with maximum rate of 37%
- Increased standard deduction (\$31,500 MFJ, \$23,625 HOH, \$15,750 Single for 2025)
- Increased child tax credit (\$2,200 per child, adjusted annually for inflation)
  - \$500 “other dependent credit” also made permanent
- Personal and dependency exemptions repealed
- Elimination of miscellaneous itemized deductions subject to 2% floor
  - Investment fees, moving expenses, unreimbursed employee expenses
- Qualified business income deduction (20% deduction)
- Excess business loss limitation
- Mortgage interest subject to tighter limits

# New Below the Line Deductions

## TREASURY/IRS AND OMB USE ONLY DRAFT

Form 1040 (2025)

Page **2**

### Tax and Credits

**Standard deduction for—**

- Single or Married filing separately, \$15,750
- Married filing jointly or Qualifying surviving spouse, \$31,500
- Head of household, \$23,625
- If you checked a box on line 12a, 12b, 12c, or 12d, see inst.

|            |                                                                                                                                                                           |            |
|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>11b</b> | Amount from line 11a (adjusted gross income)                                                                                                                              | <b>11b</b> |
| <b>12a</b> | Someone can claim <input type="checkbox"/> You as a dependent <input type="checkbox"/> Your spouse as a dependent                                                         |            |
| <b>b</b>   | <input type="checkbox"/> Spouse itemizes on a separate return <b>c</b> <input type="checkbox"/> You were a dual-status alien                                              |            |
| <b>d</b>   | <b>You:</b> <input type="checkbox"/> Were born before January 2, 1961 <input type="checkbox"/> Are blind                                                                  |            |
|            | <b>Spouse:</b> <input type="checkbox"/> Was born before January 2, 1961 <input type="checkbox"/> Is blind                                                                 |            |
| <b>e</b>   | <b>Standard deduction or itemized deductions</b> (from Schedule A)                                                                                                        | <b>12e</b> |
| <b>13a</b> | Qualified business income deduction from Form 8995 or Form 8995-A                                                                                                         | <b>13a</b> |
| <b>b</b>   | Additional deductions from Schedule 1-A, line 38                                                                                                                          | <b>13b</b> |
| <b>14</b>  | Add lines 12e, 13a, and 13b                                                                                                                                               | <b>14</b>  |
| <b>15</b>  | Subtract line 14 from line 11b. If zero or less, enter -0-. This is your <b>taxable income</b>                                                                            | <b>15</b>  |
| <b>16</b>  | <b>Tax</b> (see instructions). Check if any from Form(s): <b>1</b> <input type="checkbox"/> 8814 <b>2</b> <input type="checkbox"/> 4972 <b>3</b> <input type="checkbox"/> | <b>16</b>  |
| <b>17</b>  | Amount from Schedule 2, line 3                                                                                                                                            | <b>17</b>  |
| <b>18</b>  | Add lines 16 and 17                                                                                                                                                       | <b>18</b>  |
| <b>19</b>  | Child tax credit or credit for other dependents from Schedule 8812                                                                                                        | <b>19</b>  |
| <b>20</b>  | Amount from Schedule 3, line 8                                                                                                                                            | <b>20</b>  |
| <b>21</b>  | Add lines 19 and 20                                                                                                                                                       | <b>21</b>  |
| <b>22</b>  | Subtract line 21 from line 18. If zero or less, enter -0-                                                                                                                 | <b>22</b>  |
| <b>23</b>  | Other taxes, including self-employment tax, from Schedule 2, line 21                                                                                                      | <b>23</b>  |
| <b>24</b>  | Add lines 22 and 23. This is your <b>total tax</b>                                                                                                                        | <b>24</b>  |

TREASURY/IRS AND OMB USE ONLY DRAFT

**SCHEDULE 1-A  
(Form 1040)**

Department of the Treasury  
Internal Revenue Service

**Additional Deductions**

Attach to Form 1040, 1040-SR, or 1040-NR.

Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

OMB No. 1545-0074

**2025**

Attachment  
Sequence No. **1A**

Name(s) shown on Form 1040, 1040-SR, or 1040-NR

Your social security number

**Part I Modified Adjusted Gross Income (MAGI) Amount**

|           |                                                                |           |
|-----------|----------------------------------------------------------------|-----------|
| <b>1</b>  | Enter the amount from Form 1040, 1040-SR, or 1040-NR, line 11b | <b>1</b>  |
| <b>2a</b> | Enter any income from Puerto Rico that you excluded            | <b>2a</b> |
| <b>b</b>  | Enter the amount from Form 2555, line 45                       | <b>2b</b> |
| <b>c</b>  | Enter the amount from Form 2555, line 50                       | <b>2c</b> |
| <b>d</b>  | Enter the amount from Form 4563, line 15                       | <b>2d</b> |
| <b>e</b>  | Add lines 2a, 2b, 2c, and 2d                                   | <b>2e</b> |
| <b>3</b>  | Add lines 1 and 2e                                             | <b>3</b>  |

**Part II No Tax on Tips**

**Caution:** Fill out Part II only if you received qualified tips. You and/or your spouse who received qualified tips must have a valid social security number to claim the deduction. If married, you must file jointly to claim this deduction. See instructions.

|           |                                                                                                                                                                                                                                                                           |           |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>4</b>  | Qualified tips received as an employee.                                                                                                                                                                                                                                   |           |
| <b>a</b>  | If Form W-2, box 5, is \$176,100 or less, enter qualified tips included in Form W-2, box 7. Otherwise, see instructions                                                                                                                                                   | <b>4a</b> |
| <b>b</b>  | Qualified tips included on Form 4137, line 1(c). If Form 4137 is not filed, enter -0-                                                                                                                                                                                     | <b>4b</b> |
| <b>c</b>  | If you only received qualified tips from one employer, enter the larger of line 4a or line 4b. Otherwise, see instructions                                                                                                                                                | <b>4c</b> |
| <b>5</b>  | Qualified tips received in the course of a trade or business.                                                                                                                                                                                                             |           |
|           | Qualified tip amount included in Form 1099-NEC, box 1; Form 1099-MISC, box 3; or Form 1099-K, box 1a. Do not enter more than the net profit from the trade or business. If you received qualified tips in the course of more than one trade or business, see instructions | <b>5</b>  |
| <b>6</b>  | Add lines 4c and 5                                                                                                                                                                                                                                                        | <b>6</b>  |
| <b>7</b>  | Enter the smaller of the amount on line 6 or \$25,000                                                                                                                                                                                                                     | <b>7</b>  |
| <b>8</b>  | Enter the amount from line 3                                                                                                                                                                                                                                              | <b>8</b>  |
| <b>9</b>  | Enter \$150,000 (\$300,000 if married filing jointly)                                                                                                                                                                                                                     | <b>9</b>  |
| <b>10</b> | Subtract line 9 from line 8. If zero or less, enter the amount from line 7 on line 13                                                                                                                                                                                     | <b>10</b> |
| <b>11</b> | Divide line 10 by \$1,000. If the resulting number isn't a whole number, decrease the result to the next lower whole number. (For example, decrease 1.5 to 1, and decrease 0.05 to 0.)                                                                                    | <b>11</b> |
| <b>12</b> | Multiply line 11 by \$100                                                                                                                                                                                                                                                 | <b>12</b> |
| <b>13</b> | <b>Qualified tips deduction.</b> Subtract line 12 from line 7. If zero or less, enter -0-                                                                                                                                                                                 | <b>13</b> |

**Part III No Tax on Overtime**

**Caution:** Fill out Part III only if you received qualified overtime compensation. You and/or your spouse who received the qualified overtime compensation must have a valid social security number to claim this deduction. If married, you must file jointly to claim this deduction. See instructions.

|            |                                                                                                                                                                                        |            |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>14a</b> | Qualified overtime compensation included on Form W-2, box 1 (see instructions)                                                                                                         | <b>14a</b> |
| <b>b</b>   | Qualified overtime compensation included on Form 1099-NEC, box 1 or Form 1099-MISC, box 3 (see instructions)                                                                           | <b>14b</b> |
| <b>c</b>   | Add lines 14a and 14b                                                                                                                                                                  | <b>14c</b> |
| <b>15</b>  | Enter the smaller of the amount on line 14c or \$12,500 (\$25,000 if married filing jointly)                                                                                           | <b>15</b>  |
| <b>16</b>  | Enter the amount from line 3                                                                                                                                                           | <b>16</b>  |
| <b>17</b>  | Enter \$150,000 (\$300,000 if married filing jointly)                                                                                                                                  | <b>17</b>  |
| <b>18</b>  | Subtract line 17 from line 16. If zero or less, enter the amount from line 15 on line 21                                                                                               | <b>18</b>  |
| <b>19</b>  | Divide line 18 by \$1,000. If the resulting number isn't a whole number, decrease the result to the next lower whole number. (For example, decrease 1.5 to 1, and decrease 0.05 to 0.) | <b>19</b>  |
| <b>20</b>  | Multiply line 19 by \$100                                                                                                                                                              | <b>20</b>  |
| <b>21</b>  | <b>Qualified overtime compensation deduction.</b> Subtract line 20 from line 15. If zero or less, enter -0-                                                                            | <b>21</b>  |

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 96872Q

Schedule 1-A (Form 1040) 2025 Created 9/4/25

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TREASURY/IRS AND OMB USE ONLY DRAFT

Schedule 1-A (Form 1040) (2025)

Page **2**

**Part IV No Tax on Car Loan Interest**

**Caution:** Fill out Part IV only if you paid or accrued qualified passenger vehicle loan interest. See instructions to learn more about what is an applicable passenger vehicle.

**22** Applicable passenger vehicle (see instructions). If more than two VINs, see instructions.

|                                         |                                                                                                                                                                                         | Interest for this loan:                                |                    |
|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|--------------------|
| (i) Vehicle identification number (VIN) |                                                                                                                                                                                         | (ii) Deducted on Schedule C, Schedule E, or Schedule F | (iii) Schedule 1-A |
| <b>a</b>                                | <input type="text"/>                                                                                                                                                                    |                                                        |                    |
| <b>b</b>                                | <input type="text"/>                                                                                                                                                                    |                                                        |                    |
| <b>23</b>                               | Add lines 22a and 22b, column (iii)                                                                                                                                                     |                                                        | <b>23</b>          |
| <b>24</b>                               | Enter the smaller of the amount on line 23 or \$10,000                                                                                                                                  |                                                        | <b>24</b>          |
| <b>25</b>                               | Enter the amount from line 3                                                                                                                                                            |                                                        | <b>25</b>          |
| <b>26</b>                               | Enter \$100,000 (\$200,000 if married filing jointly)                                                                                                                                   |                                                        | <b>26</b>          |
| <b>27</b>                               | Subtract line 26 from line 25. If zero or less, enter the amount from line 24 on line 30                                                                                                |                                                        | <b>27</b>          |
| <b>28</b>                               | Divide line 27 by \$1,000. If the resulting number isn't a whole number, increase the result to the next higher whole number. (For example, increase 1.5 to 2, and increase 0.05 to 1.) |                                                        | <b>28</b>          |
| <b>29</b>                               | Multiply line 28 by \$200                                                                                                                                                               |                                                        | <b>29</b>          |
| <b>30</b>                               | <b>Qualified car loan interest deduction.</b> Subtract line 29 from line 24. If zero or less, enter -0-                                                                                 |                                                        | <b>30</b>          |

**Part V Enhanced Deduction for Seniors**

**Caution:** You and/or your spouse must have a valid social security number. If married, you must file jointly to claim this deduction. See instructions.

