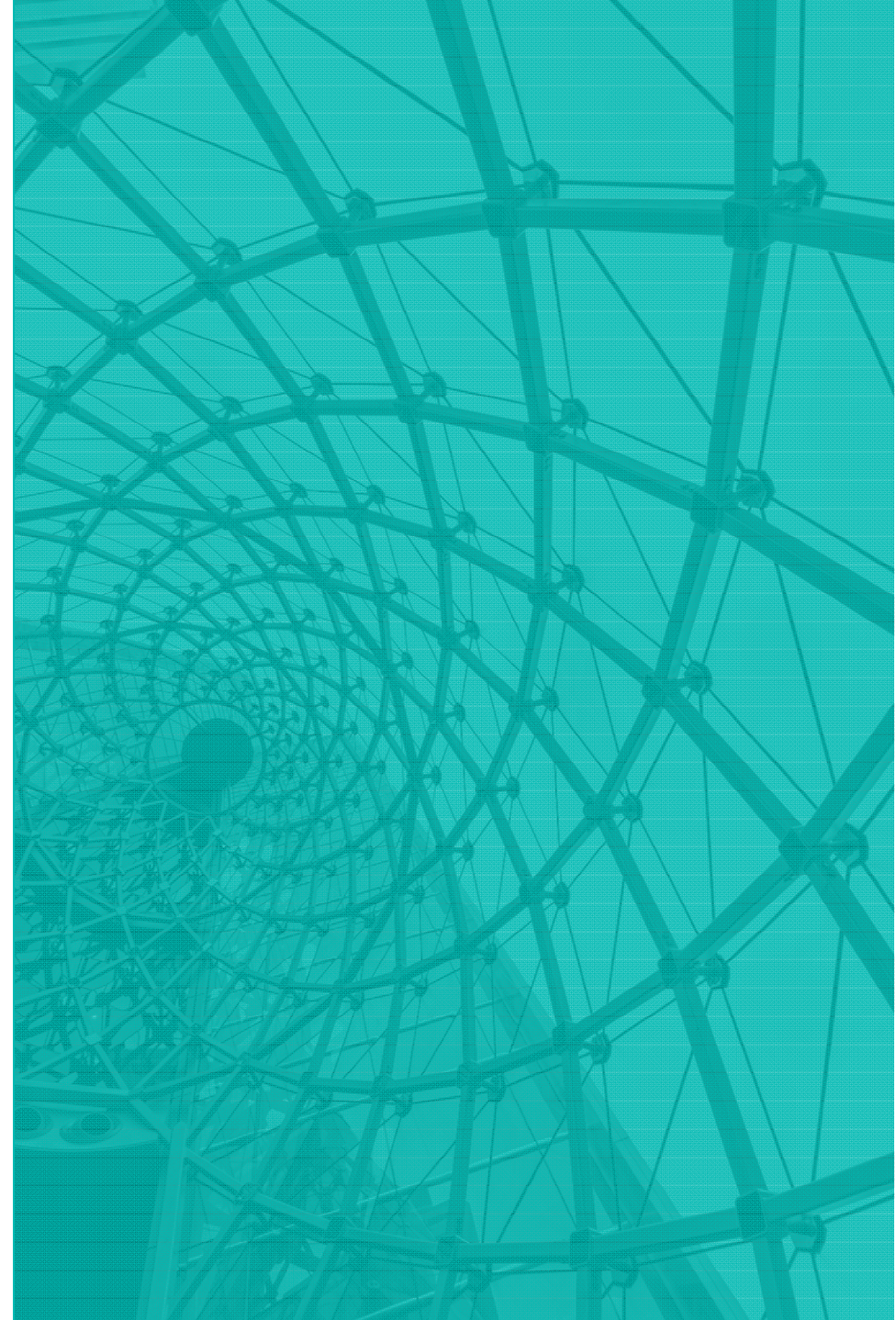


# Heckerling Highlights

Steve Lunn, Baker Tilly



# Recent Developments

# Green Book Proposals

- Realization of gains at death or upon gift
- Modified Income Tax Rules - Grantor Trusts
  - GRATs changes
  - Realization events on transactions with grantor trusts
  - Gift tax on paying income tax of a grantor trust
- *Comment* – Would take bipartisan support

# Priority Guidance Plan – IRS

- Focus will be Inflation Reduction Act
- New Items in our area
  - Basis of assets in grantor trusts
  - QDOTs
  - Portability

# Treasury Updates

- Anti-Claw back rules – anti abuse provisions
- New Life Expectancy Tables
- Proposed Regs under 2053 – Deductible Estate Administration Expenses
- Portability Extension – Rev. Proc. 2022-32

# Case Law

# Cases

- Demuth Case – Annual Exclusion Gifts
- Mellon Case – Cryptocurrency Issues
- Parks Case – Special Use Valuations
- Sorensen Case – Wandry Type Clause
- PLR 202206008 & 202217005

# **Inflation Adjusted Factors**



# Factors

- 7520 Rates – 4.6% February 2023
- Short Term AFR – 4.47% February 2023
- Mid Term AFR – 3.82% February 2023
- Long Term AFR – 3.86% February 2023
- Annual Exclusion - \$17,000 2023
- Lifetime exemption - \$12.92M per spouse 2023 (\$860K increase from prior year)

# **Landmines with Gifts and Form 709**

# Landmines with Gifts and Form 709

- Circular 230

- Definition of Tax Return Preparer – IRC 7701(a)(36)
  - Signing and non-signing
    - Any preparer may be subject to penalties
- We cannot consider/advise playing the audit lottery
- What if there are errors in filing
  - Duty to inform the client something was incorrect on the filing

# Landmines with Gift and Form 709

- Adequate disclosure – IRC 6501
  - Purpose to start the statute of limitations
- Small missteps can cause major issues
  - Field Attorney Advice 20152201F
- Attachment of adequate disclosure statements?
- Need for qualified appraisals/valuations

# Planning with Installment Obligations

# Planning with Installment Obligations

- Basics
  - Gross profit percentage (selling price less adjusted basis)
  - Default application of the installment method
  - Not Applicable to - Dealer dispositions, hot assets, marketable securities, etc.
- Installment note term
  - Greater than life expectancy = private annuity
    - GCM 39503
- Interest Charge Rule – 453A
  - \$5M threshold
  - Rate - Short-Term AFR + 3% - IRC 6621(a)(2)
- 453(b) Adjusted Basis of installment note – increased by the gain increase

# Planning with Installment Obligations

- Sales to IDGTs
  - Impact of toggling of grantor trust status
  - Impact of death

# Questions