

BLUEPRINT PROGRAM™

QUARTERLY COACHING SESSIONS

DECEMBER 2024 AGENDA

I. SETTING THE STAGE CRAIG R. HERSCH

**II. Everything You Need to Know About the
Generation Skipping Transfer Tax but
were Afraid (or too Bored!) to Ask** - CRAIG R. HERSCH

— LUNCH SERVED —

III. Creating Company Culture - MARIA L. REIMER

**IV. Sharing Wealth Wisely: Maximizing Protection
and Tax Efficiency with Lifetime Gifts** - MICHAEL B. HILL

V. Advance Estate Planning Process: A Discussion - CRAIG R. HERSCH

VI. Building Momentum into 2025 - CRAIG R. HERSCH & MICHAEL B. HILL

NAME: **Craig Hersch**

DATE: **12.06.2024**

EXCELLED		ENERGIZED		EXCITING	
PRIDE		CONFIDENCE		ENTHUSIASM	
LAST 90 DAYS		RIGHT NOW		NEXT 90 DAYS	
What are your achievements? Looking back on the last 90 days, what are things that you are proud to have achieved?		What's got you motivated? When you look at today, what are you doing that makes you the most confident?		What's next? Looking ahead, what are the things on your horizon that give you the most enthusiasm?	
EXCELLENT FALL REVENUE PLANNING COURTNEY'S WEDDING CREATING VIDEO MODULES FOR CLIENT CARE PROGRAM CREATED THE GIFTING WHITEPAPER SURVIVED TWO HURRICANES		MOVING FORWARD WITH SEVERAL PARADIGM PLANS WORKING ON ADVANCED ESTATE PLANNING FOR HIGH NET WORTH CLIENTS RECORDING SEVERAL GREAT PODCAST EPISODES FOR NEW SERIES WORKING W/ BENJI'S TEAM ON AI PROJECTS		CLIENT CARE VIDEO SERIES LAUNCH WHITEPAPER SUBSCRIPTION PROGRAM LAUNCH AI PROF. ASSISTANT SOFTWARE WRITING NEW BOOK ON PERPETUAL WEALTH LAUNCH PODCAST EPISODES TO THE PUBLIC	
EXCEPTIONAL QUARTER		What are the five BEST achievements you can accomplish in 90 days that will represent an EXCEPTIONAL Quarter, regardless of anything else happening?			
1	2		3	4	5
GREAT START TO THE NEW YEAR	NEW SOCIAL MEDIA MARKETING		LAUNCH PODCASTS	FINISH PERPETUAL WEALTH BOOK DRAFT	FINISH CLIENT CARE VIDEO LEARNING PROGRAM



NAME:

DATE:

GROWTH
KNOWLEDGE BASE

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MODULE OUTLINE

**EVERYTHING YOU NEED
TO KNOW ABOUT THE
GENERATION SKIPPING
TRANSFER TAX
BUT WERE AFRAID
(OR TOO BORED!) TO ASK**



**FREEDOM
PRACTICE**

TABLE OF CONTENTS

I. Introduction and Purpose of GSTT 1

II. Key Definitions and Concepts 1

III. GSTT Calculation and Rates 3

IV. Triggering Events 4

V. Exemptions and Exclusions 4

VI. GST Tax Planning Traps & Strategies 6

VII. Reporting and Compliance 9

VIII. Recent Developments and Potential Changes 11





I. Introduction and Purpose of GSTT

A. Historical Context

The GSTT was introduced in 1976 and significantly revised in 1986 to close estate tax loopholes. It has remained largely unchanged since 1986, with periodic adjustments to rates and exemption amounts. The tax aims to prevent wealth concentration across multiple generations without taxation.

B. Rationale Behind the Tax

GSTT ensures transfer taxes are paid at each generational level. It prevents wealthy families from avoiding estate taxes by transferring assets into trusts that avoid taxation at their children's level. The tax creates a level playing field in the transfer tax system.

Example: Without GSTT, a \$100 million net estate (at parent's level) could be held in trust for children and then to grandchildren and successive generations, avoiding estate tax at the children's generation. With GSTT, this transfer (after the use of the GSTT exemption) would be subject to tax, preserving the integrity of the transfer tax system.

C. Integration with Estate and Gift Tax System

GSTT works in conjunction with federal estate and gift taxes to create a comprehensive transfer tax regime. It applies to transfers that would otherwise escape taxation at a generational level. GSTT rates and exemptions align with estate and gift tax rates and exemptions for consistency.

D. Impact on Estate Planning

GSTT has significantly influenced estate planning strategies for high-net-worth individuals. It has led to developing sophisticated trust structures and allocation techniques to maximize GSTT exemptions. Understanding GSTT is crucial for estate planning attorneys and financial advisors.

II. Key Definitions and Concepts

A. Transferor and Skip Person

The transferor is the individual whose transfer is subject to GSTT. A skip person is generally two or more generations below the transferor, or a trust where all interests are held by skip persons. Proper identification of these parties is crucial for determining GSTT liability.

Example:

1. Grandmother (G1) creates an irrevocable trust for the benefit of her daughter (G2) and grandchildren (G3).
2. The trust gives G2 a limited power of appointment to distribute trust assets among G3 beneficiaries.
3. G2 exercises this power, creating a new trust for her children (G3).
4. The new trust gives G3 beneficiaries a general power of appointment over trust assets.
5. One G3 beneficiary exercises this power, creating another trust for their own children (G4).

Identifying the Transferor

In this scenario, identifying the transferor for GSTT purposes becomes complex:

1. Initially, G1 is the transferor when creating the original trust.
2. When G2 exercises her limited power of appointment, it doesn't change the transferor status. G1 remains the transferor for GSTT purposes.
3. However, when the G3 beneficiary exercises their general power of appointment, it causes a shift in the transferor status.

Answer

The G3 beneficiary who exercised the general power of appointment becomes the new transferor for GSTT purposes. This is because exercising a general power of appointment is treated as equivalent to owning the property outright, and thus creates a new transferor for the resulting trust. This means:

- Distributions from the final trust to G4 beneficiaries would not be subject to GSTT, as they are only one generation removed from the new transferor (G3).
- However, if this trust later makes distributions to generations beyond G4 (e.g., G5 or G6), those would potentially be subject to GSTT, with G3 as the transferor.

This example illustrates how the interplay of different types of powers of appointment and trust structures can complicate the determination of the transferor for GSTT purposes. It's crucial to track these changes carefully to ensure proper GSTT planning and compliance.

B. Generation Assignment

Generation assignment is based on family relationship for lineal descendants. For non-family members, it's determined by age difference, with individuals more than 37.5 years younger than the transferor considered skip persons. Special rules apply for multiple generations and certain spousal assignments

Example: Jane, age 70, makes a gift to her friend's child, Tom, age 25. Despite not being related, Tom is considered a skip person because he is more than 37.5 years younger than Jane.

C. Direct and Indirect Skips

A direct skip is a transfer made directly to a skip person, triggering immediate GSTT use of exemption, annual exclusion, or liability. An indirect skip involves a transfer to a trust that may benefit skip persons now or in the future. Understanding this distinction is crucial for proper tax planning and reporting.

Example: A grandmother giving \$1 million directly to her grandson is a direct skip. If she instead puts \$1 million in a trust that could benefit her children or grandchildren, it's an indirect skip.



D. Taxable Termination and Distribution

A taxable termination occurs when a trust's interests held by non-skip persons terminate, leaving only skip persons as beneficiaries. A taxable distribution happens when a trust distributes to a skip person. Both events may trigger GSTT liability.