|            |                                                                                                                                                                                      |            |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| <b>31</b>  | Enter the amount from line 3                                                                                                                                                         | <b>31</b>  |
| <b>32</b>  | Enter \$75,000 (\$150,000 if married filing jointly)                                                                                                                                 | <b>32</b>  |
| <b>33</b>  | Subtract line 32 from line 31. If zero or less, enter \$6,000 on line 35                                                                                                             | <b>33</b>  |
| <b>34</b>  | Multiply line 33 by 6% (0.06)                                                                                                                                                        | <b>34</b>  |
| <b>35</b>  | Subtract line 34 from \$6,000. If zero or less, enter -0-                                                                                                                            | <b>35</b>  |
| <b>36a</b> | If you have a valid social security number (see instructions) and were born before January 2, 1961, enter the amount from line 35                                                    | <b>36a</b> |
| <b>b</b>   | If you are married filing jointly, your spouse has a valid social security number (see instructions), and your spouse was born before January 2, 1961, enter the amount from line 35 | <b>36b</b> |
| <b>37</b>  | <b>Enhanced deduction for seniors.</b> Add lines 36a and 36b                                                                                                                         | <b>37</b>  |

**Part VI Total Additional Deductions**

|           |                                                                                                              |           |
|-----------|--------------------------------------------------------------------------------------------------------------|-----------|
| <b>38</b> | Add lines 13, 21, 30, and 37. Enter here and on Form 1040 or 1040-SR, line 13b, or on Form 1040-NR, line 13c | <b>38</b> |
|-----------|--------------------------------------------------------------------------------------------------------------|-----------|

Schedule 1-A (Form 1040) 2025

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## “No Tax” On Tips

- Income tax deduction allowable for “qualified tips” of **up to \$25,000** per tax year
  - Married taxpayers must file a joint return to claim the deduction
- “Qualified Tips”
  - Must be earned in an occupation that customarily/regularly received tips prior to 2025
  - Tip must be a payment made free from compulsion with customer free to determine the amount and the recipient
- Deduction phases out with MAGI between \$150,000 and \$400,000 (\$300,000 and \$550,000 MFJ)
  - Lose \$100 of deduction per \$1,000 of excess income over MAGI limit
- Effective from 2025 - 2028

## “No Tax” On Overtime

- Income tax deduction allowable for “qualified overtime” pay of **up to \$12,500** per tax year (**\$25,000 for MFJ**)
- Qualified Overtime
  - ONLY includes overtime required to be paid under the FLSA (“time and a half”)
  - Regular time wages paid for OT hours do not qualify - only the HALF portion is qualified
  - Must be included on the Form W-2 or 1099-NEC
- Deduction phases out with MAGI between \$150,000 and \$275,000 (\$300,000 and \$550,000 MFJ)
  - Lose \$100 of deduction per \$1,000 of excess income over MAGI limit
- Effective from 2025 - 2028

# Auto Loan Interest

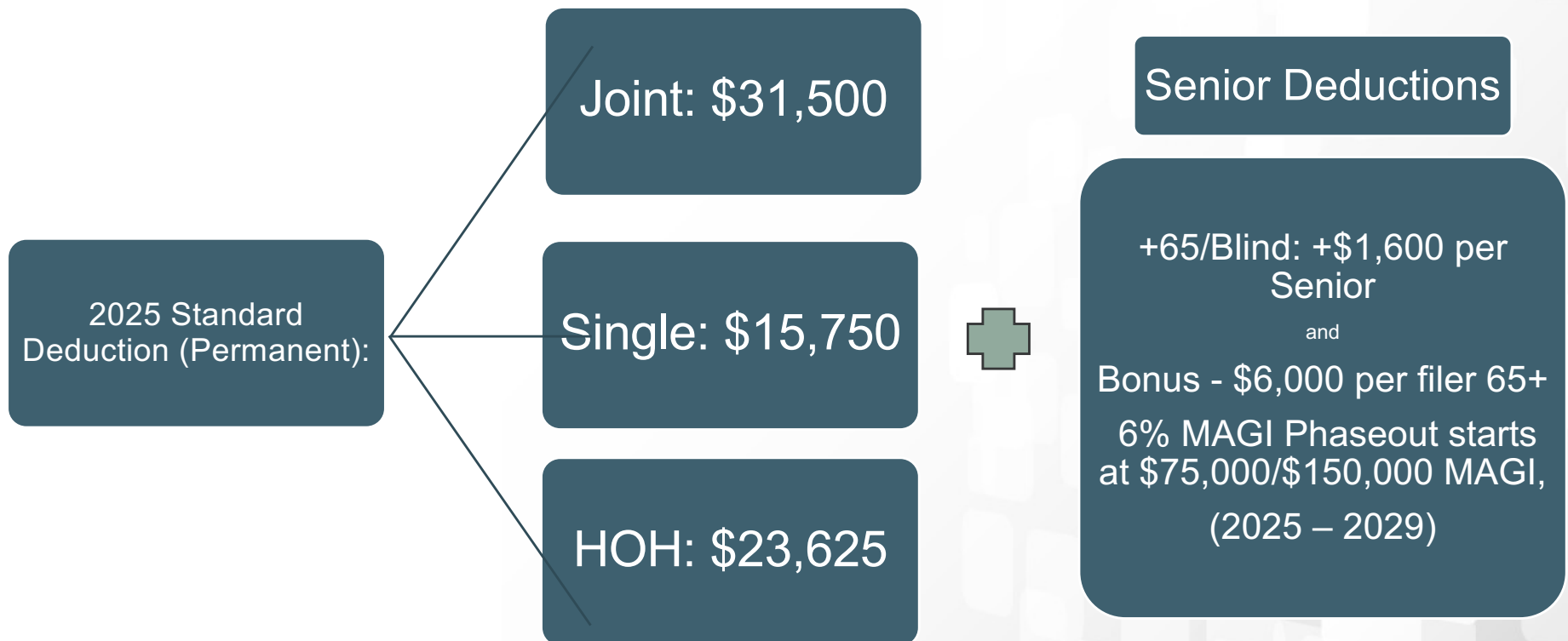
- Deduction of up to \$10,000 for interest paid/accrued on car loan
  - Loan must have been taken out after 2024
  - Must be a NEW vehicle and final assembly must occur in the U.S.
  - Vehicle must be for PERSONAL use
- Deduction begins to phase out when MAGI exceeds \$100,000 (\$200,000 for MFJ)
- Effective 2025 - 2028

# Senior Citizen Deduction

- **NEW \$6,000** deduction for each filer aged 65 or older
- Phases out starting at \$75,000 MAGI for single and \$150,000 MAGI for MFJ
- SSN required
- Cannot file MFS
- Effective 2025 – 2029



## Standard Deductions, Example



# SALT Deduction

- SALT cap deduction increases from \$10,000 to \$40,000 starting in 2025 (MFS increases to \$20,000)
- Deduction phases out between \$500,000 - \$600,000 MAGI (\$250,000 - \$300,000 for MFS)
  - > Phaseout can only reduce deduction to \$10,000 (\$5,000 MFS)
- Effective 2025 - 2029
- NOTE: PTET is not subject to these limits and will still be beneficial in many cases

# Charitable Deductions - Individuals

- Taxpayers who take standard deduction can claim a \$1,000 deduction (\$2,000 MFJ) for donations made to qualified charities
  - Cash donations only – not stock, property, DAFs
  - Below the line deduction
- For itemizers, new 0.5% floor for charitable donations
  - Donations will be reduced by 0.5% of the taxpayer's AGI
  - Carryovers from years prior to 2026 will not be subject to the new floor
- **Effective for tax years starting AFTER 12/31/25**
  - Itemizers may want to make more donations in 2025 prior to new law
  - Consider QCDs from RMDs if applicable, especially 2026 & forward

## Charitable Deductions - Individuals

Example: In 2026, John and Jane (MFJ) have AGI of \$300,000 and made total donations of \$2,500.

$0.5\% \text{ Floor} = \$300,000 \times 0.5\% = \$1,500 \text{ floor}$

$\$2,500 - \$1,500 \text{ floor} = \$1,000 \text{ deductible contributions}$

# Phaseout of Itemized Deductions

- Taxpayers in the 37% bracket will be subject to additional limitations on itemized deductions
  - Effectively reduces the tax savings to 35% rather than 37%
  - Calculation = deduction reduced by  $\frac{2}{37}$ th of the lesser of
    - > Total itemized deductions or
    - > The amount the taxable income exceeds the threshold for the 37% tax bracket
- Effective starting in 2026
- Planning tip: “bunch” charitable deductions in 2025

## Bonus Depreciation Changes

- **100% Bonus depreciation reinstated for property acquired and placed in service after 1/19/2025**
- If property was under contract prior to 1/20/2025 – subject to old bonus depreciation limits
  - Limited to 40% for property placed in service 2025
  - Limited to 20% for property placed in service 2026
  - Not allowed for property placed in service 2027 or later
- Need more guidance for property under construction prior to 1/20/2025
  - Acquisition date may depend on specific contract language

## Section 179 Expense Changes

- **179 expense limitation increased to \$2,500,000**
- **Investment limitation increased to \$4,000,000**
- These changes are permanent and will be adjusted for inflation each year after 2025
- Effective beginning 1/1/2025

# Qualified Small Business Stock (QSBS) Gain Exclusion

## Gain Exclusion for disposition of Qualified Small Business Stock (C Corporation)

### Eligibility:

- Stock is acquired at original issuance after 1993
- Be a qualified small business at time of issuance
- Meet an active business requirement during stock holding period

### Qualified Small Business:

- Aggregate FMV of gross assets does not exceed \$75 million (\$50 million prior to 7/4/2025)
- Agrees to submit any reports to IRS and shareholders as required by IRS



## Qualified Small Business Stock (QSBS) Gain Exclusion

50%

- Stock acquired after August 10, 1993 and on or before February 17, 2009
- Held for 5 years

75%

- Stock acquired after February 17, 2009 and on or before September 27, 2010
- Held for 5 years

100%

- Stock acquired after September 27, 2010 and before July 4, 2025
- Held for 5 years

Cumulative gain from single issuer of stock is limited to greater of \$10 million or 10-times taxpayer's basis in stock.

# Qualified Small Business Stock (QSBS) Gain Exclusion

New tiers created for QSBS acquired after July 4, 2025:

100%

- Stock held for five or more years

75%

- Stock held for four years

50%

- Stock held for three years

Cumulative gain from single issuer of stock is limited to greater of \$15 million or 10-times taxpayer's basis in stock.

