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Estate of Woelbing and the Future of
Intentionally Defective Grantor Trusts

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Overview

- Objective
- Roadmap
- Takeaway

The Fundamentals of an Intentionally Defective Grantor Trust

- Purpose
- Features

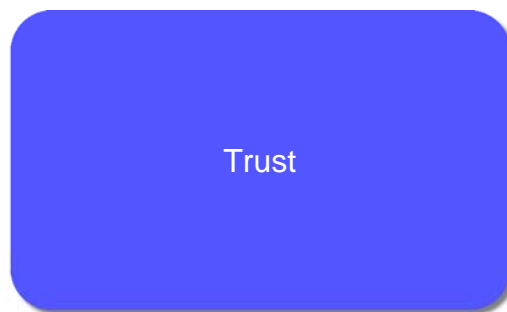
The Fundamentals of an Intentionally Defective Grantor Trust

Steps

1. Create the IDGT
2. Make a gift to the IDGT
See PLR 9535026 – 10% rule
3. Grantor sells asset to the IDGT in exchange for a
note
Interest at AFR

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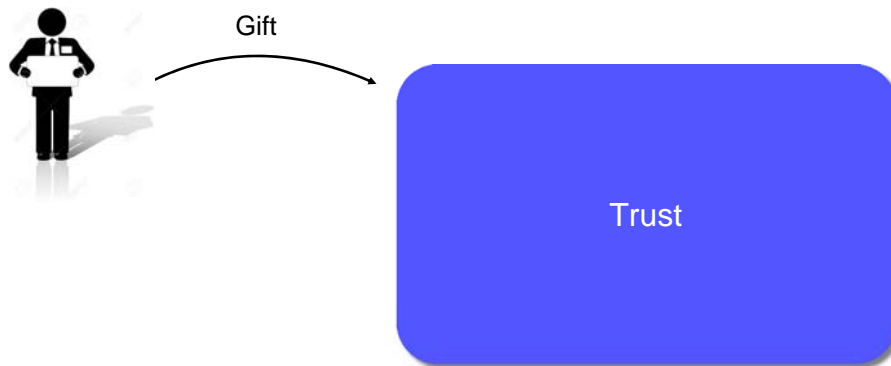
Woelbing Transaction – Creation of IDGT



Mr. Woelbing, the President of Carma Laboratories, Inc.
(maker of Carmax lip balm) creates an IDGT

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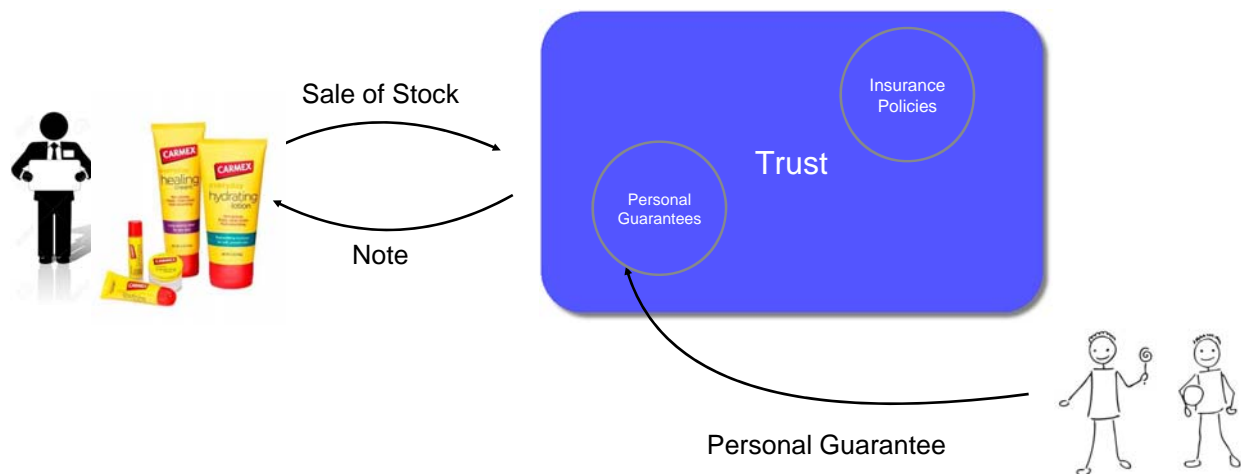
Woelbing Transaction - Gift to IDGT