Example: A trust pays income to the settlor's child for life, then terminates in favor of the grandchildren. The child's death causes a taxable termination. If the trust instead distributed funds to a grandchild during the child's lifetime, it would be a taxable distribution.

III. GSTT Calculation and Rates

A. GSTT Rate

The GSTT rate is currently 40%, matching the highest federal estate tax rate. This rate applies to the taxable amount of generation-skipping transfers, ensuring consistency in the transfer tax system.

Example: If a grandfather makes a direct skip of \$1 million to his grandson, exceeding his available exemption, the GSTT due would be \$400,000 (40% of \$1 million).

B. GSTT Exemption Amount

For 2024, the GSTT exemption amount is \$13.61 million per individual or \$27.22 million for married couples. In 2025 this increases to \$13.99 million per individual or just under \$28 million for a married couple. The GSTT exemption can be allocated to lifetime transfers or may be used at death.

The exemption amount is currently slated to sunset on December 31, 2025, absent a new law that extends it.

Example: A couple with \$30 million could allocate their combined \$27.22 million exemption to a dynasty trust, leaving only \$2.78 million subject to GSTT.

C. Applicable Rate Calculation

In all cases, it is best to have trusts that have inclusion ratios of zero (meaning exempt) or 1 (nonexempt). If you have a trust that could make a taxable distribution or termination and the applicable rate is between zero and one, the GSTT must be remitted. When calculating how much GSTT is to remit to the IRS, the rate is calculated by multiplying the inclusion ratio by the maximum federal estate tax rate. The inclusion ratio is determined by subtracting the applicable fraction from 1. This calculation determines the tax impact of generation-skipping transfers.

Example: If \$5 million is transferred to a trust with \$4 million of GST exemption allocated, the applicable fraction is $4/5$, the inclusion ratio is $1/5$, and the applicable rate is 8% ($1/5 * 40\%$). A better idea is to subdivide the trust into an exempt and a nonexempt share.

D. Inclusion Ratio and Applicable Fraction

The inclusion ratio represents the portion of a transfer subject to GSTT. The applicable fraction is calculated by dividing the amount of GST exemption allocated to a transfer by the value of the transferred property. A trust with an inclusion ratio of zero is fully exempt from GSTT.

Example: If a \$10 million trust has \$7 million of GST exemption allocated to it, the applicable fraction is $7/10$, the inclusion ratio is $3/10$, and 30% of any generation-skipping transfer from the trust will be subject to GSTT.



IV. Triggering Events

A. Lifetime Transfers

Lifetime transfers to skip persons can trigger immediate GSTT liability. These include outright gifts or transfers to certain types of trusts. Proper planning and use of exemptions can help mitigate GSTT on lifetime transfers.

Example: A grandmother gifts \$15 million to her grandson during her lifetime. This direct skip will trigger immediate GSTT on the amount exceeding her available GSTT exemption.

B. Testamentary Transfers

Bequests to skip persons in a will or through beneficiary designations can result in GSTT at death. These transfers are reported on the decedent's estate tax return. Careful estate planning can help optimize the use of GSTT exemptions for testamentary transfers.

Example: A grandfather's will leaves \$20 million to his grandchildren. This bequest will be subject to GSTT on his death, reported on Form 706.

C. Trust Distributions

Distributions from non-exempt trusts to skip persons can trigger GSTT. This includes both income and principal distributions. Trustees must monitor distributions to ensure proper tax reporting and payment.

Example: A family trust distributes \$100,000 to a grandchild beneficiary. If the trust is not fully GST exempt (having an inclusion ratio of zero), this distribution may trigger GSTT.

D. Trust Terminations

The termination of interests held by non-skip persons in a trust can result in a taxable termination for GSTT purposes. This often occurs when the last non-skip person beneficiary dies (without having a general power of appointment) or their interest otherwise terminates.

Example: A trust pays income to the settlor's child for life, then terminates in favor of the grandchildren. When the child dies without a general power of appointment, the trust's termination triggers GSTT on the full trust value.

V. Exemptions and Exclusions

A. Annual Exclusion

The GSTT annual exclusion aligns with the gift tax annual exclusion, which is \$18,000 for 2024 and \$19,000 for 2025. This exclusion applies to certain direct skips, providing a way to make tax-free transfers to skip persons. Proper structuring of gifts is necessary to qualify for this exclusion.

Example: A grandmother gives each of her five grandchildren \$18,000 in 2024. These gifts qualify for the annual exclusion and do not trigger GSTT or reduce her lifetime exemption.



C. Deceased Parent Rule

The deceased parent rule allows a grandchild to step into their deceased parent's generation for GSTT purposes. However, it's crucial to note that this rule does not apply in an irrevocable trust if the parent dies after the trust is created and funded. The generational assignment is fixed at the time of the trust's creation, and subsequent deaths do not alter this assignment for GSTT purposes.

Example: A grandfather leaves \$1 million to his grandchild whose parent (the grandfather's child) is deceased at the transfer time. This transfer is not subject to GSTT due to the deceased parent rule. However, if this transfer were made to an irrevocable trust created when the parent was alive and died after the trust's creation, the deceased parent rule would not apply.

D. Grandfathered Trusts

Trusts that were irrevocable on September 25, 1985, may be exempt from GSTT under grandfathering rules. Additions to these trusts after that date may be subject to GSTT. Understanding the grandfathering rules is crucial for managing older trusts.

Example: A trust created and funded in 1980 that became irrevocable upon the grantor's death in 1983 would be exempt from GSTT. However, if additional contributions were made to this trust after September 25, 1985, those contributions would be subject to GSTT rules.

Question: *Does the exercise of a power of appointment by a beneficiary void a grandfathered trust's exemption from GSTT?*

Answer: The exercise of the power of appointment by a beneficiary of a trust previously exempted from GSTT due to being irrevocable before September 25, 1985 (often called a "grandfathered" trust) does not automatically make the trust subject to GSTT again. However, the specific circumstances of the power exercise are crucial in determining whether the trust's exempt status is maintained. Key points to consider:

- 1. Safe harbor provisions:** Treasury Regulations provide safe harbor rules that allow certain modifications or exercises of powers without jeopardizing the trust's exempt status.
- 2. Shifting of beneficial interests:** The exercise of the power should not shift a beneficial interest to a lower-generation beneficiary who did not have the interest before the modification.
- 3. Extension of vesting period:** The power exercise should not extend the time for vesting of any beneficial interest beyond the period provided for in the original trust.
- 4. Bona fide issues:** If the power exercise involves resolving ambiguities or correcting scrivener's errors, it's less likely to affect the exempt status.
- 5. Consistency with state law:** The exercise should be consistent with applicable state law that would be applied by the highest court of the state.

If the exercise of the power of appointment adheres to these principles and does not fundamentally alter the trust's structure or beneficiaries in a way that contradicts the original grandfathered status, the trust can maintain its GSTT exemption. However, if the exercise significantly changes the trust's terms or beneficiaries, it could potentially compromise the exempt status.



VI. GST Tax Planning Traps & Strategies

A. Annual Exclusion Trap – Crummey Trusts

Careful planning is necessary when using an annual exclusion gift through a Crummey Trust.

Sole Beneficiary Requirement: The GSTT annual exclusion for transfers to trusts is limited to trusts with a sole skip person beneficiary. This means:

- Crummey trusts with multiple beneficiaries do not qualify for the GSTT annual exclusion, even if they qualify for the gift tax annual exclusion.
- Only trusts with a single skip-person beneficiary can qualify for the gift tax and GSTT annual exclusions.