## Additional Tax Changes

- **Immediate expensing of R&D costs starting in 2025.**
  - Look back provisions for small businesses.
  - Immediate expensing of 2022-2024 capitalized expenditures in 2025/2026.
- **Elimination of Inflation Reduction Act Energy Credits.**
- **Qualified Opportunity Zone Program expanded and made permanent.**
  - 10 year rolling state recertifications.
- **Fica Tip Credit Expanded to include beauty service businesses.**
- **Credit for business provided childcare.**

# Trump Accounts v. Roth IRA v. 529 Plan v. UTMA/UGMA

| Feature                           | Trump Account                                                                           | Roth IRA                                                        | 529 Plan                                                    | UTMA/UGMA Account                                      |
|-----------------------------------|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------|
| <b>Owner</b>                      | Minor (custodial)                                                                       | Individual (must earn income)                                   | Parent/guardian (beneficiary = child)                       | Minor (custodial)                                      |
| <b>Initial Seed</b>               | \$1,000 government                                                                      | None                                                            | None                                                        | None                                                   |
| <b>Contribution Limit</b>         | \$5,000/year (COLA adjusted) – Subject to gift tax rules                                | \$7,000/year (2025 limit)                                       | No federal limit; state varies<br>Subject to gift tax rules | No annual federal limit, but subject to gift tax rules |
| <b>Income Requirement</b>         | ✗ No earned income needed                                                               | ✓ Must have earned income                                       | ✗ No income required                                        | ✗ No income required                                   |
| <b>Tax on Contributions</b>       | ✗ Not deductible                                                                        | ✗ Not deductible                                                | ✗ Federally not deductible                                  | ✗ Not deductible                                       |
| <b>Tax on Growth</b>              | ✓ Tax-deferred                                                                          | ✓ Tax-free if qualified                                         | ✓ Tax-free if qualified                                     | ✗ Taxable annually (may be subject to Kiddie Tax)      |
| <b>Withdrawal – Qualified Use</b> | Taxed under Traditional IRA rules – ordinary income in excess of basis                  | Tax free if for a qualified use or age requirement met          | 🎓 Tax-free if used for qualified education                  | Must benefit the child. Tax on unearned income         |
| <b>Withdrawal – Nonqualified</b>  | Taxed under Traditional IRA rules – see qualified use plus 10% early withdrawal penalty | Ordinary income + 10% penalty before 59½, subject to exceptions | Tax + 10% penalty on earnings                               | No penalty, but taxes due on unearned income           |
| <b>Investment Options</b>         | Low-cost stock index fund required                                                      | Any stocks, ETFs, mutual funds                                  | Limited to plan's offerings                                 | Broad – stocks, mutual funds, ETFs, etc.               |
| <b>Control Over Funds</b>         | Transfers to child at age 18 as traditional IRA                                         | Owner keeps full control                                        | Owner keeps control– optional transfer to Roth IRA possible | Transfers to child at majority (18–21)                 |

# 1099 Reporting

## **1099 MISC or 1099 NEC required reporting**

- Payments in the course of business greater than or equal to \$2,000
- Effective after 12/31/2025
- Adjusted for inflation thereafter

## **1099 K – required reporting if (backup withholding rules apply starting in 2026)**

- Gross amount of payments is more than \$20,000 AND
- Total number of transactions is more than 200.

## **Passenger vehicle loan interest**

- 1098 equivalent will be required for interest paid over \$600

# IRS Electronic Payments

## Required Electronic Direct Deposits – effective 9/30/2025

The IRS will **no longer accept paper checks** after \_\_\_\_\_.

- “As soon as practicable”
- Estimates, Extensions, Return Balances Due

Set up an account on the IRS website for direct payments and recordkeeping

**OR**

Pay on IRS website via DirectPay – will require keeping own records





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7 Washington Square  
Albany, NY 12205



QUESTIONS?





# Beyond the Numbers: Getting Business Valuation Right

---

Nathan Schroeder  
Managing Director  
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**Privileged & Confidential**





## Empire Corporate Overview

---

- One of the largest independent valuation firms in the U.S.
  - Founded in 1988; have performed tens of thousands of business and intangible valuations across the globe
  - Specialize in providing independent valuations
    - Valuation is our specialty and our only business
    - Your valuation project is our #1 priority and only focus
  - Highly credentialed and experienced staff
  - Offices in New York, San Francisco, Rochester, and Boston
- 

Experience Excellence

## Our Experience and Expertise

- We have over 35 years of experience in business valuation
- We perform over 1,500 valuations per year
- Our experience transcends industries and all sizes and stages of a company's life cycle
- Our professionals apply both common and uncommon valuation methods that are in the best interest of our clients



Experience Excellence



## Trust & Estate Group Experience

---

- Empire performs over 600 estate and trust valuations each year
  - Operating companies
  - Real estate and investment holding companies
  - Carried interest
  - Royalty interest
  - Sports franchises
  - Promissory notes
  - Split-Dollar Insurance

---

Experience Excellence



## Why Do I Need A Valuation?

---

- Estate/corporate planning
- Income tax reporting, including gift tax
- Financial reporting

---

Experience Excellence

# Overview of Empire's Valuation Process

## SCOPE OUT ENGAGEMENT

Speak with client to get preliminary information and determine scope of valuation

Economic and industry research

Financial market research and analysis and value determination

Follow-up questions; Draft analysis provided; review analysis with management

## VALUATION

## DATA & INFORMATION GATHERING

Financials and projections prepared and submitted to valuation firm, along with additional company information

Due Diligence Meeting held with management

## COMPLETION

Finalize analysis and report

Experience Excellence



## Scope Out Engagement - an Empire Process

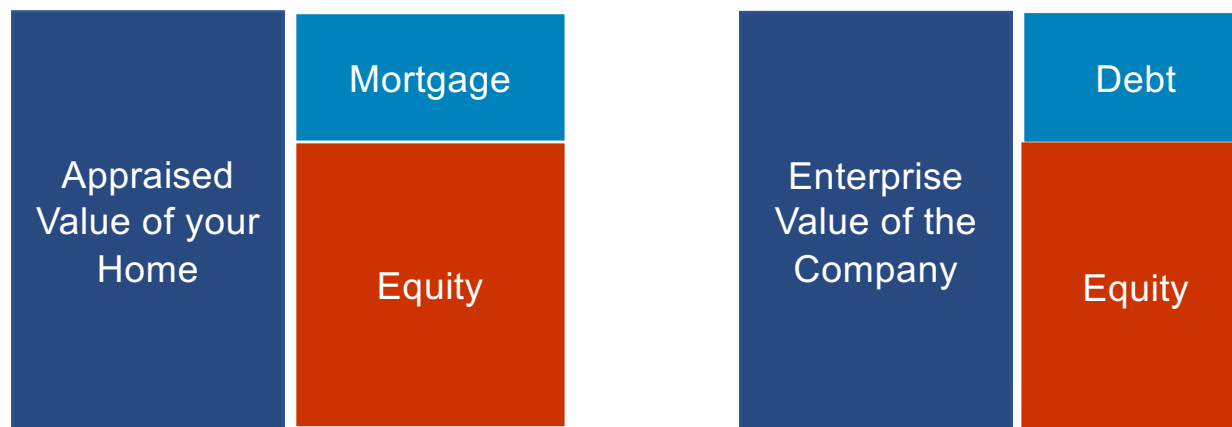
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- Information requested to scope out engagements:
  - Purpose (gift, corporate/estate planning, potential sale, etc.)
  - Five years of financial statements
  - Capital structure of company
  - Industry info
  - Any potential financing in the near-term
  - Any potential transactions in the near-term (sale, acquisition, etc.)



## What is a Valuation?

- A valuation is similar to a real estate appraisal. Instead of determining how much your home is worth, it determines the enterprise value of the business.





## Standards of Value

---

### ■ Fair Market Value

- **Definition:** “the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts” (IRS Treasury Regulations 20.2031-1(b))
  
- **Focus:** Buyer and seller are hypothetical and typical
  - Used for gift and estate tax planning and reporting, charitable contributions, and employee stock ownership plans (ESOPs)





## Standards of Value (continued)

---

### ■ Fair Value (financial reporting)

- **Definition:** “the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date” (Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 820))
- **Focus:** Market participants and willing buyer but NOT necessarily a willing seller

### ■ Fair Value (legal)

- varies state to state and is defined by legal statutes and case law.
- Used on shareholder disputes and marital disputes



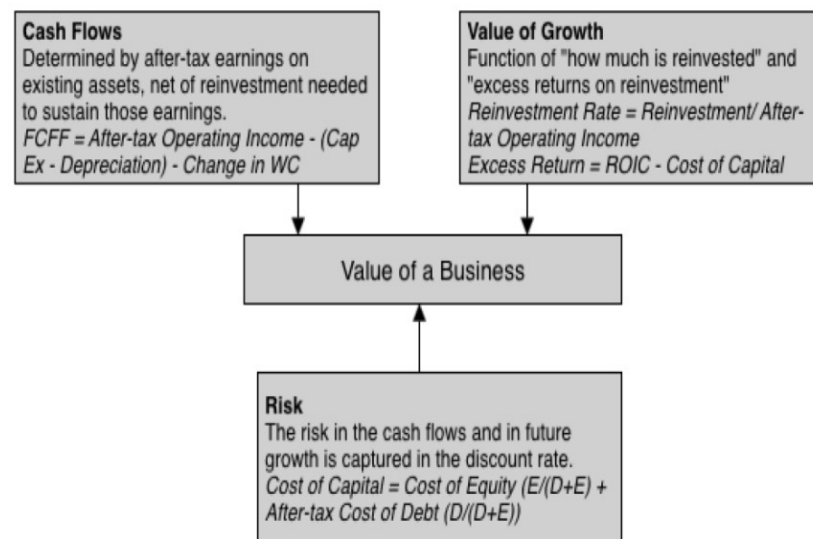
## Valuation Methodologies

---

- Income Approach
  - Capitalization of historical cash flow
  - Discounted cash flow (“DCF”)
- Market Approach
  - Guideline publicly-traded
  - Guideline transactions
  - Prior transactions
- Cost or Asset Approach
  - Adjusted net asset value
- Each may be used separately and in conjunction with each other in a weighted approach or as a reasonableness test

# Income Approach

- The **Income Approach** uses valuation techniques to estimate value based on an expected stream of benefits (earnings or cash flows) adjusted for projected growth and estimated risk.
- Two common methods under this approach are:
  - capitalization of benefits method (“Earn Cap”), which is based on adjusted historical results; and
  - the discounted future benefits method (“DCF”), which is based on discrete projections for several future periods.



Source: Aswath Damodaran, *Musings on Markets: Tax Reform, 2017: Promise of Plenty or Poisoned Chalice?*, October 10, 2017

## Market Approach

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www.glasbergen.com



**“Is it better to invest during a bull market or bear market?  
Depends...would you rather be gored or mauled?”**

- The **Market Approach** uses prices and other relevant information generated by market transactions.
- Two common methods under this approach are:
  - the guideline company method, which considers transactions that generally involve minority positions in publicly-traded companies; and
  - the guideline transaction method, which considers third-party and arms-length transactions in the subject company as well as transactions in similar entities.

