

Meurer & Potter, P.C.

PROTECTING YOUR
LIFETIME OF HARD WORK

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Strategies to Manage, Defer or Eliminate Capital Gains Taxes When Selling Highly Appreciated Assets

How does a $4m payday became a $2.2m payday?

Current top Fed Capital Gains Rate – 20%

Last Admin attempted to raise the rate to 37.5%

Plus State Tax – as high as 13% (CO 4.4%)

Plus the Affordable Care Act surcharge of 3.8%

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What follows is 9 Strategies to help ease the pain:



1. Pay the Tax
2. 1031 Exchange of Like Kind Real Property
3. Delaware Statutory Trust (Similar to 1031 Exchange)
4. Owner Financed Installment Sale
5. Installment Sale Trust
6. Move to State with No Income Tax
7. Create a Trust in a No Income Tax State
8. Charitable Remainder Trust
9. Private Foundation

1. Pay the Tax



YES , IT IS A STRATEGY…

A. Simple – Most tax deferral or avoidance strategies are complicated

B. Relatively low rates

C. Immediate access to proceeds

C. Step-up in basis when you re-invest proceeds

D. Avoid risk of tax rates increasing

E. Regain your wealth within a few years on average

2. 1031 Like Kind Exchange

Exchange existing property for property:

a) with better long-term prospects;

b) that will diversify your assets;

c) for third party managed property;

d) multiple properties for one property;

e) one property for multiple properties

f) expand real estate holdings for the sake of inheritances; or,

g) maximize your purchasing power for replacement properties

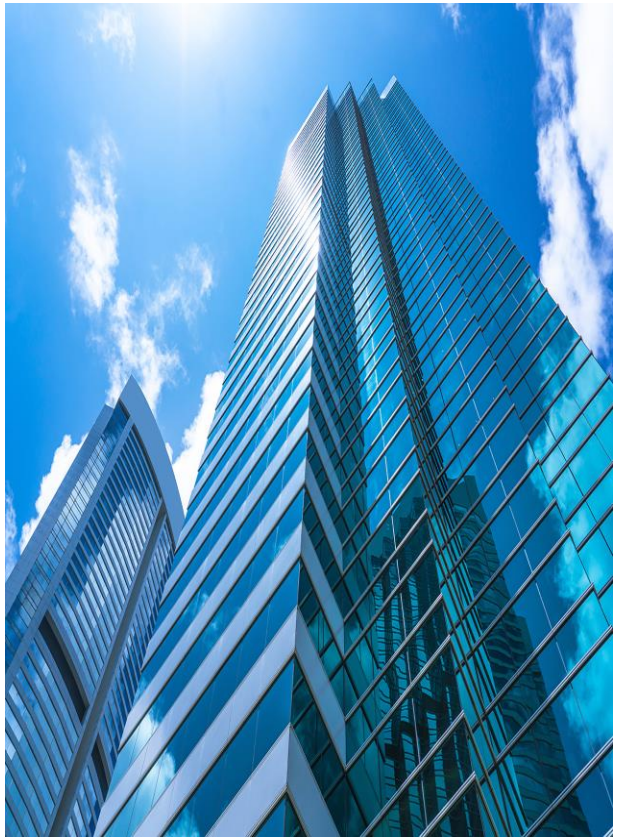


3. Delaware Statutory Trust

A) Basically a 1031 Exchange

B) Own a piece of a bigger property

C) Third Party Management



Mailbox Money – Full step-up in basis when you die

4. Owner Financed Installment Sale



A) Seller Financing

B) Stream of Payments

C) Recognize Gain Over Time

5. Installment Sales Trust

(IRS limits the deferral to transactions of $5m or less)

Owner financing without risk of buyer default



6. Move to a State without Income Tax

Capital Gains Tax Rate – New York – 8.82%

$10m Gain = Free $882,000 Florida Home

FOLLOW THE RULES!!