Estate Inclusion Requirement: For a trust to qualify for the GSTT annual exclusion:

- The trust assets must be includible in the skip person beneficiary's gross estate for federal estate tax purposes if the trust does not terminate before the beneficiary's death.
- This requirement further limits the flexibility of trust structures that can benefit from the GSTT annual exclusion.

Stricter Criteria Than Gift Tax Annual Exclusion: While many transfers to Crummey trusts may qualify for the gift tax annual exclusion, they often fail to meet the more stringent requirements for the GSTT annual exclusion:

- A trust that qualifies for the GSTT annual exclusion will also qualify for the gift tax annual exclusion, but not vice versa.
- This means that transfers to many Crummey trusts may be excluded from gift taxes but still require allocation of GST exemption to avoid future GST tax.

Limited Application to Common Trust Structures: Many popular trust structures, such as life insurance trusts (ILITs) with multiple beneficiaries, cannot take advantage of the GSTT annual exclusion:

- These trusts may still use Crummey powers for gift tax purposes but will require separate GST exemption allocation to maintain GST tax-exempt status.

Due to these limitations, practitioners often need to carefully allocate GST exemption to Crummey trusts on gift tax returns, even when the transfers qualify for the gift tax annual exclusion.

B. Estate Tax Inclusion Period

The Estate Tax Inclusion Period (ETIP) Rule is a provision that affects the allocation of Generation-Skipping Transfer Tax (GSTT) exemption. An ETIP is a period after a gift is made during which the value of the transferred property would be included in the transferor's gross estate if they were to die. The ETIP Rule has several important effects on GSTT exemption:

Allocation timing: No allocation of GSTT exemption can be made until the close of the ETIP.

Automatic allocation: At the close of the ETIP, if the remainder beneficiaries include a skip person, automatic allocation of GSTT exemption occurs unless at the time of the filing of the Federal Gift Tax Return Form 709 automatic allocation is opted out.



Valuation: The value of the transfer for GSTT purposes is determined at the close of the ETIP, not at the time of the initial gift.

Irrevocable allocation: If GSTT exemption is allocated during an ETIP, it becomes irrevocable after the due date of Form 709 for the calendar year in which the transfer is made.

Delayed effectiveness: For indirect skips subject to an ETIP, the transfer is deemed to occur at the close of the ETIP, and GSTT exemption is allocated at that time.

The ETIP Rule can create challenges for estate planning, particularly with trusts like Grantor Retained Annuity Trusts (GRATs) and Qualified Personal Residence Trusts (QPRTs)¹². It may result in the loss of leverage for GSTT purposes and create uncertainty in the amount of GSTT exemption needed¹. To address these challenges, practitioners may consider drafting trusts to avoid ETIPs or using specific provisions to prevent GST tax potential.

Example QPRT:

Suppose a grantor creates a QPRT with a 10-year term, transferring a \$1 million personal residence to the trust. During the 10-year term, the grantor retains the right to use the residence.

The ETIP Rules affect the GSTT exemption allocation as follows:

- No GSTT exemption can be allocated during the 10-year term because it's considered an ETIP.
- At the end of the 10-year term, when the ETIP closes, the grantor can allocate GSTT exemption based on the property's fair market value at that time.
- If the property has appreciated to \$1.5 million after 10 years, the grantor would need to allocate \$1.5 million of GSTT exemption to exempt the trust from GST tax fully.

Example GRAT:

Consider a grantor who creates a 2-year GRAT, funding it with \$2 million in assets.

The grantor retains the right to receive annuity payments during the 2-year term. The ETIP Rules impact the GSTT exemption allocation as follows:

- No effective allocation of GSTT exemption can be made during the 2-year GRAT term due to the ETIP Rules.
- At the end of the 2-year term, when the ETIP closes, the grantor can allocate GSTT exemption based on the remaining value in the GRAT.
- If the GRAT assets have grown to \$2.5 million after annuity payments, the grantor would need to allocate \$2.5 million of GSTT exemption to exempt the remaining trust assets from GST tax fully.

In both examples, the ETIP Rules prevent leveraging the GSTT exemption at the time of the initial transfer, as the exemption can only be allocated at the end of the trust term based on the then-current value of the assets. This can result in the need for a larger GSTT exemption allocation if the assets appreciate during the trust term.



Example CLAT:

A Charitable Lead Annuity Trust (CLAT) is a type of trust where a charity receives a fixed annuity payment for a specified term, after which the remaining assets pass to non-charitable beneficiaries. A CLAT can be "zeroed out" for gift tax purposes by setting the present value of the charitable annuity payments equal to the initial value of the assets transferred to the trust. To zero out a CLAT:

1. The grantor transfers assets to the trust.
2. The trust pays a fixed annuity to charity for a set term.
3. The annuity amount and term are calculated so that the present value of the charitable interest equals the initial value of the assets transferred.

Regarding GSTT exemption allocation for CLATs:

1. No allocation can be made during the charitable lead term.
2. Allocation is only possible at the end of the charitable lead term.
3. The amount of GSTT exemption needed is based on the value of the assets at the end of the charitable term.

Suppose a grantor creates a 20-year CLAT with \$1 million in assets. The 7520 rate is 5%, and the annuity is set at \$80,242 per year to zero out the gift. After 20 years, assuming 7% growth, the trust remainder is worth \$1,462,916. GSTT exemption allocation:

1. No allocation can be made at creation in 2024.
2. In 2044, when the charitable term ends, \$1,462,916 of GSTT exemption would be needed to fully exempt the trust.
3. This is inefficient because the grantor must wait 20 years and use more exemption than the initial transfer value.

The ETIP rules prevent leveraging GSTT exemption for CLATs, similar to GRATs, as the exemption can only be allocated based on the trust's value at the end of the charitable term.

C. Dynasty Trusts

Dynasty trusts are designed to last for multiple generations, leveraging the GSTT exemption. These trusts can potentially allow wealth to grow free of transfer taxes for decades or even centuries. The effectiveness of dynasty trusts depends on state law and proper structuring.

Example: A couple establishes a \$20 million dynasty trust in a state with no rule against perpetuities, allocating their full GSTT exemption to it. This trust could potentially benefit their descendants for many generations without incurring additional transfer taxes.

D. Allocation of GST Exemption

Strategic allocation of the GST exemption can maximize its benefit, especially when applied to appreciating assets. Automatic allocation rules apply in certain situations, but affirmative allocations may be necessary in others. Timely and proper allocation is crucial for effective GSTT planning.

Example: A parent transfers \$5 million to a trust for their children and grandchildren, allocating \$5 million of GSTT exemption. If the trust grows to \$20 million, all of it remains exempt from GSTT.



E. Sales to Intentionally Defective Grantor Trusts

Sales to intentionally defective grantor trusts (IDGTs) can be an effective way to leverage GSTT exemptions. These transactions can potentially transfer significant wealth to skip persons with minimal gift tax consequences. Careful structuring and valuation are crucial for the success of this strategy.

Example: A grantor sells \$10 million in assets to an IDGT in exchange for a promissory note. The trust is seeded with \$1 million, to which GSTT exemption is allocated. As the assets appreciate, the growth occurs in a GST-exempt environment.

F. Intentionally Defective General Powers of Appointment in Non-Exempt Trusts

Using intentionally defective general powers of appointment in non-exempt trusts can be a strategy to avoid GSTT. By giving a non-skip person a general power of appointment over trust assets, those assets become includible in their estate, effectively "resetting" the generational level for GSTT purposes.