## Cost or Asset Approach

- The **Asset Approach** determines the value of a business based on the value of its assets net of liabilities.
- Typically, the asset-based approach should be considered in valuations conducted at the enterprise level and involving:
  - real estate holding company
  - investment holding company
  - a business appraised on a basis other than as a going concern
    - nascent companies, troubled companies with minimal earning potential, or companies facing likely near-term liquidation





## General Factors Affecting Valuations

---

- Profitability
- Company's performance, relative to similar companies in the industry
- Balance sheet
- General economic conditions
- Industry and industry trends
- Management team and company outlook
- Customer Concentration





## Current Factors Affecting Valuations

---

- General economic uncertainty
- Interest rates
- Recent supply chain and labor market issues
- Overall market multiples/M&A activity
- Anticipated tax or tariff changes from Administration



## Business Owners – Exit or Growth?

---

### ■ Potential Exit Strategies

- Sale or transfer to family members
- Sale to a third party (competitor, or company in a complementary industry)
- Sale to a third party (private equity or investor)
- Sale to ESOP
- Sale to management team

### ■ Potential Growth Strategies

- Acquisition of a competitor or company in a complementary industry to gain market share or size
- Entry into new market/product line; could be organic growth or acquisition



## Key Valuation Characteristics

### What's the Company's Story

---

#### Fundamentals

- Distressed or fundamentally strong

#### Business cycle sensitivities

- cyclical, sensitive, defensive

#### Lifecycle stage

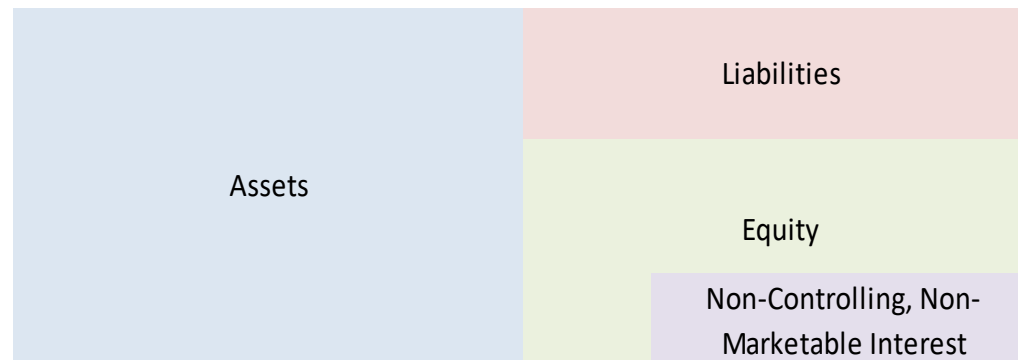
- start-up, high growth, slow growth, decline

#### Degree of specialization

- franchise or commodity-like

## Levels of Value

- Controlling (marketable)
- Non-controlling, marketable
- Non-controlling, non-marketable





## Discount for Lack of Marketability (DLOM)

---

- What effort and/or costs would be required to convert the subject interest into cash or liquidity?
- Very difficult to Quantify
- **Restricted Stock Studies** (RSS) are often used as the basis (medians ranging between 15%-35% for one- and two-year holding periods)
  - Factors impacting discount in the RSS (Very Strong Relationships)
    - Volatility
    - Block Size
    - Dividends
    - Profitability (only a Strong Relationship)



## DLOM (continued)

---

- Qualitative factors that Empire considers:
    - Level of Distributions
    - Information Access and Reliability
    - Transfer/Withdrawal Restrictions
    - Put Option Rights
    - Expected Holding Period
    - Historical Trading Activity
  
  - Synthetic Put Option as a proxy DLOM
-



## Crypto Valuations – Fundamental Factors (cont'd)

---

### ■ Technology and Innovation:

- The robustness of the underlying blockchain technology, including its security, scalability, and efficiency, is important. Ongoing development progress and successful network upgrades can boost investor confidence.

### ■ Network Effects and Adoption:

- A larger network of users and increasing real-world adoption make a cryptocurrency more valuable (e.g., the more businesses that accept it, the greater its utility).

### ■ Decentralization and Governance:

- A truly decentralized network, free from control by a single entity, often appeals to investors seeking a secure, censorship-resistant alternative to traditional finance. The governance model (how decisions are made for the project's future) also impacts trust.

### ■ Cost of Production

- For "mineable" cryptocurrencies, the cost of mining (electricity and computing power) can act as a floor for the price, as miners need to cover their costs.



## Crypto Valuations – Market and External Factors

- **Market Sentiment and Speculation:** Crypto markets are highly speculative and volatile. Investor emotions, such as "fear of missing out" (FOMO) or "fear, uncertainty, and doubt" (FUD), and social media hype can cause rapid price swings.
- **Liquidity and Trading Volume:** High liquidity and trading volume (found on major exchanges) make it easier to buy and sell without significant price impact, indicating a healthier market.
- **Regulatory Environment:** Government regulations and official announcements (e.g., bans, tax rules, ETF approvals) significantly impact investor confidence and market prices.
- **Macroeconomic Conditions:** Broader economic trends like inflation rates, interest rates, or recessions can influence the crypto market, as investors may seek alternative assets to hedge against economic instability or, conversely, sell off risky assets during downturns.
- **Major News and Global Events:** Geopolitical events, high-profile hacks, or announcements from influential companies and individuals can cause sudden market shifts.





## Other Crypto Assets

---

- **Stablecoins:** These are designed to have a stable value, often pegged to a fiat currency like the U.S. dollar, a commodity like gold, or other crypto assets. They aim to reduce volatility and can be backed by reserves or use algorithms to maintain their price stability.
- **Utility Tokens:** These tokens grant a user the right to a product or service on a particular blockchain platform. They are used to access specific features or functionality within a network.
- **Security Tokens:** These are tokens that represent an ownership stake in an external asset, like a company's stock or real estate. They are often sold through events like an Initial Coin Offering (ICO) or Initial Token Offering (ITO) and are subject to securities regulations.
- **Non-Fungible Tokens (NFTs):** Unlike cryptocurrencies which are fungible (interchangeable), NFTs are unique and represent ownership of a specific, one-of-a-kind item. This can be digital art, a collectible, a video, or even a physical object.
- **Altcoins:** This is a broad category that includes all cryptocurrencies other than Bitcoin. Many altcoins are designed to offer different features, such as faster transaction times, enhanced privacy, or unique smart contract capabilities.
- **Central Bank Digital Currencies (CBDCs):** These are digital forms of a country's fiat currency, issued and backed by the central bank. They are different from cryptocurrencies as they are centrally controlled.



## Crypto Assets: How to Value?

---

- Valuation Theory: **Discounted Cash Flow or Market**
    - Intrinsic Value? Hard to Impossible to Determine
  - DCF Approach
    - Does the asset generate (or have the potential to generate) Licensing or Royalty Payments?
  - Market Approach
    - Does the asset trade regularly on an exchange (i.e., Bitcoin)
    - If not, what was the cost to acquire the asset (arm's length? time lapsed since?, etc.)
    - Are there similar assets with recent market transactions that one could use to imply value?
  
  - Thinly traded Cryptocurrencies and NFTs are particularly difficult
  - Markets extremely volatile
  - Market data is often no reliable or legitimate
  - Macro Trends important
-





## Valuation of Royalty Interests

- Important Characteristics of Royalty Interests
  - Considered low risk as generated by IP already created
  - Need to understand if new IP is being created or merely a historical view
  - Typically has few expenses associated – mailbox money
- Income Approach most widely used among Valuation Professionals
  - Unique nature of Royalty Streams makes it difficult to find directly comparable market data
  - Asset Approach does not make sense
- Methods Typically Used
  - DCF – forward looking and the preferred method among many valuation professionals
  - Cap of cash flow – relevant if history is a good indicator of expected cash flows
  - Market data – transactions are available but rarely comparable so often used as reasonableness test

# Crypto Assets: Value within an LLC/SLAT/Trust

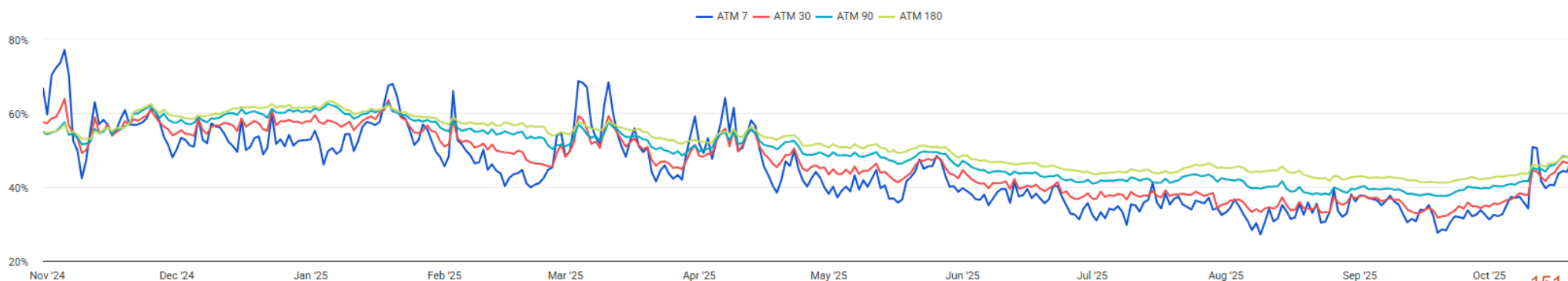
Within an LLC/SLAT/etc. a non-marketable, minority interest....

## **SUBSTANTIAL Marketability Adjustments are warranted**

- Crypto Assets can be extremely volatile
- This means an interest holder cannot exit their ownership position and may be subject to wild swings in the value of the underlying asset.



BTC ATM Implied Volatility





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GROUP

PLANNING FOR YOUR FUTURE

## Life Insurance Reimagined *'An Exceptional Asset'*

Elwyn G. Voss, CLU, ChFC, CLTC

[evoss@thevossgroup.net](mailto:evoss@thevossgroup.net)

Ph 440 821 8429

# Disclaimer

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The information provided is not written or intended as specific tax or legal advice. The Voss Group, its employees and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. Individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel.

Access to cash values through borrowing or partial surrenders will reduce the policy's cash value and death benefit, increase the chance the policy will lapse and may result in a tax liability if the policy terminates before the death of the insured.

Hypothetical Examples for Illustrative Purposes Only. It does not represent the past, present or future performance of any investment. Dividends are not guaranteed. This supplemental illustration is NOT valid unless accompanied by the full basic illustration for all policies summarized and values are based on the dates on the accompanying illustrations. Please refer to the basic illustration for each policy for guaranteed policy charges. You should rely solely upon the information contained within the basic policy illustration. Current Charges and Expenses are NOT guaranteed. The summary has been prepared by The Voss Group based on assumptions provided by the client.



## Elwyn G Voss, CLU, ChFC, CLTC

[evoss@thevossgroup.net](mailto:evoss@thevossgroup.net)

Ph 440 821 8429

- MBA Estate Planning from Cornell University
- Over 50 years of experience focused on goal-based business succession, estate, & legacy planning
- Recognition for his contributions to the industry and community include:
  - New England Financial Executive Committee (1983-1989)
  - New England Financial Product Development Committee
  - New England Financial President of Agent's Association
  - Ted Phillips Outstanding Citizen Award
  - NYS Outstanding County Agent
  - Chairman Cornell College of Agriculture Planned Giving Committee (10 years)
  - Chenango Memorial Hospital Foundation
  - Cornell Outstanding Alumni Award
  - Chair Pathfinder Village Foundation Finance Committee
  - Founder NYS Agricultural Society Foundation
  - Chenango County Business of the Year



# 30 Minute Life Insurance Solutions

- Connelly Effect on Buy/Sell Planning
- Economics of Trust Owned Life Insurance
- Trust Premium Payment Options

# Connelly Effect on Planning

Estate of Connelly (US Supreme Court, #23-146, June 2024)