7. Create a Trust in a State without Income Tax Wyoming Income Non-Grantor Trust - WING



Create a Trust whose jurisdiction is in another state and holds the asset you are selling

Eliminate the state capital gains tax on the sale

The Federal tax remains

Also obtain asset protection benefits

Property in estate for estate tax purposes

8. Charitable Remainder Trust

A) Irrevocable

B) You are Trustee

C) Gift an appreciated asset into the Trust

D) Sell asset without paying capital gains tax

E) Create a stream of income

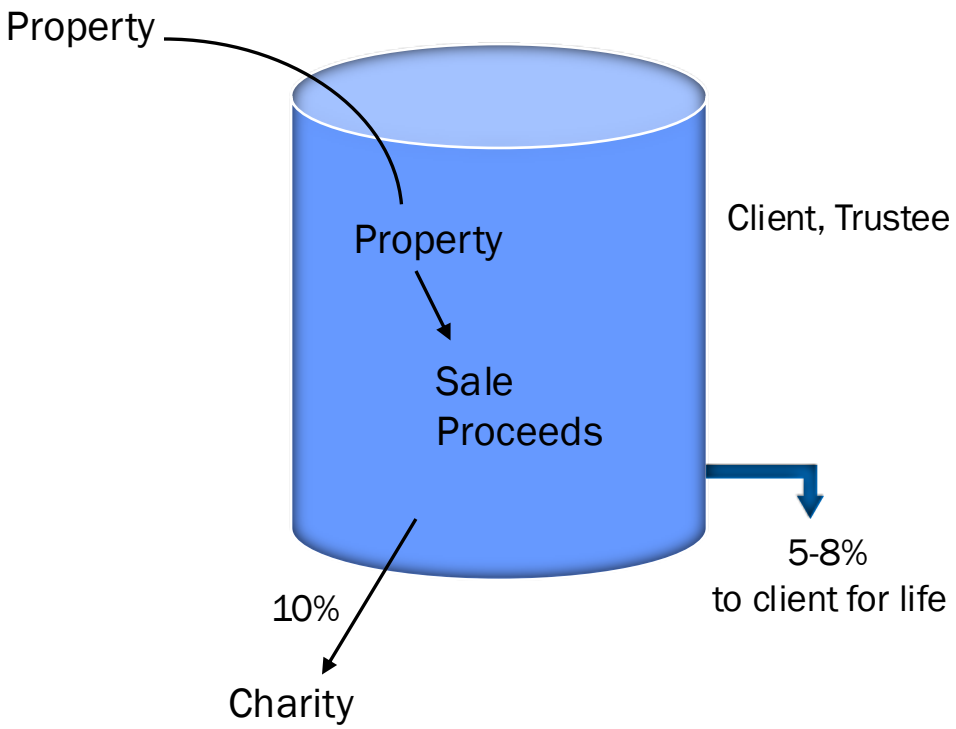
F) Immediate income tax deduction

G) Support your favorite charity

H) Asset protection



Charitable Remainder Trust



- Zero Capital Gains Tax on the Sale
- Stream of Income for Life
  - Receive more income over your lifetime than if you sold the asset yourself
- Income Tax Deduction for the Gift
- Asset Protection
- Gift to Charity
- Zero Estate Tax on Asset Gifted to Trust
- Leave more to your Children by using Life Insurance

CRT – Pro's

Contributions to the trust create a tax deduction of at least 10 cents for every $1.00 contributed. If you are older, or the amount of income you take out is less, it creates even more deductions *today!* There is a limit to how much can be deducted, but you have six tax years to use it up… and most clients do so in the first few years of creating this tool.

The money once in the trust is free from any creditor claims.

The money in the trust grows without tax.

Assets can be sold in the trust without creating a capital gains tax.

The assets are removed from your estate for calculating estate tax.

You receive an income stream that can be "shut down" until needed and then opened up – or after you make the transfer – or after an asset is sold.

It can be invested by whomever you wish.

You and/or your partner can be trustees if you wish – collect a trustee's fee in addition to the income from the trust – and it still does not create inclusion in your estate for estate tax purposes.

CRT – Con's

A) The asset placed in the CRT cannot be withdrawn – the annuity pays out

B) Whatever assets are left in the trust after you pass go to a charity and not your family

C) Costs of administering the Trust

CRT - Complications

A) Mortgaged Property

B) S-Corp

C) Partnerships

D) Employee Stock Options



9. Private Foundation

A) Fund with highly appreciated property

B) Eliminate capital gains taxes,

C) Provides an income tax deduction

D) Give back to the community



Operating v. Non-operating

This strategy is often used with the CRT. The beneficiary of the CRT can be your own foundation.