Mr. Woelbing makes gift to Trust consisting of 3 life insurance policies (cash surrender value > \$12,500,000)

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Woelbing Transaction - Sale to IDGT



In 2006, Mr. Woelbing sells Carma Laboratories, Inc. stock appraised at \$59,004,508 in exchange for Note.

The sale documents contain a “defined value clause.”

Mr. Woelbing’s children personally guarantee the Note up to \$5,900,000.

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Potential Tax Benefits

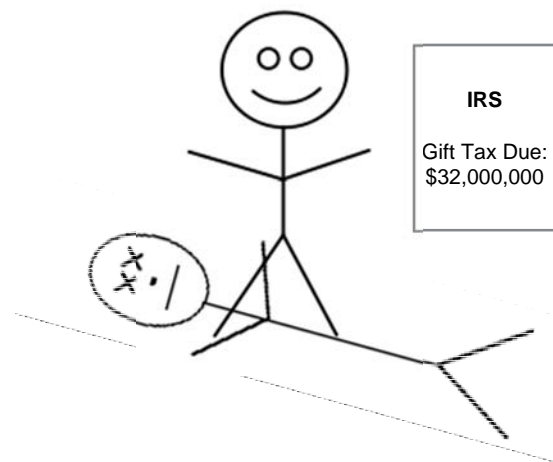
Mr. Woebing dies in 2009

Carma Stock was then worth \$162,000,000

Transaction saves Mr. Woebing's Estate in excess of \$40,000,000 in federal estate tax (maybe)

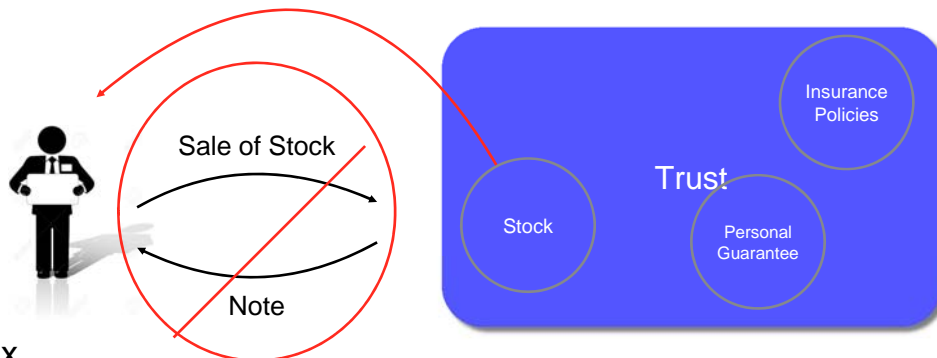
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Mrs. Woelbing receives \$32,000,000 tax bill



2 days later . . .
Mrs. Woelbing Dies

Notice of Deficiency



Gift Tax

- Note had \$0.00 value under Section 2702 and value of stock in 2006 was \$117,000,000
- Gift was made equal to difference between value of note and \$117,000,000

Estate Tax

- Stock is included in estate under Sections 2036 and 2038 (worth \$162,000,000)

Result

Settlement

- The Woelbing estates and the IRS settled pursuant to a Stipulated Decision in March 2016
- Terms of Settlement are confidential

Lessons from Woelbing?

Takeaways

- Defined value clauses - how used
- IRS arguments re: on 2702, 2036, 2038
- 10% equity target - still ok?

Best Practices of IDGTs

- Be mindful of the timing of formation, gift and sale
- Employ professionals to represent the Trust
- Defined value clause not a substitute for quality appraisal
- Use hard assets to satisfy 10% equity in Trust

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Questions

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