## *Ruling:*

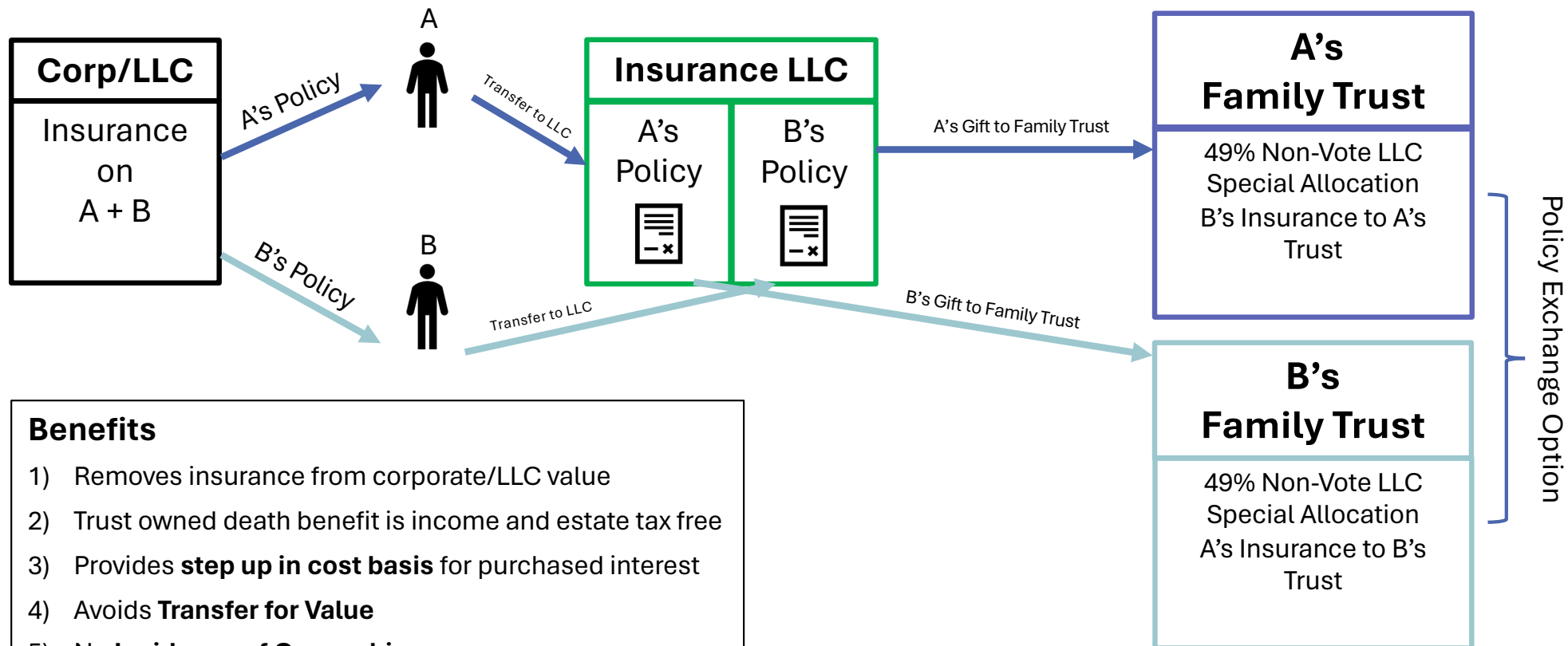
**1. Buy/Sell redemption obligation no longer considered a debt to offset the corporate owned life insurance.**

*2. Instead the value of the insurance is added to value of business which in turn increased the value for estate tax purposes but did not affect the value of the stock redemption.*

*3. Buy/Sell cross purchase insurance is still accepted.*

**Should Trigger Plan Reviews and Creative Thinking to Address**

## Solution: Cross-Purchase Buy-Sell → Insurance LLC → Grantor Trust

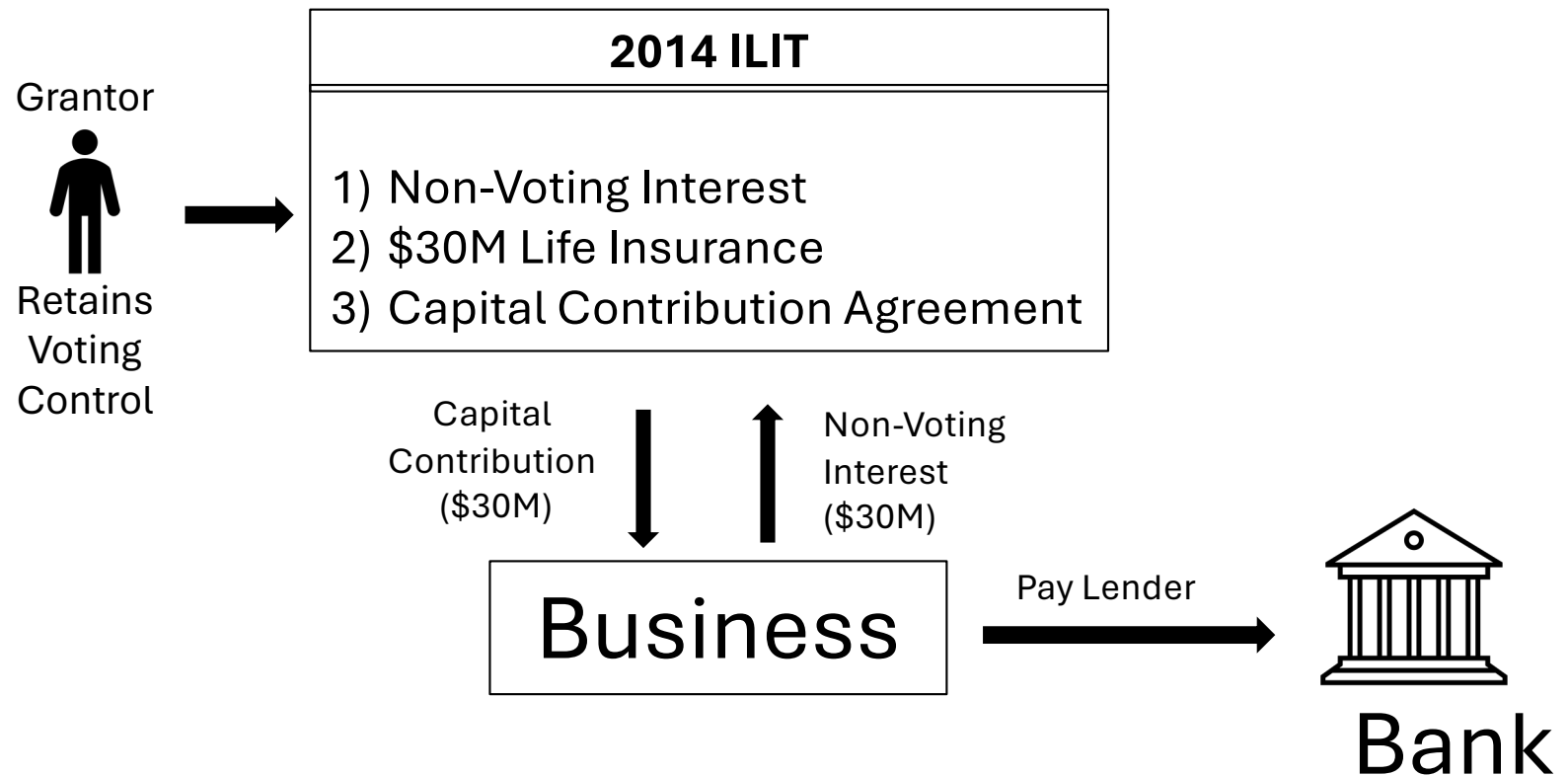


### Benefits

- 1) Removes insurance from corporate/LLC value
- 2) Trust owned death benefit is income and estate tax free
- 3) Provides **step up in cost basis** for purchased interest
- 4) Avoids **Transfer for Value**
- 5) No **Incidence of Ownership**
- 6) 'Excess' insurance transferred to insured's trust
- 7) LLC value out of survivor's estate



## Solution: Removing Company Owned Debt Insurance



# Economics of Life Insurance

- Buy-Sell Planning
- Life Insurance as a Separate Trust Asset Class

# Financing \$1M Buy-Sell Agreement

## 1. Surviving Shareholder/LLC Member's Situation?

- a) Private pay or borrow **\$1M**
- b) Over 20 years at 6% = **\$80K/year** (total of \$1.6M ), or
- c) Payments equal **8%** of principal borrowed.

## 2. What's the Banks Position if surviving partner seeks to borrow?

- a) No additional collateral
- b) Loss of Key person

## 3. What's the Deceased Family's Position if Private Pay?

- a) A creditor for 20 years.

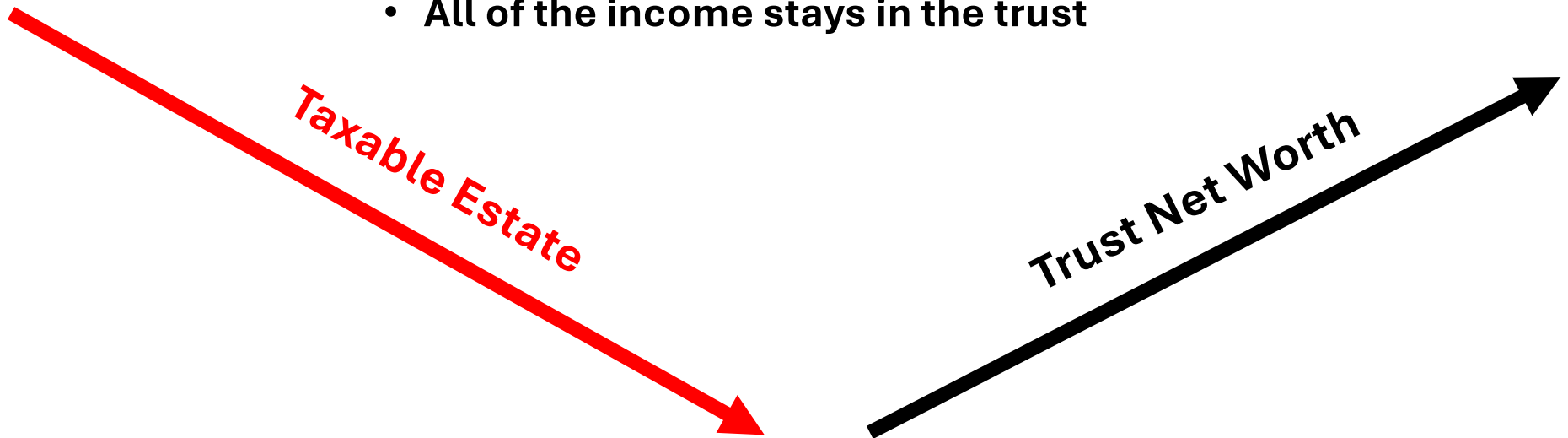
# Life Insurance

2%

- **Financing capital for future delivery**
- **Premium outlay approx. 2% of face**
- **Example:**
  - Age 50, Male, Standard Non-Tobacco
  - Product: Whole Life 20 Pay
  - Face Amount: \$1M
  - Annual Premium: \$20K
  - $\$20K/\$1M = 2\%$

# What is the 'Tax Burn' Estate Planning Technique?

- Grantor 'gifts' assets into a trust
- Pays the tax from personally owned assets
- Reducing the Grantor's Taxable Estate
- All of the income stays in the trust



# Tax Advantages of Cash Value Life Insurance

Access to cash values through borrowing or partial surrenders will reduce the policy's cash value and death benefit, increase the chance the policy will lapse, and may result in a tax liability if the policy terminates before the death of the insured.