Example: A non-exempt trust for grandchildren grants the grantor's child a general power of appointment over a portion of the trust assets. This causes those assets to be included in the child's estate, avoiding GSTT when they ultimately pass to the grandchildren. Here the transferor becomes the child of the Grantor.

VII. Reporting and Compliance

A. Form 709 for Lifetime Transfers

Lifetime generation-skipping transfers are reported on Form 709, the federal gift tax return. This form is used to report direct skips and allocate GSTT exemption. Timely filing is crucial for certain elections and exemption allocations.

Example: A grandmother makes a \$1 million gift to her grandson in 2024. She must file Form 709 by April 15, 2025, to report this direct skip and allocate GSTT exemption if desired.

Automatic Allocation: The automatic allocation rules under the Generation-Skipping Transfer Tax (GSTT) are designed to protect taxpayers from inadvertently losing their GST tax exemptions. These rules apply and are triggered in the following situations:

Direct skips: When a direct gift exceeding the annual gift tax exclusion is made to a grandchild or other skip person, unused GST tax exemption is automatically applied to the gift.

Indirect skips: For transfers made after December 31, 2000, to trusts that qualify as "GST trusts," unused GST exemption is automatically allocated.

At death: Any unused GST exemption is automatically allocated on the due date for filing Form 706 (estate tax return).



Order of Automatic Allocation: The automatic allocation occurs in the following order:

1. First, to direct skips occurring during the transferor's lifetime or at death
2. Second, to trusts from which a taxable distribution or taxable termination might occur at or after the transferor's death.

It's important to note that these automatic allocations occur regardless of whether the transfer is reported on a gift tax return. The allocation becomes irrevocable after the due date of Form 709 for the calendar year in which the transfer is made.

To opt out of automatic allocation: Practitioners should consider whether opting out of automatic allocation is preferred. It's important to note that while automatic allocation rules can be helpful, they may sometimes lead to unintended consequences. For example, GST exemption might be allocated to a trust that may never benefit skip persons, potentially wasting the exemption. Therefore, it's advisable to carefully consider whether to rely on automatic allocation or make affirmative elections for each trust or transfer. Also, if one is uncertain whether the GSTT allocation will be made as desired, it is good practice to opt out of allocation and then manually allocate on the appropriate tax return schedules.

For direct skips: File a timely Form 709 (gift tax return) describing the transfer and the extent to which automatic allocation should not apply.

For indirect skips: Make an election on a timely filed gift tax return as provided in Treasury Regulations.

For trusts: You can elect to have the automatic allocation rules not apply to an indirect skip or any or all transfers to a particular trust.

B. Estate Tax Return Reporting

Testamentary generation-skipping transfers are reported on Form 706, the federal estate tax return. This includes reporting of direct skips occurring at death and allocation of GSTT exemption. Properly completing Schedule R is crucial for GSTT compliance on estate tax returns.

Example: A decedent's will leaves \$5 million to grandchildren. The executor must complete Schedule R of Form 706 to report this direct skip and allocate GSTT exemption.

C. Deceased Spouse Unused Exemption Amount

The estate and gift tax exemption is subject to the Deceased Spousal Unused Exemption Amount (DSUEA), while the Generation-Skipping Transfer Tax (GSTT) exemption is not portable. This means:

Estate and Gift Tax Exemption:

- A surviving spouse can use their deceased spouse's unused estate and gift tax exemption through portability
- The executor must file a timely estate tax return (Form 706) to elect portability of the DSUEA
- The surviving spouse can add the DSUEA to their own exemption, potentially doubling the total exemption amount available.



No DSUEA for GSTT Exemption:

- The GSTT exemption is not portable between spouses.
- Any unused GSTT exemption of a deceased spouse cannot be transferred to the surviving spouse.
- Each spouse must use their own GSTT exemption during their lifetime or at death.

It's crucial to emphasize that while portability provides flexibility for estate and gift tax planning, separate strategies must be employed for GSTT planning, as the GSTT exemption cannot be shared between spouses through portability.

D. Trust Reporting Requirements

Trustees of GST trusts have specific reporting requirements, including the filing of Form 706-GS(T) for taxable distributions or terminations. Accurate record-keeping and understanding of trust terms are essential for proper reporting.

Example: A non-exempt trust distributes \$500,000 to a skip person. The trustee must file Form 706-GS(T) to report this taxable distribution and pay any GSTT due.

E. Statute of Limitations

The statute of limitations for GSTT generally aligns with gift and estate tax statutes. However, special rules may apply for certain allocation elections and trust distributions. Understanding these time limits is crucial for both planners and trustees to ensure compliance and finality of transactions.

Example: A gift tax return adequately disclosing a GST transfer is filed in 2024. The IRS generally has until April 15, 2027 (3 years from the due date) to assess additional tax, unless an exception applies.

VIII. Recent Developments and Potential Changes

A. Impact of the Tax Cuts and Jobs Act

The Tax Cuts and Jobs Act of 2017 significantly increased the GSTT exemption amount. This increase is set to sunset after 2025, reverting to pre-2018 levels adjusted for inflation. The temporary nature of these changes creates both opportunities and challenges for long-term planning.

Example: A couple with \$50 million in assets might consider making large gifts to a dynasty trust before 2026 to lock in the higher exemption amounts, in case they decrease in the future.

B. Proposed Legislation

Various legislative proposals have suggested changes to the GSTT, including potential reductions in the exemption amount. Some proposals have targeted the use of dynasty trusts or suggested modifications to the GSTT rate structure.

Example: A recent legislative proposal suggested limiting the duration of GST exemption to 50 years, which would significantly impact the effectiveness of dynasty trusts. Estate planners are closely monitoring such proposals to adjust strategies accordingly.



C. IRS Regulations and Rulings

The IRS periodically issues regulations and rulings that clarify or modify GSTT rules. Recent focus areas have included the application of GSTT to certain trust modifications and decanting. Understanding these administrative interpretations is essential for compliance and effective planning.

Split Gifts Between Spouses: The 2019 IRS Final Regulations on GSTT exemption allocation rules for split gifts between spouses introduced important changes that estate planning attorneys should be aware of:

Automatic allocation: For split gifts to trusts that qualify as GST trusts, the automatic allocation rules apply separately to each spouse's portion of the gift.

Opt-out elections: Each spouse must make a separate election to opt out of automatic allocation for their portion of a split gift. This means one spouse can choose to have automatic allocation apply while the other opts out.

Late allocations: Spouses can make late allocations of GST exemption independently for their respective portions of a split gift

Reporting requirements: When making GST exemption allocations or opt-out elections for split gifts, each spouse should clearly indicate their intentions on their respective gift tax returns (Form 709)

Consistency not required: The regulations allow spouses to take different approaches to GST exemption allocation for their portions of a split gift

These rules provide more flexibility for spouses in GST tax planning but also require careful attention to ensure proper allocation or opt-out for each spouse's portion of split gifts. Estate planning attorneys should advise clients on the potential benefits and risks of different allocation strategies for split gifts and ensure proper documentation on gift tax returns.

D. State-Level Considerations

Some states impose their own generation-skipping transfer taxes. Changes in state laws regarding perpetuities and trust duration can impact GSTT planning. Consideration of both federal and state GSTT rules is necessary for comprehensive planning.

Example: While setting up a dynasty trust, a family must consider that some states, like Washington, impose their own state-level GSTT, which could affect the overall tax efficiency of the trust.

