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# *Opportunity Zone and Dynasty Trusts: Wealth Preservation Strategies for Your Liquidity Events*

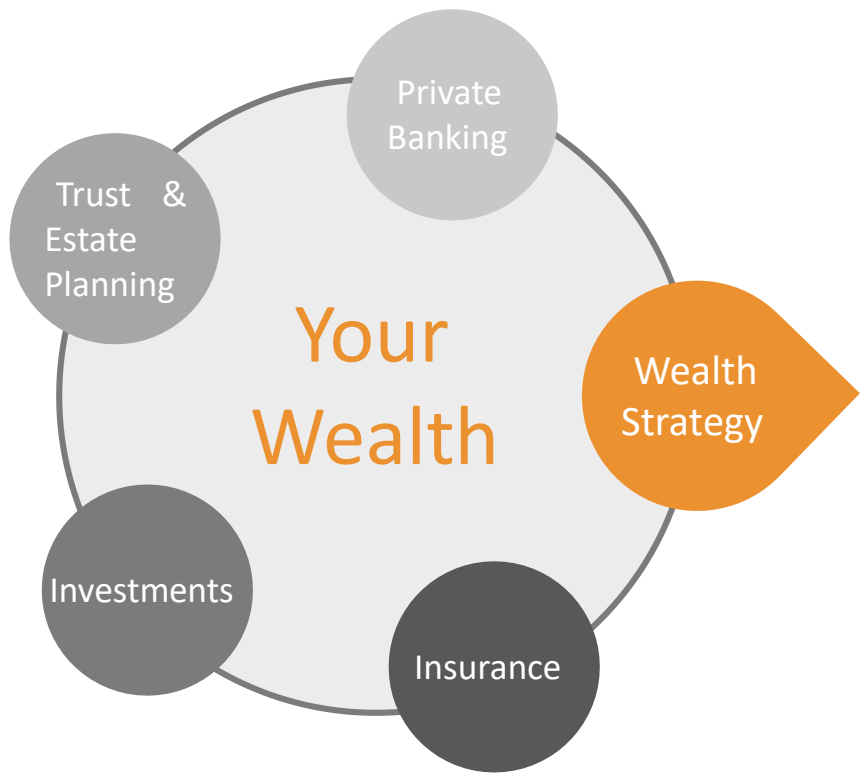


**Howard & Howard**  
law for business®

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# Wealth Strategy

The Importance of a Plan



You have short-and long-term goals for your wealth; developing and sticking to a wealth plan is integral in helping you achieve these goals.

**PNC Wealth Strategists take the time to understand you**

We lead clients through a deep discovery process to help define their legacy values, goals and vision.

Once priorities are understood, Wealth Strategists work collaboratively with clients to deliver innovative solutions tailored to achieving those priorities.

Through the implementation of recommendations, Wealth Strategists can assist clients in achieving their desired outcomes.

## Executive Vice President and Regional President

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Richard L. DeVore is executive vice president and regional president of PNC Bank in Detroit and Southeast Michigan.

DeVore, with more than 40 years of financial services experience, serves as PNC's lead banker in the region and chairs the local PNC Foundation.

Prior to being named to his current position in 2010, he served as credit executive for Commercial Lending and oversaw credit training for all of PNC. Since joining PNC in 1991, DeVore has held a number of leadership positions, primarily in the credit and marketing groups. During the integration of National City Bank, he served as chief credit officer with the overall responsibility for the credit risk management organization. In 2001, he was named executive vice president.

DeVore serves on the board of directors of Business Leaders for Michigan, Cranbrook Educational Community, Detroit Economic Club, Detroit Regional Chamber, Detroit Symphony Orchestra and Hope Starts Here.

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In addition, he serves on the advisory board for The Education Trust-Midwest. DeVore holds a bachelor's degree in Business Administration from the University of Michigan and a master's degree in Business from Wayne State University, where he taught banking and finance courses for four years. He completed the Wharton School of Advanced Risk Management course in 2008.

## Vice President and Wealth Strategist

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Christie Evey is a Vice President and Wealth Strategist of Hawthorn, PNC Family Wealth®, a business dedicated to serving the needs of individuals and families with investable assets in excess of \$20 million. Christie leads the planning process, integrating clients' financial, estate, tax and philanthropic considerations and preferences. She works closely with Hawthorn Relationship Strategists, Fiduciary Advisors, Investment Advisors, Banking Advisors and other advisors to deliver the Hawthorn integrated wealth management experience to a limited number of families and individuals.