- **Tax-deferred growth:** The cash value within the policy grows on a tax-deferred basis, allowing your money to compound more efficiently over time.
- **Tax-free access:** You can access the cash value through policy loans, which are generally not considered taxable income. Unpaid loans will reduce the death benefit.
- **Efficient access to capital:** The ability to borrow from your policy without a credit check provides a source of liquid funds for major expenses like college tuition, a down payment on a house, or supplemental retirement income
- **Tax-free Death Benefit:** The death benefit when owned by a trust comes in tax free

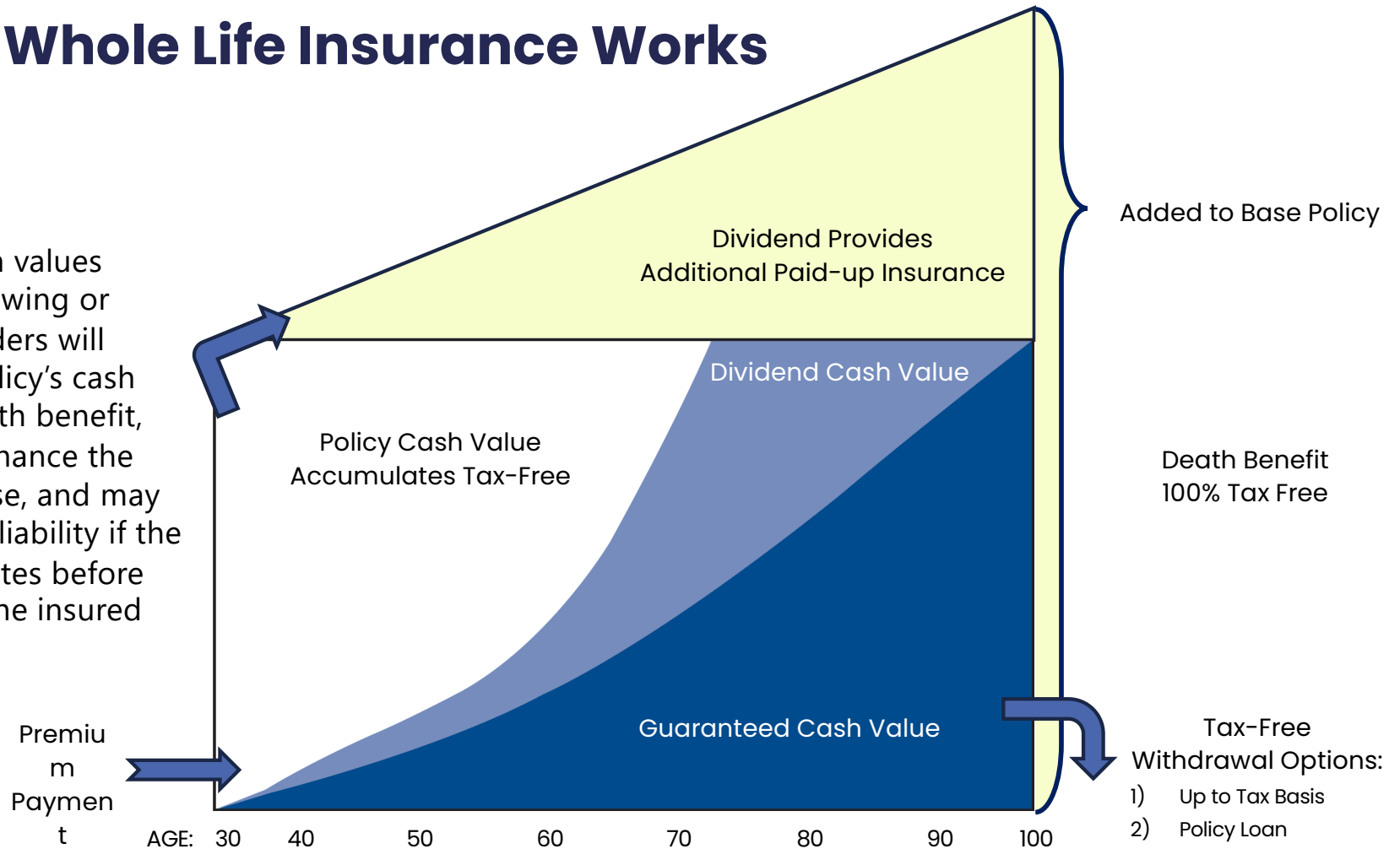
**Reduces the Tax Burn and Can  
Maintain the Rate of Return**

Reimagine  
Where Life  
Insurance Fits  
in Estate  
Planning

- 1) **Whole Life**
- 2) **Variable Life**

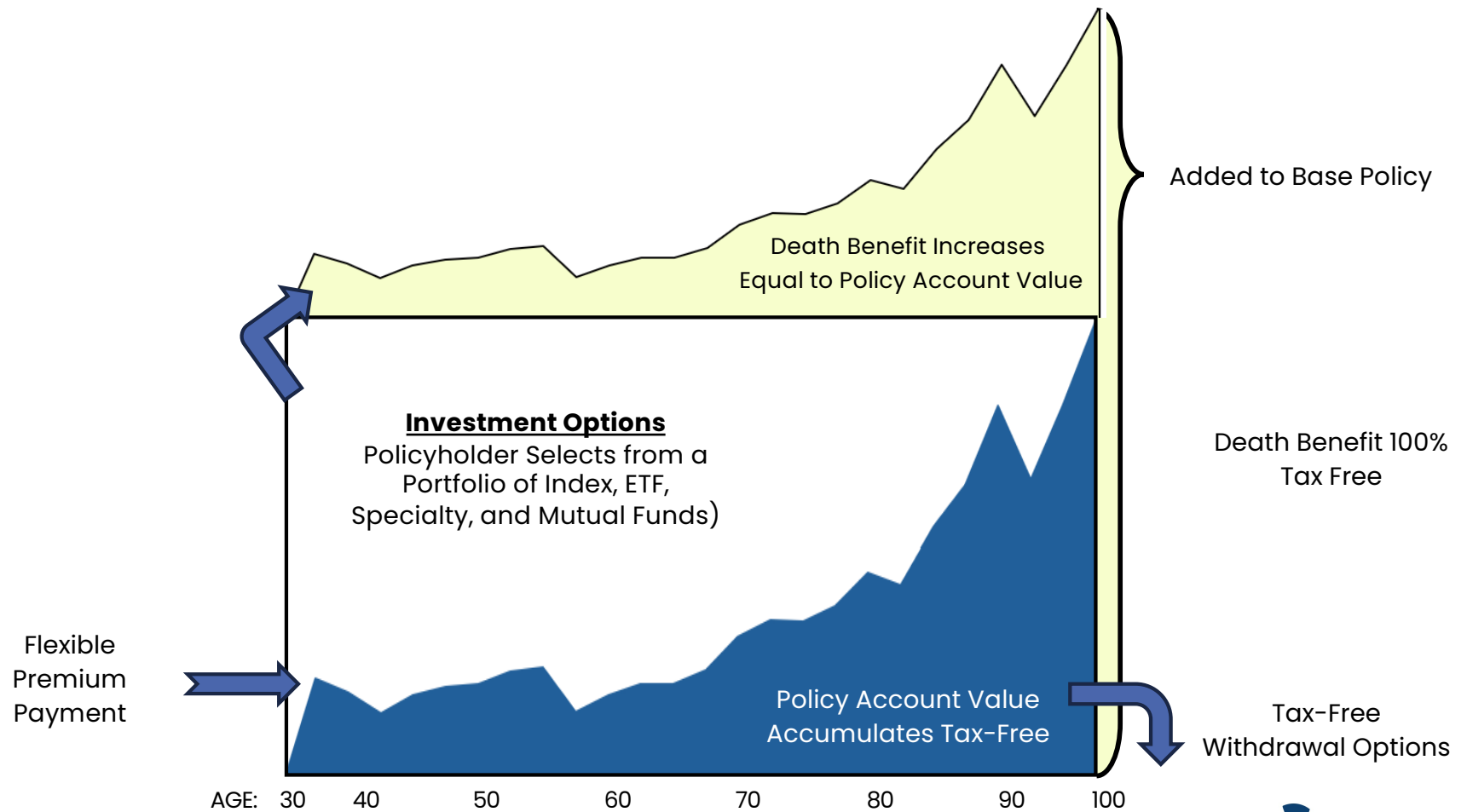
# How Whole Life Insurance Works

Access to cash values through borrowing or partial surrenders will reduce the policy's cash value and death benefit, increase the chance the policy will lapse, and may result in a tax liability if the policy terminates before the death of the insured



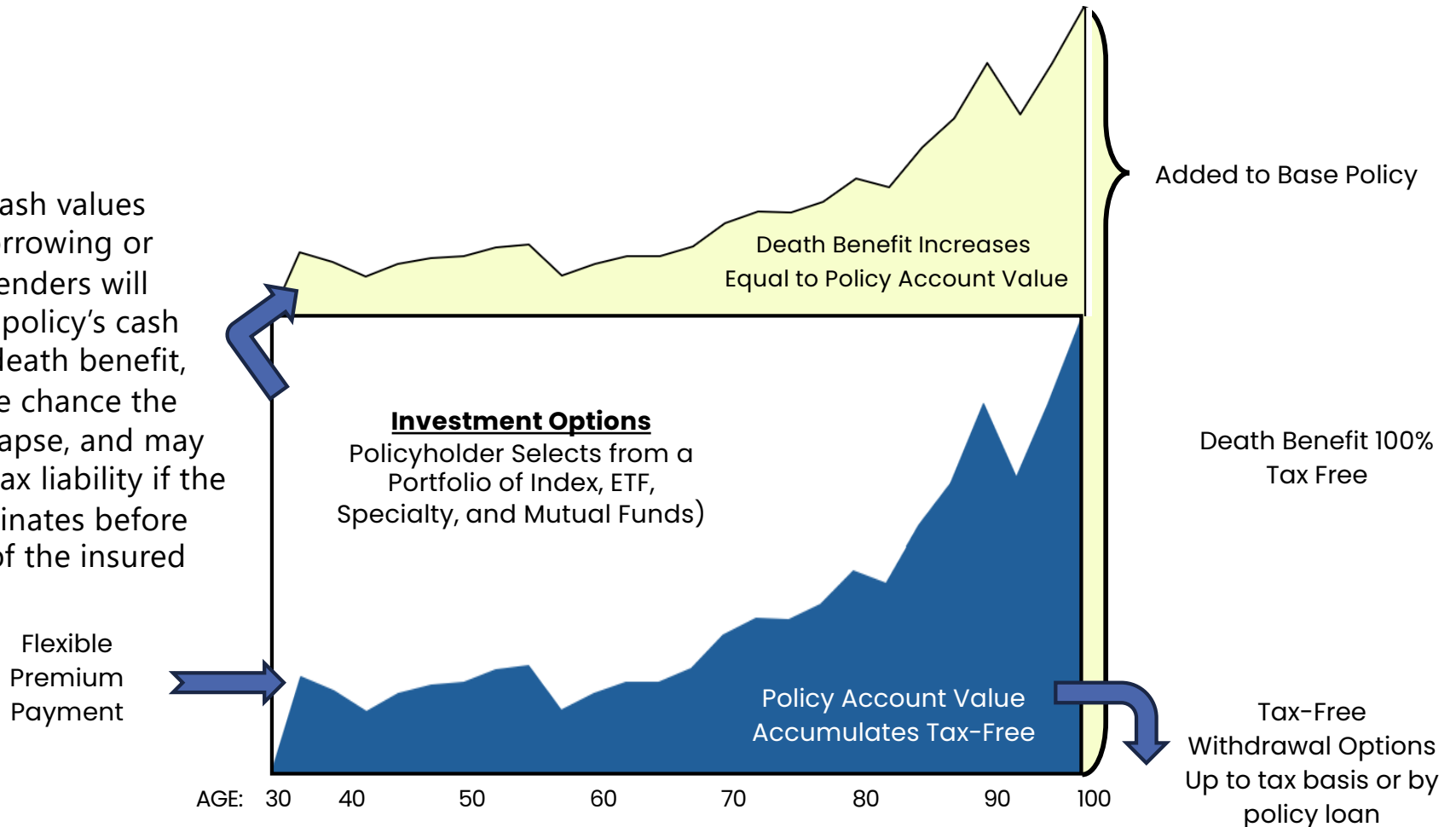


# How Variable Life Insurance Works



# How Variable Life Insurance Works

Access to cash values through borrowing or partial surrenders will reduce the policy's cash value and death benefit, increase the chance the policy will lapse, and may result in a tax liability if the policy terminates before the death of the insured