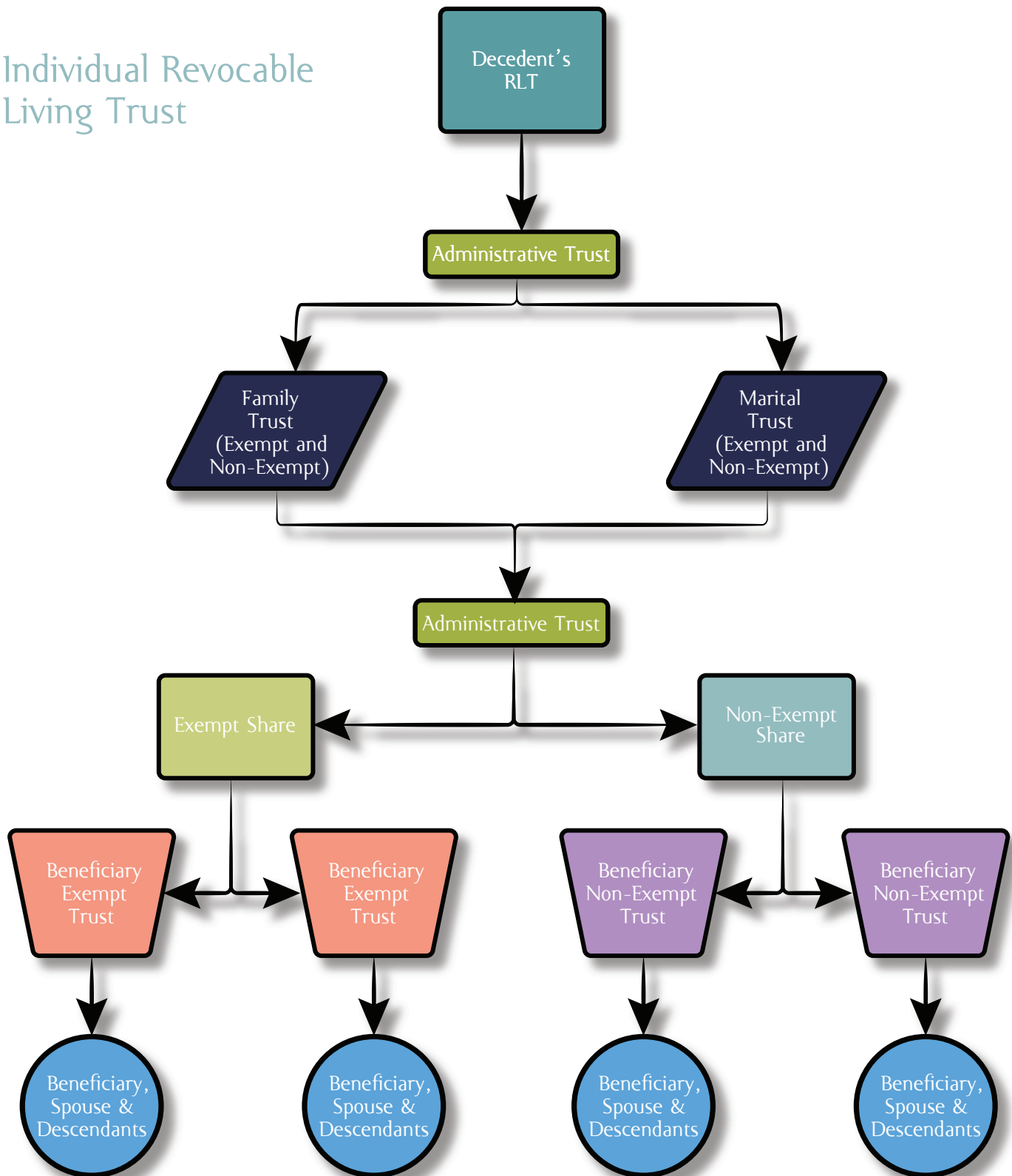


MODULE OUTLINE

EVERYTHING YOU NEED TO KNOW ABOUT THE
GENERATION SKIPPING TRANSFER TAX
BUT WERE AFRAID (OR TOO BORED!) TO ASK



Individual Revocable Living Trust



Individual Married RLT-8

I. DEFINING CORE VALUES



Why Core Values Matter:

Core values are the bedrock of company culture. They define how employees interact with each other, approach their work, and serve clients.

For The Sheppard Law Firm, one of our most important core values is client excellence—delivering personalized, high-touch service to high-net-worth families, blended families, and business owners.

Without clearly defined values, culture becomes inconsistent, and employees lack a guiding framework for their behavior.

How to Define Core Values:

Gather input from leadership and key team members to identify what truly sets your organization apart.

Example: At The Sheppard Law Firm, our commitment to client excellence reflects in everything from the precision of our estate planning to the warmth of our client interactions.

Use real-life examples of team successes to anchor your values. For instance, a team member staying late to finalize trust funding demonstrates dedication to client excellence.

II. BUILD CULTURE INTO DAILY OPERATIONS

Integrating Values into Workflow:

Company culture isn't created by posters or policies—it's lived through daily actions.

Example: At The Sheppard Law Firm, every client interaction, whether it's a call to clarify funding details or a signing meeting, reinforces our culture of excellence by exceeding client expectations.



Train Leaders to Reflect Culture:

Leaders set the tone by consistently modeling the behaviors that align with the firm's culture.

Example: Senior attorneys lead by example during client meetings, ensuring that every question is addressed with care and that the client leaves feeling fully informed.



III. HIRE & ONBOARD FOR CULTURAL ALIGNMENT

Recruiting Aligned Talent:

Beyond skills and experience, seek candidates who demonstrate traits that align with your culture of client excellence.

Example: Ask candidates how they've gone above and beyond to solve problems or deliver exceptional service in previous roles.

Onboarding New Hires:

Immerse new employees in your cultural standards from day one.

Example: During onboarding at The Sheppard Law Firm, new hires learn about our Freedom Practice systems, which prioritize both operational efficiency and unparalleled client service.

IV. FOSTER CONNECTION & COLLABORATION AROUND EXCELLENCE

Building a Shared Commitment to Excellence:

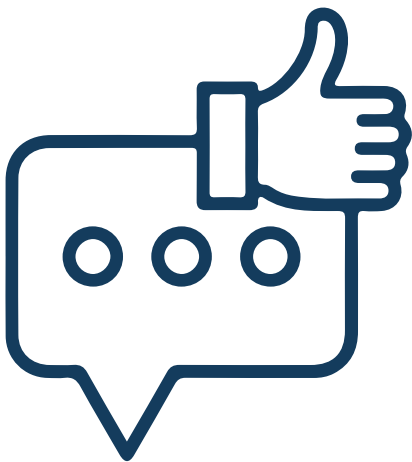
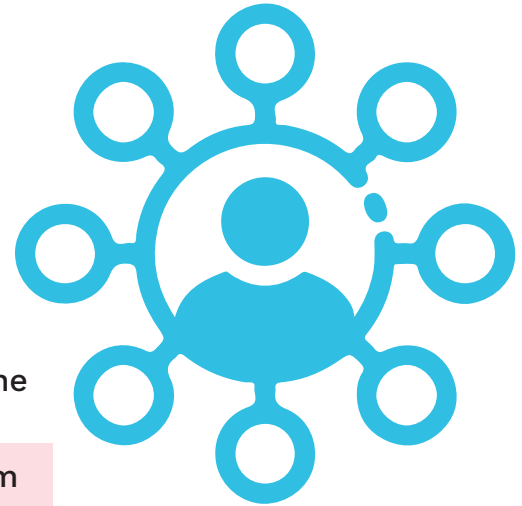
Reinforce the idea that every team member plays a critical role in delivering an exceptional client experience.