Prior to joining Hawthorn, Christie was a Trust Officer with U.S. Trust, Bank of America's Private Wealth Management located in downtown Washington D.C. where she focused on working with high net worth individuals and closely-held businesses. Christie assisted clients with integrating long term personal and business goals, including the application of sophisticated estate planning and wealth transfer techniques. Prior to working at U.S. Trust, Christie practiced in trust and estate law at a Troy, Michigan law firm. Before practicing in a law firm, she worked as a legal extern for the IRS Chief Counsel's Office in Washington D.C., as well as the United States Air Force's Office of General Counsel in the Pentagon.

Christie is a member of the State Bar of Michigan, including the Taxation, Probate & Estate Planning section. She is also a member of the Federal Bar Association's Tax Lawyers division.

Christie earned her Bachelor of Arts from Michigan State University and her Juris Doctor from the Michigan State University College of Law. She then continued her legal education at Georgetown University Law Center where she earned her Master of Laws (LL.M.) in taxation and a Certification in advanced estate planning. She is also a Certified Exit Planning Advisor (CEPA™).

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## PRESENTERS – OPPORTUNITY ZONE

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### **GINA STAUDACHER**

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### **Business & Corporate**

- Tax
- Automotive
- Construction & Development
- Real Estate
- Energy, Infrastructure, & Utilities

Gina's practice concentrates on the areas of strategic tax planning and dispute resolution for companies with global operations and multistate activities, including the IRS and various state taxing agencies.

She works closely with clients to maximize global tax and economic incentives, as well as financial structures to facilitate corporate growth and relocation projects. These projects involve all aspects of credits and incentives including Opportunity Zone planning, Research Tax Credits, New Markets Tax Credits, Department of Energy ATVM loans, Historic Tax Credits, Energy Tax Credits, property tax abatements, and endless state and local tax and economic programs designed to attract and retain businesses and job growth. We've successfully secured over \$1 billion in tax benefits for our clients.

Gina manages a team of attorneys focused on corporate incentive projects across the country for both public and private companies that range from complex corporate structures to startups.

Her practice has attracted national attention for its creativity and results-oriented focus. We have obtained more than \$1 billion in direct cash benefits for our clients in nearly every state, as well as many foreign jurisdictions, to secure economic and tax benefits in the form of significant cash grants, tax credits, and refunds. Our approach is successful due to our intentional collaboration between multiple disciplines of law, including finance, tax, real estate, intellectual property, employment, technology, and other fields of practice that match the stated goals of the project.

Gina also manages IRS and state tax examinations for both public and private companies, achieving phenomenal results for our clients. Our methodology on exam is strategic and focuses on a process that matches the client's situation along with decades of experience and relationships within the IRS, treasury, and many state taxing agencies.

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## PRESENTERS – OPPORTUNITY ZONE

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### **BILL BURDETT**

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### **Business Litigation**

- Real Estate
- Construction & Development
- Trust & Estate Planning
- Automotive
- Tax

Bill looks for the best business outcome to meet the needs of his diverse clientele. He counsels closely held businesses and high-net-worth families in a wide variety of transactions, including the acquisition and redevelopment of real estate, opportunity zone fund development, and tax incentive strategies.

Bill has also developed a national litigation practice with success in both private arbitration and public litigation, emergency injunctive actions, and precedent-setting appellate cases.

In the field of probate litigation, Bill has represented both trustees and beneficiaries in contested trust actions for high-net-worth probate estates. He has also assisted trustees in the negotiation and disposition of complicated estates, frequently requiring unique solutions and significant judicial oversight.

Finally, Bill has been a leader in defamation law in Michigan. He has been involved in establishing the standards for anonymous online defamation lawsuits in the Michigan Court of Appeals, and he regularly represents parties in free speech litigation in state and federal courts.

# Howard & Howard

law for business®

## Opportunity Zone Planning

**Gina Staudacher Bill Burdett**

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**Disclaimer:** This presentation does not constitute legal advice or a legal opinion on any matter discussed. This presentation is for educational purposes only. If you have a specific legal question, please consult with an attorney of your own choice.