# Trust Owned Life Insurance

**How do you want taxes to be paid?**

1) “**From** the Estate”

OR

2) “**For** the Estate”

# Premium Payment Options

**1) Maximize \$19,000 Annual Gift Exclusion**

**2) Combination Loan and Gift**

**3) Private Split \$**

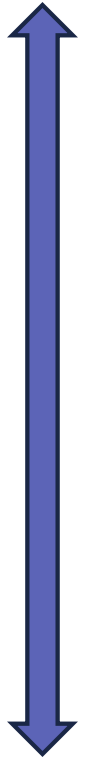
**4) Gift Income Generating Assets**

**5) Installment Sale Income Generating Assets**

**6) Gift to GRAT**

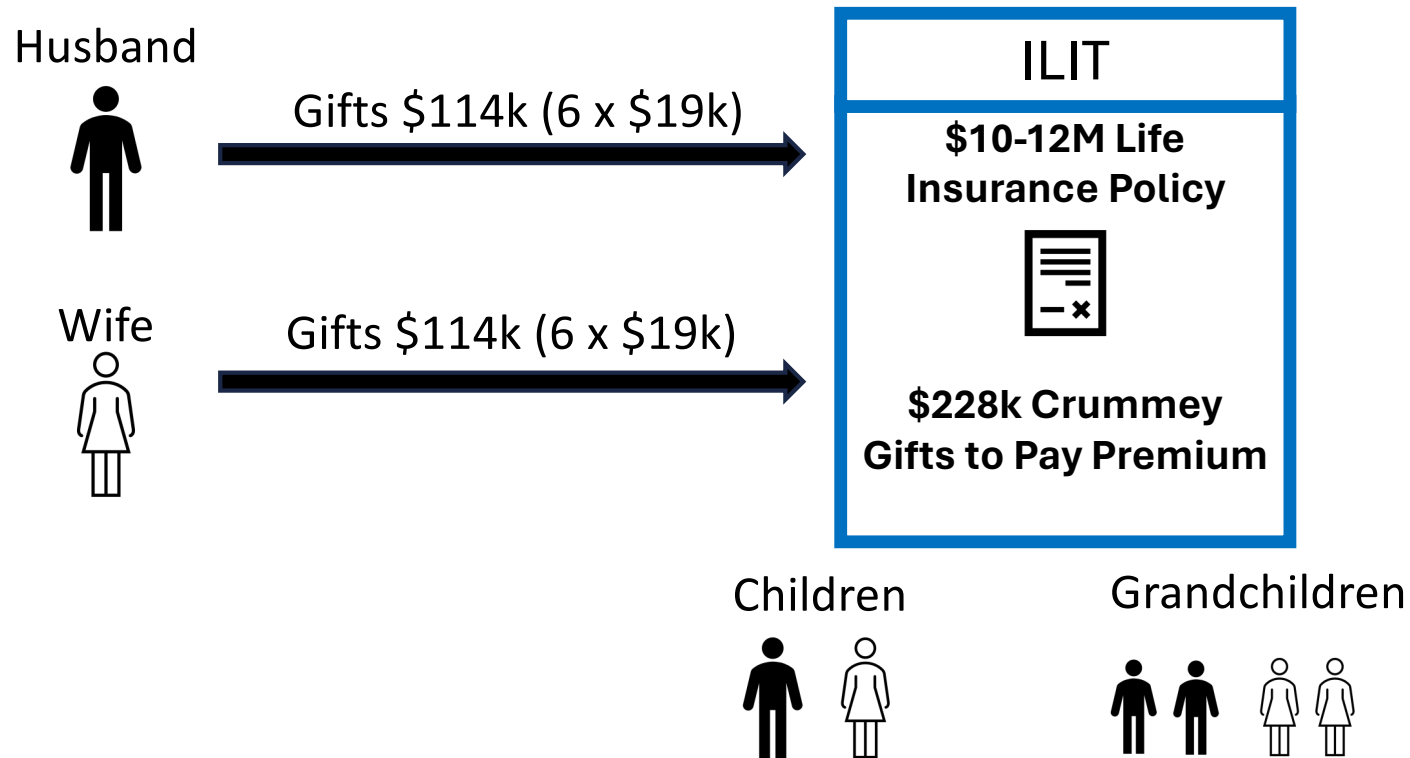
**7) Premium Financing**

**Simple**

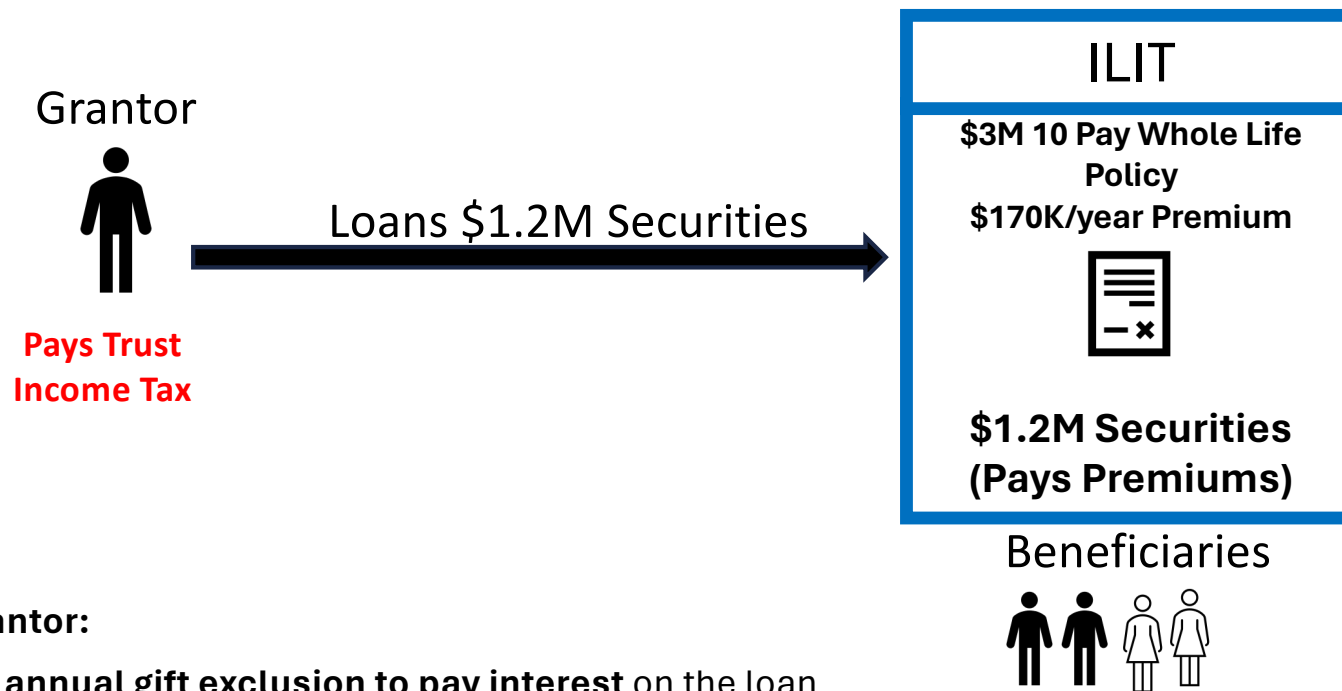


**Sophisticated**

# 1) Maximize \$19,000 Gift Tax Exclusion



## 2) Combination Gift and Loan

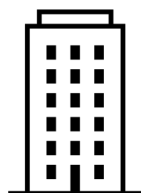


### Note Grantor:

- 1) Used **annual gift exclusion** to pay interest on the loan
- 2) **Forgave loan** when federal **exemption** increased

### 3) Private Split Dollar

Insurance  
Company



Premium  
\$180,000

(20 Pay – 1.8% of  
Face)

Grantor



Gift = Reportable Economic Benefit

| Age | Amount   |
|-----|----------|
| 60  | \$420    |
| 70  | \$4,200  |
| 80  | \$30,000 |

ILIT

**\$10M Second to Die  
Split Dollar Agreement**



Trust Owes Premiums to  
Grantor

#### Advantages:

- 1) Small gift for large benefit using annual exclusion
- 2) Premium payment decreases grantor's taxable estate
- 3) Income and estate tax free growth in the GST trust
- 4) Option to have the premium contributions paid back if needed out of trust assets or the death benefit

#### Private Split Dollar Exit Strategies:

- 1) Tax Free **Death benefit** pays off split dollar obligation
- 2) Use annual **gift exclusion**
- 3) **Policy cash value** and annual dividends
- 4) **Lifetime gift exemption**
- 5) **Other trust assets**