Example: At The Sheppard Law Firm, paralegals, assistants, and attorneys collaborate during client funding meetings to ensure no detail is overlooked.

Create Rituals That Reinforce Culture:

Regularly celebrate success stories where employees exemplify the firm's commitment to excellence.

Example: Hold monthly meetings to highlight individual and team achievements that contributed to outstanding client outcomes.



V. REINFORCE CULTURE THROUGH RECOGNITION & FEEDBACK

Celebrate Excellence in Action:

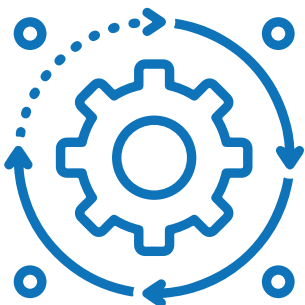
Recognize and reward employees who embody the firm's values in their work.

Example: Acknowledge a team member who simplifies complex legal jargon for a client, ensuring they feel empowered and confident about their estate plan.

Provide Constructive Feedback:

Tie feedback to the firm's cultural values, ensuring employees see the connection between their actions and the larger goals of the organization.

Example: If a team member misses a deadline, frame the feedback around the importance of timeliness in meeting client expectations and maintaining trust.



VI. SYSTEMATIZE AND SUSTAIN CULTURE

Document Processes That Reflect Culture:

Create detailed workflows for critical tasks that reinforce the firm's focus on client excellence.

Example: At the Sheppard Law Firm, our systems for trust funding, client onboarding, and maintenance programs are designed to provide a seamless, stress-free experience for clients.

Regularly Assess and Adapt:

Conduct periodic reviews of both employee feedback and client satisfaction to ensure the culture remains aligned with the firm's mission.

REAL WORLD EXAMPLE

THE SHEPPARD LAW FIRM'S CULTURE IN ACTION

Commitment to Client Excellence:

Our ideal clients—high-net-worth families, blended families, and business owners—value clarity, precision, and proactive service. Our culture ensures we consistently deliver on these expectations.

Example: A blended family client praised our process after experiencing seamless communication between team members, saying it made a potentially stressful situation easy to navigate.



Team Accountability:

Every team member, from reception to senior attorneys, understands their role in maintaining our culture of excellence.

STEP 1: Define your core values with input from leadership and staff, ensuring alignment with your mission and client expectations.



STEPS TO DEVELOP CULTURE IN YOUR ORGANIZATION



STEP 2: Systematize processes and behaviors that embody those values, ensuring consistency at all levels.

STEP 3: Create a feedback loop that celebrates successes and addresses gaps, keeping culture vibrant and aligned.





*“Company culture is **not an abstract concept**—it’s how your team works together to deliver on your promise to clients.*

*At The Sheppard Law Firm, our **culture of excellence** is what keeps clients coming back and recommending us to others.”*

OUR MISSION:

ENTREPRENEURIAL
PARTNERSHIP CARING COLLABORATIVE
SUPPORTIVE HAPPY COMPASSIONATE
LEADERSHIP PROVEN COMFORT ALERT
RESPONSIVE CONGENIAL
STRATEGIC GOAL ORIENTED ENGAGING
ALIGNED
EXPERTISE **UNIQUE** CLARITY
IMPROVING
CONFIDENT CREATIVE RESULTS
PROFESSIONAL **FAMILY COMMITTED**
CURIOUS **RELATIONSHIP**

We strive to provide our clients comfort and clarity as they plan their estates and administer the estates of their loved ones. We realize that the legal, tax, and financial issues that our clients must wrestle with to complete these tasks are intellectually difficult as well as emotionally draining. Therefore, our goal is to make the process as easy and pleasant as possible. At the end of the day our clients will feel confident that they have, with our leadership, first considered and then implemented creative strategies that will result in successful outcomes, while feeling that they have forged a valuable, continuing relationship with our team.

We accomplish this mission by:

1. Treating each client as important;
2. Taking ownership over our commitments and our clients' concerns and questions;
3. Being responsive;
4. Guiding our clients through our Unique Processes;
5. So doing using each Team Member's Unique Abilities;
6. Supporting one another as a team;
7. Always improving our processes to provide increased leadership, relationship & creativity.

EMPLOYEE ONBOARDING



Taken from our Sheppard Law Firm Onboarding Manual



SHEPPARD LAW FIRM VALUES & STANDARDS

CLIENT-VALUE ORIENTED

- Determine what value means to each client
- Over-deliver above their expectations



TRUSTWORTHY

- Be reliable – take ownership – do what you promise
- Make the client feel like family



EMPATHETIC

- Provide comfort and clarity
- Be empathetic to clients and to team members stresses and concerns



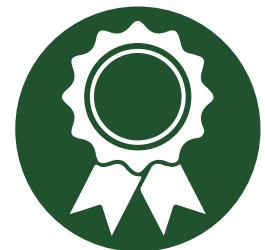
COMMUNICATIVE

- Establish and maintain open communication
- Set expectations and proactively communicate rather than being reactive



PRIDEFUL

- Be prideful of our status as a premier, highly credentialed Florida law firm
- Represent this 100-year-old institution to the best of your ability





THE SHEPPARD LAW FIRM

Sharing Wealth Wisely: Maximizing Protection and Tax Efficiency with Lifetime Gifts

A Guide to Trusts for Lifetime Giving



SHEPPARD LAW FIRM
ATTORNEYS AT LAW



CELEBRATING
100 YEARS
OF SERVICE
1924-2024

TABLE OF CONTENTS

Introduction 1

Who Is This For?..... 2

I. The Challenges of Lifetime Gifts..... 3

II. The Heritage Trust – Maximizing Protection for Lifetime Gifts..... 5

III. The Annual Gift Trust – A Flexible Approach for Incremental Lifetime Gifts..... 7

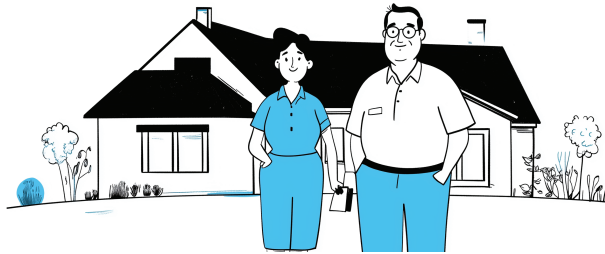
IV. Comparing Your Gifting Options: Finding the Right Fit for Your Family..... 10

V. Protecting Your Gifts and Securing Your Family's Future..... 12

Our Process..... 13

Biographies..... 14

Introduction



Meet John and Lisa, a couple in their 60s who have spent decades building a comfortable life for their family. With retirement on the horizon, they dream of seeing their children enjoy the fruits of their labor now, not just after they're gone. Their daughter, Emily, wants to start her own business, and their son, Michael, hopes to purchase an investment property. John and Lisa want to help them achieve these dreams while ensuring that their gifts are protected.

At The Sheppard Law Firm, we understand that many of our clients, like John and Lisa, wish to support their loved ones during their lifetime. The joy of witnessing your children benefit from your hard work is immeasurable. Whether it's helping a child start a business, invest in real estate, pay off debt, or simply enjoy life's opportunities, making lifetime gifts can be deeply fulfilling.

However, it's crucial to ensure that these generous gifts don't inadvertently expose your loved ones—or your assets—to unnecessary risks. Traditional methods of gifting, like handing over cash or transferring property outright, may leave assets vulnerable to creditors, divorce settlements, or tax burdens. Without careful planning, the gifts intended to enrich your family's lives could become sources of stress or loss.