# Agenda

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- Background
- Benefits
- Requirements and Timing
- Examples and Planning Considerations





# What Is an Opportunity Zone?

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- Bipartisan legislation enacted in December 2017 to spur development and business activity in economically distressed geographies
  - State designated low-income census tracts
  - Poverty rate of at least 20 percent
  - Median family income lower than 80 percent of area average
- Nearly 9,000 opportunity zones across the U.S. (approx. 300 OZ tracts in Michigan)
  - <https://maps.dot.gov/portal/apps/webappviewer/index.html?id=37997c2cb1c84be482934342d86d32d0>
  - <https://michigan.maps.arcgis.com/apps/webappviewer/index.html?id=8b1413d59b8d420faaf5217a5ab52851>

# Who Is Eligible for OZ Tax Benefits?

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- **DIRECT:** OZ tax benefits limited to investors with capital gains from the sale to or exchange with an unrelated person
  - Businesses, individuals, trusts
  - Must be a capital gain generated through a sale or exchange to an unrelated party
  - Capital gain can be from sale of stock, real estate, or other assets
  - 180 days to invest proceeds from gain (NOT required to invest entire proceeds)\*
- **INDIRECT:** Start-ups, Developers, Sponsors, and Municipalities
  - Alternative source of funding and access to capital

\*specific extensions available

Temporary  
Deferral

Partial  
Forgiveness

Tax-Free  
Appreciation

OZ Investor Tax Benefits

# OZ Fund Structure

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# Timing Requirements\*

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- Investor has 180 days to invest in a QOF (from gain recognition or FYE)
- QOF has 180 days to invest the funds into QOZ property
- QOZB has 31 months to deploy capital pursuant to “working capital safe harbor” plan, however, up to 62-month extension is available; and an additional 24 months where OZ is in a declared disaster area; resulting in a possible 86-months to deploy capital
- QOF cannot avail itself to the working capital safe harbor
- 30-month period to “substantially improve” existing tangible property
- QOF has 12-months to reinvest proceeds from distribution, sale or disposition plus additional 12-months if delay due to declared disaster

\*various fact specific extensions available

# Legislative Extensions due to Covid-19: IRS Notices 2020-39 and 2021-10

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- 180-Day Investment Requirement for OZ Investors:
  - Automatically extended to March 31, 2021
- 30-Month Substantial Improvement for QOFs and QOZBs:
  - Tolloed from April 1, 2020 – March 31, 2021
- 90-Percent Investment for QOFs:
  - Tolloed from April 1, 2020 – June 30, 2021
- Working Capital Safe-harbor for QOZBs
  - Up to 55-86 months available to expend/deploy capital
- 12-Month Reinvestment Period for QOFs
  - Additional 12 months for a maximum of 24 months to reinvest

# Noteworthy Dates

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- 5-year holding period to achieve step-up in basis expires Dec. 31, 2021
- Last date to make an OZ investment is Dec. 31, 2026
- Capital gains deferred through Dec. 31, 2026 remain due and payable in 2027 at prevailing capital gain rates
  - Note: capital gains tax is based on the **lesser of** the original capital gain due or the FMV of the OZ investment as of Dec. 31, 2026
  - Potential planning strategy: use of depreciation and/or loss on OZ investment
- OZ investment period sunsets Dec. 31, 2047

# OZ Investment Examples

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- Real Estate (QOZ Property)
  - Land – use for storing equipment, fence, storage
  - New development or re-development
  - Ground leases permitted
- Businesses (QOZ Business)
  - New lines of business or growth through acquisitions
  - Purchases of new equipment
- M&A
  - Benefits to closing a transaction, access to gain for reinvestment
  - Community revitalization act (CRA) – compliments bank lending
- Family Office
  - Start-up or seed funding for new ventures or ‘unicorn’
  - Philanthropic synergies



# Combining QOZ Investments With Other Incentives

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- OZ benefit is unlimited: no max or min allowed or required; no job creation or reporting requirements.
- Combine with other federal and state incentive programs:
  - Low-Income Housing Tax Credit (LIHTC)
  - New Markets Tax Credit (NMTC)
  - Historic Tax Credit (HTC)
  - Renewable Energy Production Tax Credit (PTC)
  - Property tax abatements
  - Cost segregation, accelerated depreciation
  - R&D Tax Credit
  - Federal loan programs, such as DOE



# OZ Considerations

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- Flexible
- Discretionary
- Relatively simple in structure
- Private transaction
  - Does not require governmental approvals or applications
  - Does require annual tax compliance
- Easy to customize and tailor to or include in your overall wealth preservation strategy

# Creativity. Results. Practicality. Solutions.

These words define not only successful businesses, but also the law firm that represents them. Howard & Howard is the law firm businesses use because our vision of success is not lavishly decorated offices. The attorneys at Howard & Howard use a different measure - *Your Success.*

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## Senior Wealth Strategist

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As a Vice President and a Senior Wealth Strategist in the Detroit market, Daniel Hoops leads the deep and dynamic discovery process to achieve a mutual understanding of your family, business (if applicable) and financial goals. He works with you and your advisors to help develop a strategic financial plan utilizing an ongoing process that enables you and your team to understand what's truly important to you in achieving peace of mind. Daniel identifies and prioritizes your objectives and with your team develops tailored solutions to help achieve them. Daniel has the knowledge, experience and desire to help bring about successful outcomes as your trusted advisor.