F - Reorganization

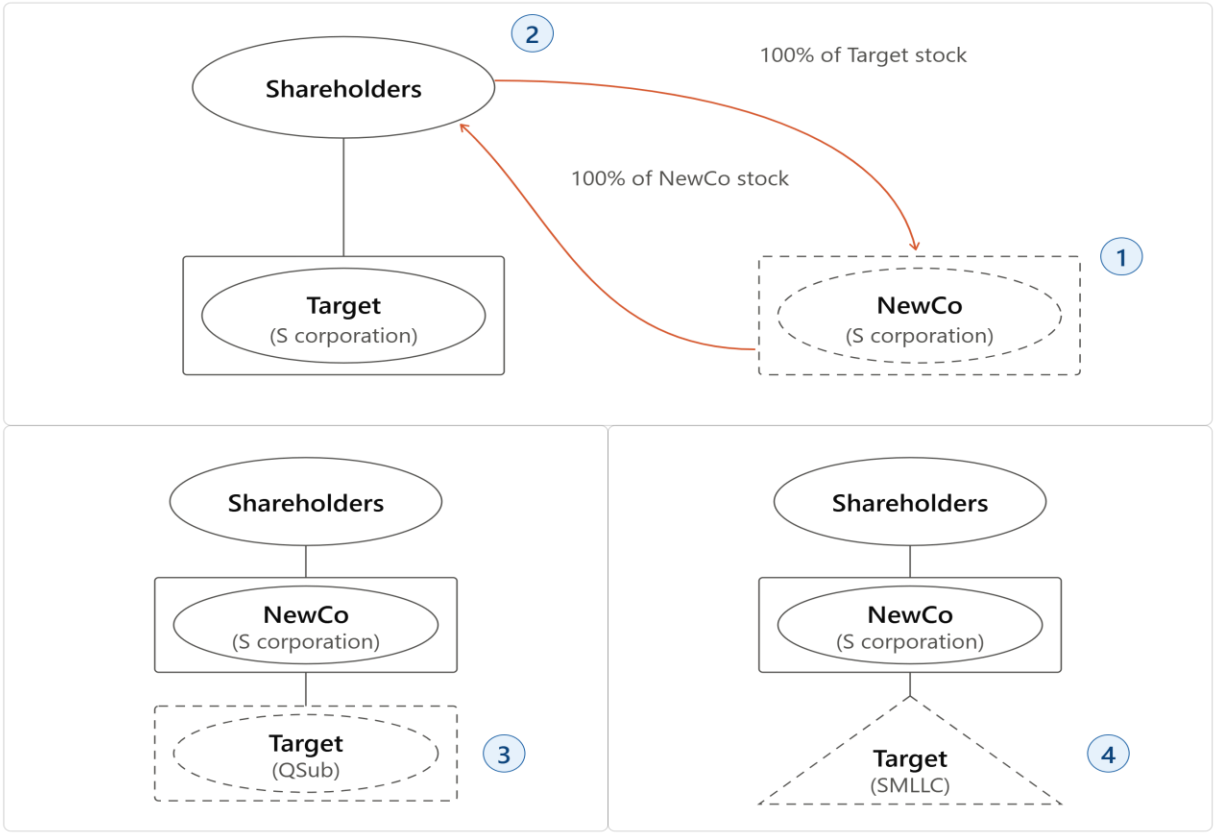
Provides tax basis step-up for private equity purchase of Property owned by a S-corp

Tax-free reorganization of a business under IRC Section 368

Also may avoid:

- 1. Buyer having to obtain legal consent from third party vendors
- 2. Buyer having to obtain consent from landlord for lease assumption
- 3. Incurring transfer taxes or retitling assets
- 4.Buyer having to transfer payroll and employee benefits
- 5. Buyer having to deal with Regulatory hurdles

F reorganization – For LLC Owned



Summary:

There are many options to manage, defer or eliminate capital gains taxes.

A) ***Manage*** the tax by controlling the timing of when you receive the sale proceeds. You do this with installment sales and to a lessor extent with CRT's.

B) ***Defer*** the tax with a 1031 Exchange, a DST, an installment sale or an installment sale trust. It may be possible to eliminate the tax if you defer the tax until your death with your heirs receiving a full step-up in basis.

C) ***Eliminate*** the tax by creating a CRT or a private foundation. The CRT still creates a stream of income which is taxable, but a private foundation eliminates the tax entirely.

Next Steps:

Make an appointment for a free consultation with Meurer & Potter, PC to determine whether any of these strategies are right for you.

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Protecting Your Lifetime of Hard Work

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Thank you!