This white paper explores how you can make meaningful lifetime gifts while maintaining the protections you've carefully built into your estate plan. We introduce two powerful tools—**Heritage Trusts** and **Annual Gift Trusts**—that allow you to support your children and loved ones today without sacrificing creditor protection, divorce protection, and tax efficiency.

By utilizing these trusts, you can share your wealth now and enjoy peace of mind knowing your legacy is secure.

Who Is This For?

If you're like John and Lisa—eager to see your loved ones thrive now while safeguarding their future—this white paper is for you.

Are you considering...

- ...helping your child purchase a home or start a business?
- ...providing funds for your grandchildren's education?
- ...making regular gifts to family members to share in your success?

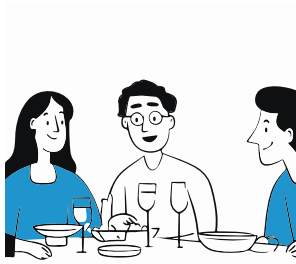
And do you want to...

- ...protect these gifts from potential creditors or divorce proceedings?
- ...maintain control over how and when the assets are used?
- ...maximize tax efficiency to preserve more of your wealth for your family?

This guide is designed for individuals and families who wish to make lifetime gifts to children, grandchildren, or other loved ones, ensuring that these gifts are as secure and protected as the assets in their estate plan. Whether you're planning significant one-time transfers or a series of smaller annual gifts, we'll show you how strategic trust options can help you provide for your family today while enhancing your overall legacy.

By the end of this white paper, you'll understand how Heritage Trusts and Annual Gift Trusts work, their benefits, and how they can be tailored to meet your unique needs and goals. Let's explore how you can give generously and wisely, securing both your family's present and future.

I. The Challenges with Traditional Lifetime Gifts



John and Lisa were excited about helping their children now, not just leaving an inheritance later. They wanted to give their daughter, Emily, funds to start her dream business and help their son, Michael, purchase an investment property.

It seemed simple enough to write them checks or transfer assets, but a conversation with us opened their eyes to potential pitfalls they hadn't considered.

The Appeal and Risks of Giving Now

Making lifetime gifts to loved ones is a wonderful way to share your success and witness the joy it brings. Whether it's assisting with a major purchase, funding a new business venture, or enhancing their quality of life, the satisfaction is immediate and heartfelt.

However, John and Lisa learned that giving substantial gifts outright isn't as straightforward as it seems. Without proper planning, these generous acts could unintentionally expose their children to risks and undermine the protections they've carefully established in their estate plan.

Common Misconceptions About Lifetime Gifting

Like many people, John and Lisa believed that as long as they stayed under the annual gift tax exclusion limit—\$18,000 per person in 2024—they could freely give money without any concerns. They had heard from friends and even their CPA that they could each give this amount to anyone every year without triggering any tax issues.

They also knew that the lifetime gift and estate tax exemption was over \$13 million per person, allowing them to make larger gifts if they wished.

It all seemed simple—**until they considered the following:**

Creditor Vulnerability

If Emily's business faced financial difficulties, any assets gifted directly to her could be seized by creditors. Similarly, if Michael encountered legal issues, his gifted assets could be at risk.

Divorce Risk

Although their children weren't anticipating divorce, John and Lisa understood that life is unpredictable. Gifts made directly could become part of marital assets, potentially subject to division if a marriage ended.

Tax Implications

Gifting appreciated assets like stocks or property could lead to unexpected capital gains taxes for their children. Unlike assets inherited after death, lifetime gifts don't receive a "step-up" in cost basis, potentially resulting in higher taxes if the asset is sold.

Just Because You Can, Doesn't Mean You Should

John and Lisa realized that while they could make outright gifts within the legal limits, it didn't mean that was the best approach for their family's long-term well-being.

They wanted to ensure that their generosity wouldn't inadvertently create problems down the road.

We explained that traditional gifting methods often overlook important considerations:

Impact on Estate Plan Integrity

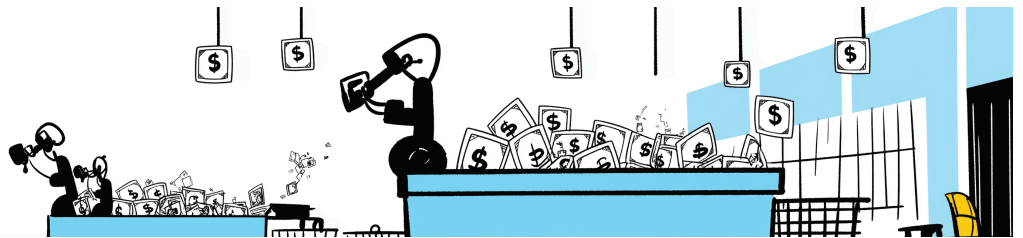
John and Lisa had spent years carefully crafting an estate plan that included protective trusts to safeguard their assets for their children after their passing. These trusts were designed to provide creditor protection, divorce protection, and tax advantages. By making outright gifts during their lifetime, they were bypassing these protections and not taking advantage of the comprehensive planning they had put in place.

Missed Opportunities for Protection

By giving assets directly, they missed the chance to safeguard those assets from potential creditors, lawsuits, or divorce proceedings that could affect their children. The protections built into their estate plan weren't automatically applied to lifetime gifts made outside of their trusts.

Missed Opportunities for Tax Savings

Without proper planning, they could inadvertently create unfavorable tax situations. For example, gifting appreciated assets might saddle their children with significant capital gains taxes if they decide to sell the assets later. In contrast, assets inherited through their estate plan often receive a step-up in basis, reducing or eliminating capital gains taxes upon sale.



A Better Way Forward

Understanding these challenges, John and Lisa were eager to find solutions that would allow them to help Emily and Michael now while keeping the assets secure and tax-efficient. They didn't want to burden their children with potential financial or legal complications resulting from well-intentioned gifts.

We introduced them to the **Heritage Trust** and **Annual Gift Trust**—tools that could provide immediate support to their children while maintaining the protections and benefits of their estate plan.

By considering not just what they wanted to give but how they gave it, John and Lisa took a thoughtful approach that safeguarded their family's future while fulfilling their desire to share their success today.

II. The Heritage Trust – Maximizing Protection for Lifetime Gifts



John and Lisa were eager to help their children now but worried about potential risks. They asked us:

"Is there a way to support Emily & Michael without exposing them to these dangers?"

Introducing the Heritage Trust

We introduced them to the **Heritage Trust**, a powerful tool that acts like a **protective vault** for their lifetime gifts. Imagine placing your assets in a secure vault: your loved ones have the keys to access and use what's inside, but the sturdy walls shield those assets from external threats like creditors or divorce settlements. A Heritage Trust functions in much the same way, allowing you to give generously while maintaining essential protections.

What Is a Heritage Trust?

A Heritage Trust is an irrevocable trust established during your lifetime for the benefit of your children, grandchildren, or other loved ones. It mirrors the protective features of the trusts in your estate plan that take effect after your passing but brings those benefits into the present. By using a Heritage Trust, you can:

Provide Immediate Support: Potentially reduce estate taxes for you and future generations.

Maintain Protections: Your beneficiaries can access and use the assets now.

Enhance Tax Efficiency: Assets remain safeguarded from creditors, lawsuits, and divorce.