In December 2019, Daniel joined PNC Wealth Management as a Vice President Senior Wealth Strategist and Private Business Strategist.

Prior to joining PNC, Daniel was a practicing attorney and most recently a partner in the Bloomfield Hills law firm Paesano Akkashian Apkarian, PC. In addition to his law practice, he taught business law and taxation courses at various business colleges and law schools; currently an adjunct faculty member at Walsh College teaching in the Master of Science in Taxation and Accounting programs. Areas of expertise include estate and business planning, business succession planning, real estate development, trademark and copyright litigation, and charitable giving.

A graduate of the University of Michigan (BMA, Trumpet Performance – 1991), the Michigan State University-Detroit College of Law (JD, cum laude – 1994) and the University of Miami Graduate School of Law (Master of Laws, Estate Planning – 1995). An inactive member of the bar associations in Michigan and Florida.

Licensed with the State Bar of Michigan and the Florida Bar. Daniel has earned his Certified Exit Planning Advisor CEPA® professional designation.

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## PRESENTER – ESTATE PLANNING/DYNASTY TRUSTS

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### Business & Corporate

- Trust & Estate Planning
- Mergers & Acquisitions

Mike is the firm's Trust and Estate Planning Practice Group chair. His extensive experience in this area takes estate planning to a sophisticated level by integrating business and corporate planning with trust and tax strategies. Mike's strategies focus on wealth transfer, asset protection, business succession, life insurance, multigenerational trust and tax planning, and charitable giving. Using his diverse skill set,

Mike assists entrepreneurs in building the proper foundation to grow, protect, and transfer wealth and business interests.

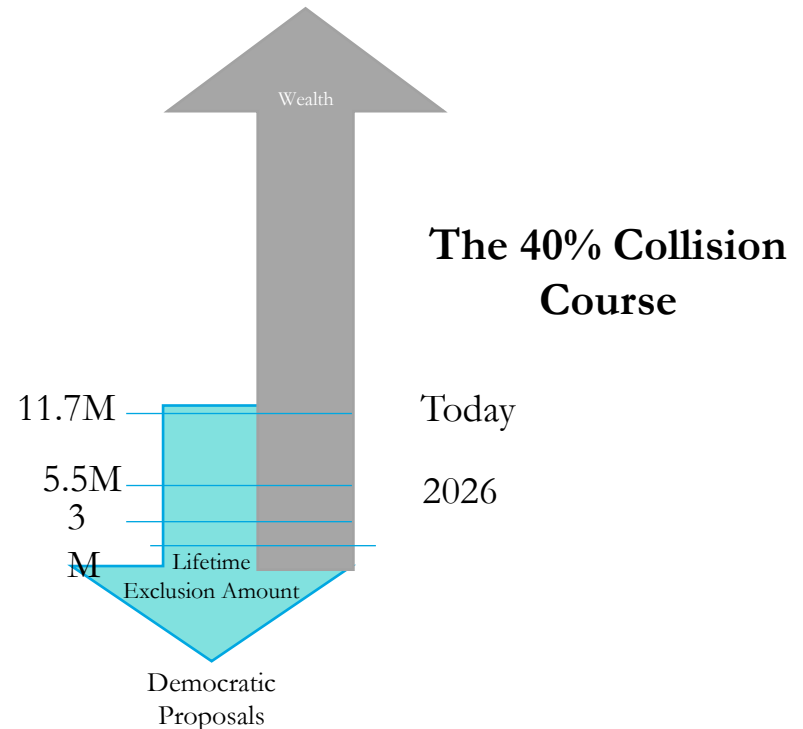
In addition to chairing the Estate Planning Practice Group, Mike's comprehensive work includes corporate and business formation and organizational matters, involving capital structure, corporate governance, buy-sell and exit transactions, and asset protection strategies. He is known for developing creative solutions to complex corporate, business, tax, and trust matters.