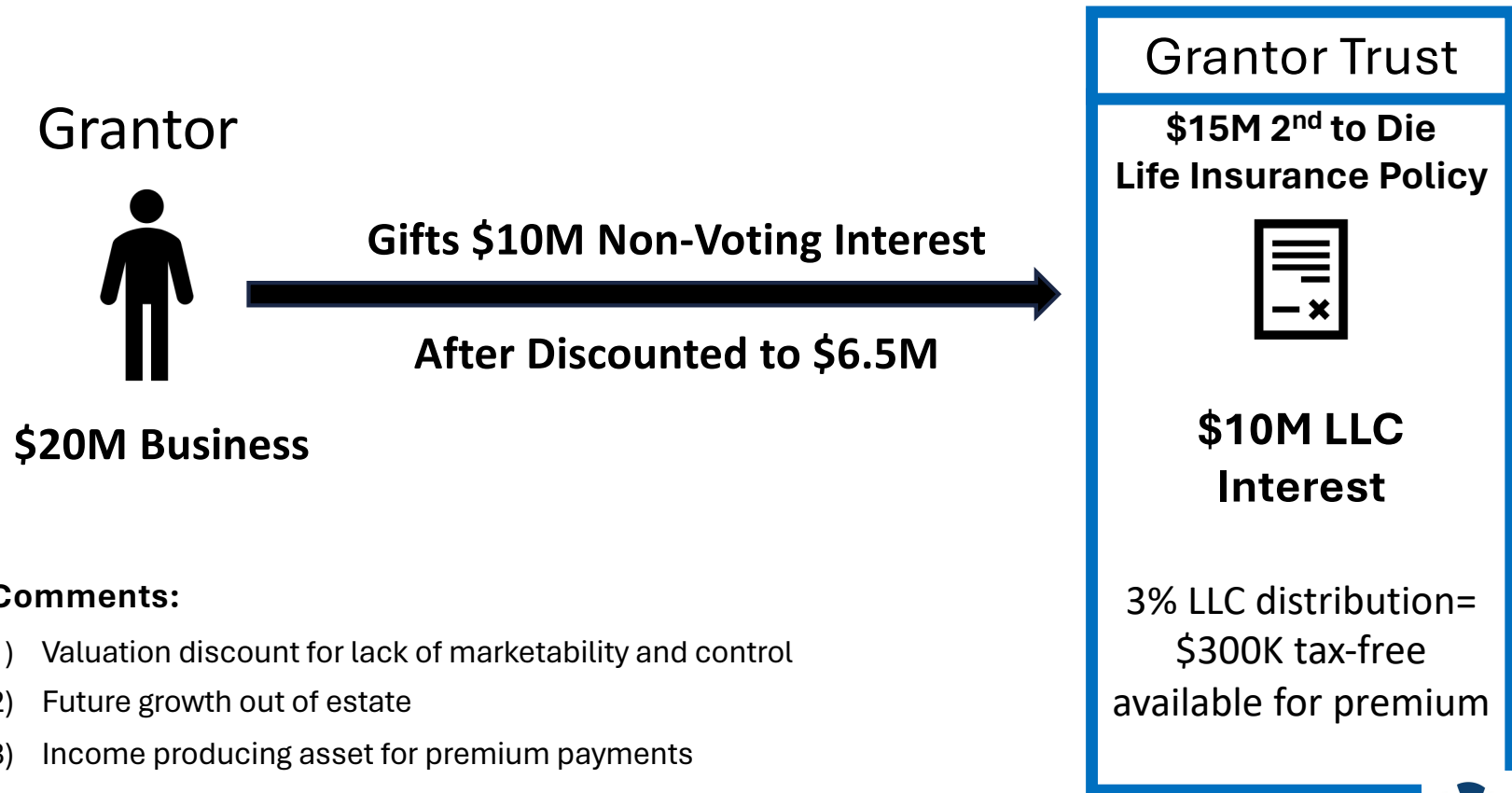
Children



Grandchildren



## 4) Gift Valuation Discounted Assets to Trust

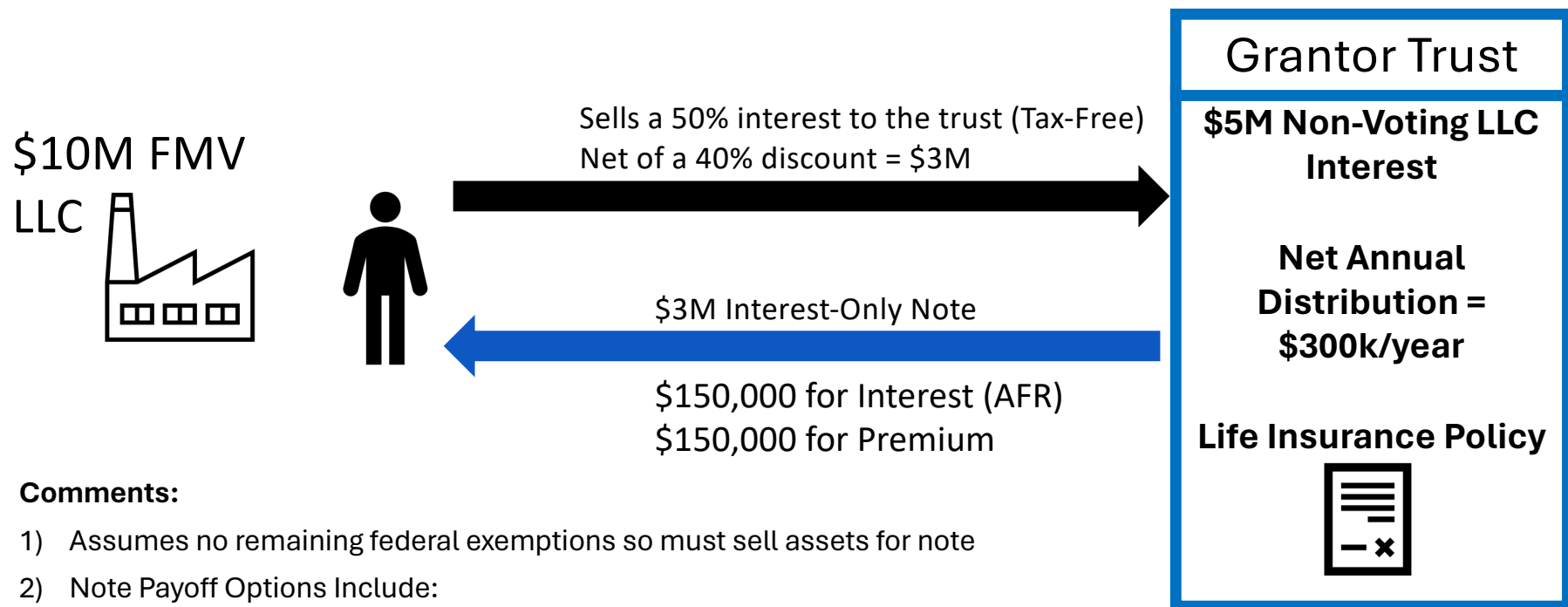


### Comments:

- 1) Valuation discount for lack of marketability and control
- 2) Future growth out of estate
- 3) Income producing asset for premium payments



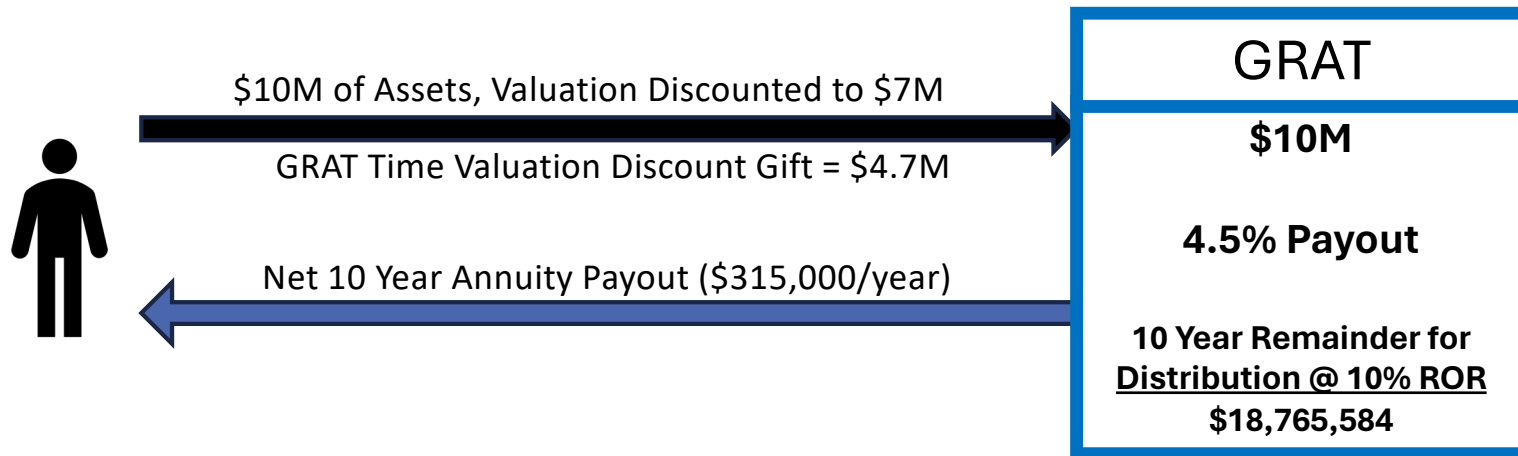
## 5) Installment Sale of Assets to Trust



### Comments:

- 1) Assumes no remaining federal exemptions so must sell assets for note
- 2) Note Payoff Options Include:
  - a) Insurance
  - b) Sale of Business
  - c) Installment

## 6) Gift Assets to Grantor Retained Annuity Trust (GRAT)



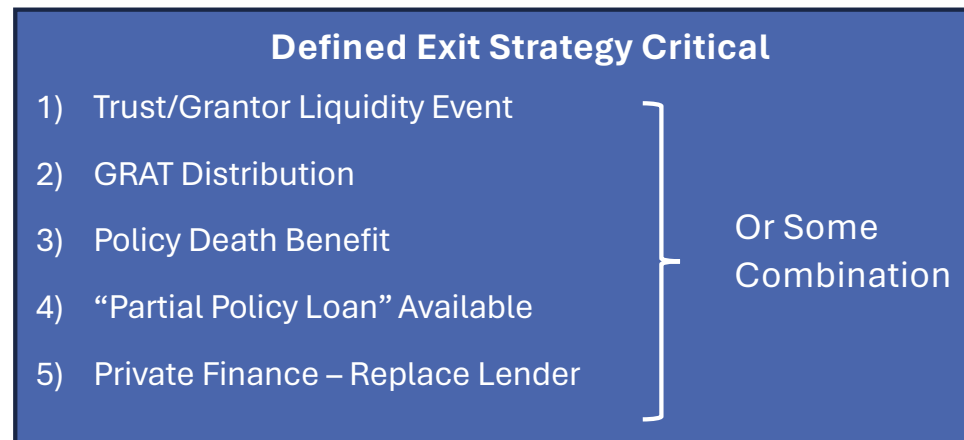
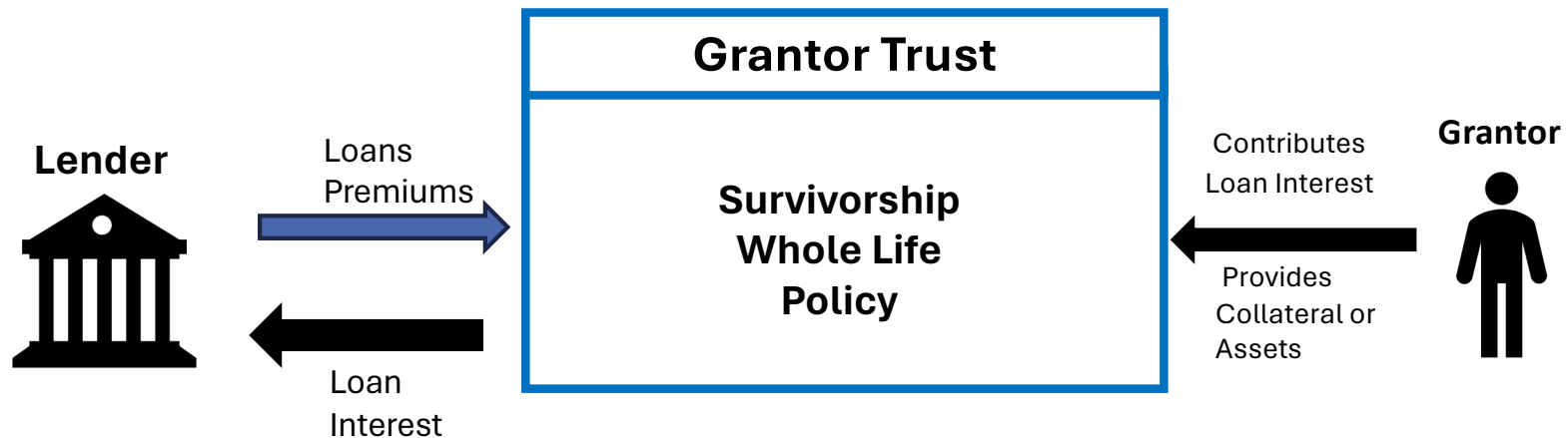
### Discounted Value

- 1) 30% for lack of marketability and control (\$10M → \$7M)
- 2) Additional Discount of \$2.3M results from GRAT terms
- 3) Must survive term of GRAT or its included in taxable estate

### Distribution Options:

- 1) Pay off trust(s) loans
- 2) Settle Split\$ Obligation
- 3) Manage Premium Finance
- 4) Outright to Beneficiaries or Trust

## 7) Premium Financing - Grantor Retains Capital only Pays Loan Interest



# Questions ?

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**440 821 8429**



# **INTERGEN**

**Wrap Up and Questions**



**20<sup>TH</sup> ANNUAL  
INTERGENERATIONAL  
ESTATE PLANNING  
CONFERENCE**



**THANK YOU!**

**Please complete the brief survey with your feedback.**

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**INTERGENERATIONAL**  
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**CONFERENCE**



# Networking Cocktail Reception

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