Mike regularly represents entrepreneurs and business entities in the following matters: Revocable and irrevocable trust planning; Corporate organization planning; Business succession planning and transactions for family owned and privately held businesses; Equity- and contract-based shareholder, partnership, and joint venture transactions; Deferred compensation and equity arrangements in connection with business succession and management continuity planning; Creditor protection and domestic asset protection trust strategies; All manners of contract negotiation and drafting; and Dispute resolution and management of litigation processes and outcomes.

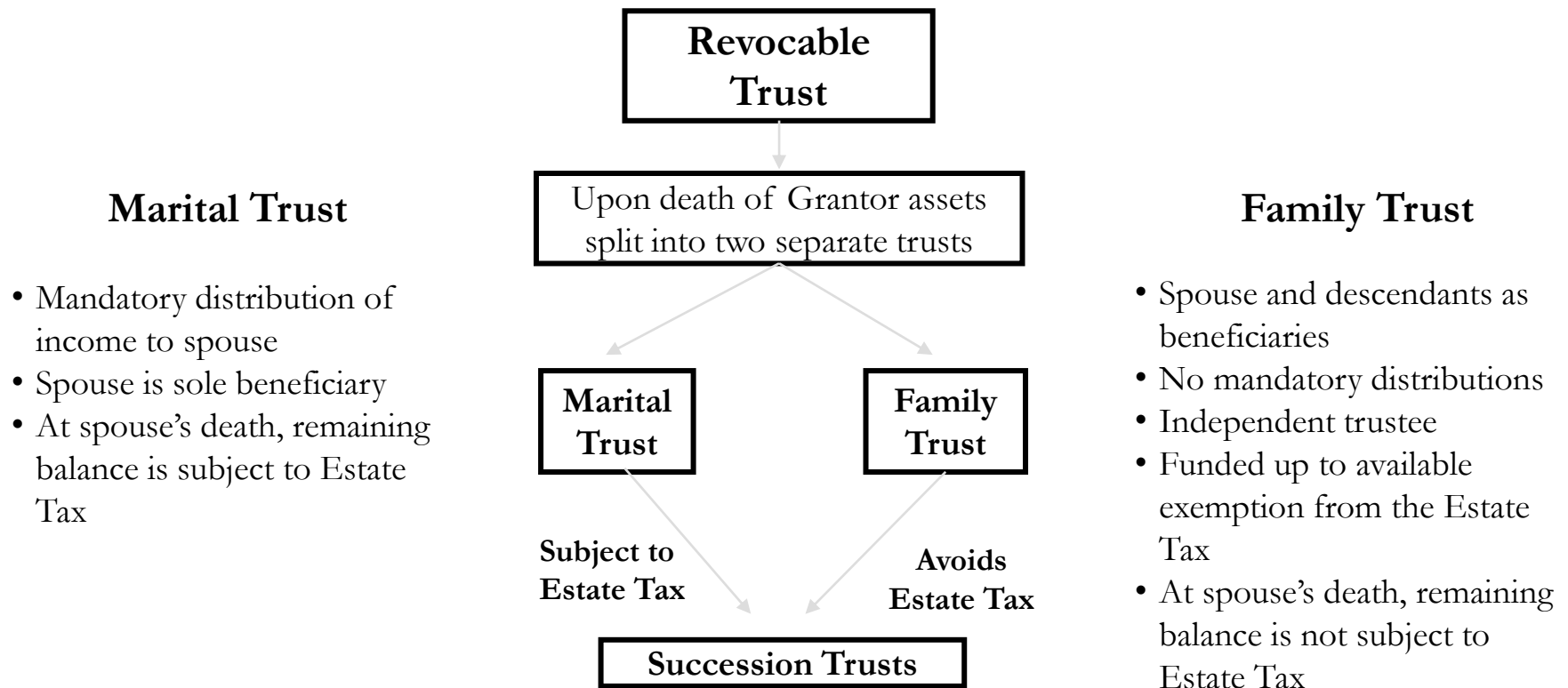
# The Core Wealth Transfer Tax Problem

The estate tax exclusion and your client's wealth are headed in opposite directions.

- 40% federal estate and gift tax on gifted and inherited assets.
- Three Exceptions:
- Annual (\$15K/Year)
- Marital
- Lifetime



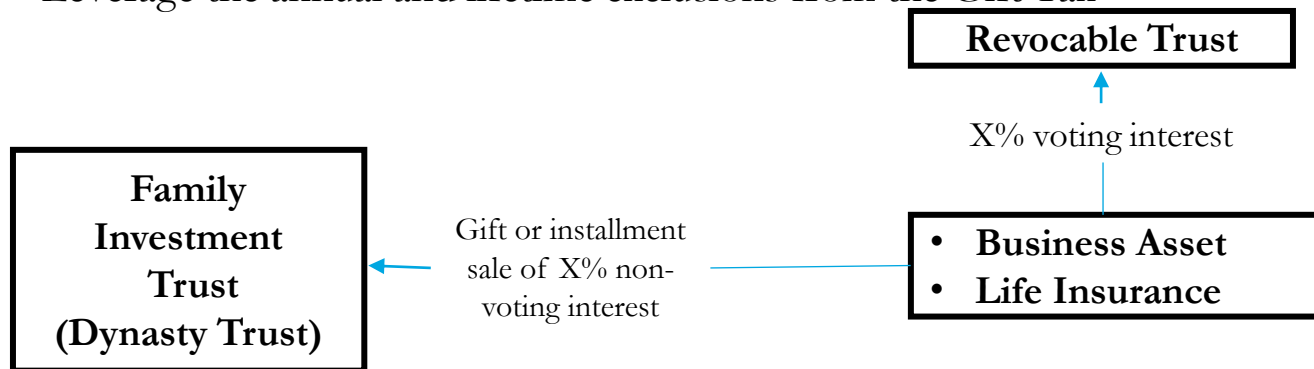
# The Core Wealth Transfer Tax Problem



# Solution to Core Wealth Transfer Tax Problem

**Do not wait until death to create the “Family Trust!”**

Leverage the annual and lifetime exclusions from the Gift Tax



- Avoid inclusion rules IRC 2036-2038
- Take advantage of valuation discounts under IRC 2704
- Future appreciation outside taxable estate
- Accumulates wealth through income tax shift under IRC 671-679 (grantor trust)
- Generation skipping



# Solution to Core Wealth Transfer Tax Problem

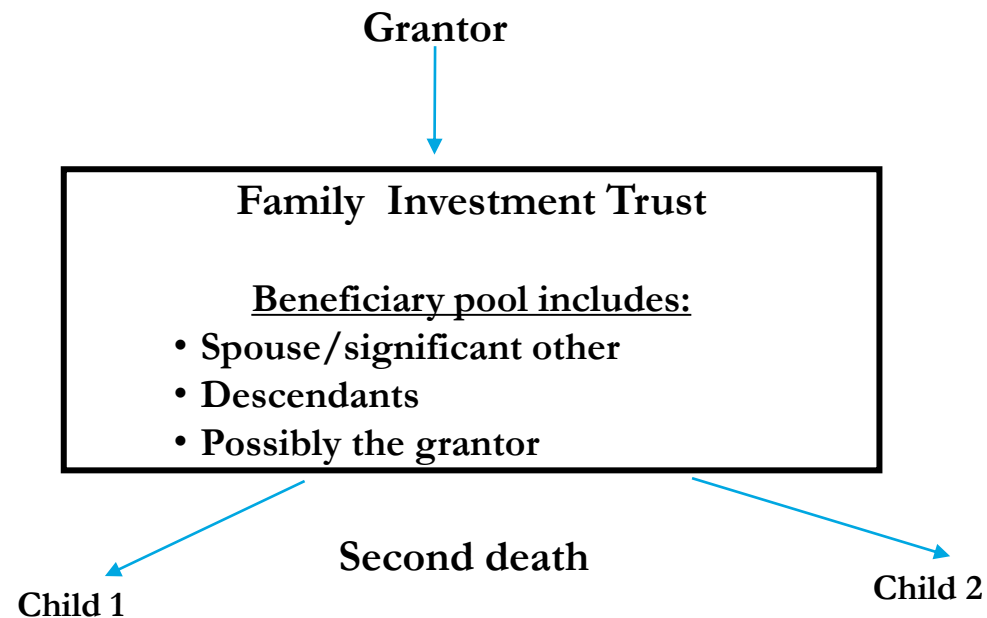
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## Characteristics of Family Investment Trust:

- Irrevocable
- Completed gift
- DAPT (asset protection trust)
- Generation Skipping
- Taxable income of trust paid by Grantor or passed down to beneficiaries

# Solution to Core Wealth Transfer Tax Problem

## Family Investment Trust Design



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## DISCLOSURE

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