How the Heritage Trust Worked for John and Lisa

Setting Up the Protective Vault

We helped John and Lisa create a Heritage Trust tailored to their family's needs. This trust served as the protective vault for the assets they wished to gift. The trust's terms mirrored the protections in their estate plan, ensuring continuity and alignment with their long-term goals.

Funding the Trust

Instead of giving cash or property outright, they transferred \$500,000 into the Heritage Trust for Emily and another \$500,000 for Michael. These assets were now securely placed within the vault, shielded from external risks.

Empowering Their Children with Control and Protection

Since Emily and Michael were responsible adults, they could serve as their own trustees—the keyholders to the vault. This allowed them to manage and use the assets to pursue their dreams while benefiting from the trust's protective structure.

Preserving Tax Benefits

We guided John and Lisa through the necessary steps to file a gift tax return (IRS Form 709), utilizing a portion of their lifetime gift and estate tax exemption. This careful planning helped reduce their taxable estate and set the stage for potential estate tax savings for future generations.

Benefits of the Heritage Trust

A Secure Shield Against Risks

Just like a vault protects valuables, the Heritage Trust safeguarded the gifted assets from creditors and divorce. If Emily's business faced financial difficulties or Michael encountered legal issues, the assets within the trust would remain untouchable.

Control with Confidence

Emily and Michael had the freedom to use the assets to achieve their goals. Serving as their own trustees, they could make decisions about investments and expenditures, all while knowing that the trust's protections were firmly in place.

Tax Efficiency for Generations

By transferring assets through the Heritage Trust, John and Lisa potentially reduced their future estate tax liability. Additionally, because the trust is irrevocable, the assets could be excluded from Emily and Michael's taxable estates, providing tax advantages that could extend to their own children.

Preserving Family Wealth Across Generations

The Heritage Trust allowed John and Lisa to not only support their children now but also set up a mechanism for preserving wealth for future generations. The trust could continue to benefit their grandchildren, keeping the family's legacy intact.

Is a Heritage Trust Right for You?

Consider the Heritage Trust as your personal protective vault if you:

- *Are planning significant one-time gifts to your loved ones.*
- *Wish to maintain the creditor and divorce protections of your estate plan for lifetime gifts.*
- *Seek to reduce potential estate taxes for yourself and future generations.*
- *Want your beneficiaries to have control over assets without exposing them to external risks.*

A Secure Path Forward

By viewing the Heritage Trust as a protective vault, John and Lisa found a solution that met their desire to help their children now while safeguarding their family's financial future. They could witness Emily launching her business and Michael investing in real estate, all with the peace of mind that their gifts were protected.

Just like John and Lisa, you can take advantage of strategies that allow you to give generously today without compromising the protections you've carefully built into your estate plan. The Heritage Trust offers a way to open the vault to your loved ones now while keeping the walls strong against any threats.



In the next section, we'll explore the **Annual Gift Trust**, another flexible tool that provides protection for smaller, incremental gifts, allowing you to support your loved ones in a way that suits your unique circumstances.

While John and Lisa were pleased with the Heritage Trust solution for their significant gifts to Emily and Michael, they also wanted to provide ongoing support to their grandchildren in a way that was both meaningful and protected.

They wondered if there was a way to make smaller, regular gifts that could accumulate over time, benefiting their family without compromising the safeguards they valued.



III. The Annual Gift Trust – A Flexible Approach for Incremental Lifetime Gifts

Introducing the Annual Gift Trust

We introduced them to the **Annual Gift Trust**, a flexible tool designed for incremental lifetime gifts. Think of an Annual Gift Trust as a **growing family tree**, where each small gift is like planting a seed that will flourish over time. This approach allows you to make annual gifts to your loved ones, taking advantage of tax benefits while ensuring the assets remain protected and aligned with your estate planning goals.

What Is an Annual Gift Trust?

The Annual Gift Trust is an irrevocable trust established during your lifetime, specifically designed to receive and manage annual gifts that fall within the annual gift tax exclusion limit—\$18,000 per person in 2024. This trust allows you to:

- Provide Ongoing Support** - Make regular, smaller gifts that can accumulate and grow.
- Maintain Protections** - Keep the assets shielded from creditors, lawsuits, and divorce.
- Maximize Tax Efficiency** - Utilize annual gift tax exclusions without reducing your lifetime gift and estate tax exemption.

How the Annual Gift Trust Worked for John and Lisa

Planting Seeds for the Future

John and Lisa wanted to help their three grandchildren—Sophia, Liam, and Ava—by setting aside funds for their education and future endeavors. Instead of giving money outright, they established an Annual Gift Trust to act as a nurturing environment where their contributions could grow safely.

Making Annual Contributions

Each year, John and Lisa could contribute up to \$18,000 per grandchild individually, totaling \$36,000 per grandchild as a couple. With three grandchildren, this allowed them to gift up to \$108,000 annually without triggering gift taxes or using their lifetime exemption.

Building Significant Wealth Over Time

By consistently making these annual contributions, John and Lisa were able to remove substantial assets from their estate tax-free. Over 10 years, they contributed a total of \$1,080,000 to the Annual Gift Trust:

$$\bullet \$108,000 \text{ per year} \times 10 \text{ years} = \mathbf{\$1,080,000}$$

This strategy not only provided significant financial support for their grandchildren but also effectively reduced the size of their taxable estate by over a million dollars.

Ensuring Tax Compliance with Crummey Powers

To make sure their gifts qualified for the annual exclusion, the Annual Gift Trust included **Crummey Powers**—a provision that gives beneficiaries a temporary right to withdraw the gift, satisfying IRS requirements for a "present interest" gift.

Simplifying Crummey Powers

Imagine giving your grandchildren gift cards that they could use immediately, but they choose to save them for something special later on. The Crummey Powers work similarly—they provide the right to access the funds now, but the grandchildren allow the assets to remain in the trust to grow and be used for future needs.

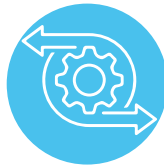
Managing Compliance

We assisted John and Lisa in handling the necessary notifications and documentation to ensure the trust remained compliant with IRS rules, keeping the process straightforward and hassle-free.

Growing and Protecting the Assets

The funds in the Annual Gift Trust were invested prudently, allowing them to grow over time. When Sophia started college, the trust could distribute funds to cover her tuition. If Liam decided to start a business, the trust could support his venture. All the while, the assets remained protected from external risks.

Benefits of the Annual Gift Trust



Flexible and Incremental Giving

The Annual Gift Trust allowed John and Lisa to make regular contributions that accumulated into significant wealth over time, all while adapting to their family's changing needs.



Protection from Risks

Assets within the trust were safeguarded from potential creditors, lawsuits, or divorce proceedings involving their grandchildren.



Tax Efficiency

By leveraging the annual gift tax exclusion and properly implementing Crummey Powers, they maximized tax benefits without reducing their lifetime exemption or incurring gift taxes.



Estate Reduction

Over a decade, they effectively reduced their taxable estate by over \$1 million, potentially minimizing future estate taxes and preserving more wealth for their family.



Control with Purpose

The trust's terms provided guidelines on how and when funds could be used, ensuring that the assets served the intended purposes, such as education, health, or starting a business.

Understanding Crummey Powers Without the Complexity

The Temporary Withdrawal Right

When you make a gift to the trust, your beneficiaries receive a notice that they have the right to withdraw that amount within a specific time frame, say 30 days. This satisfies the IRS requirement that the gift is a "present interest."

Why Beneficiaries Don't Withdraw

Typically, beneficiaries understand that leaving the funds in the trust is in their best long-term interest. With guidance, they choose not to exercise the withdrawal right, allowing the assets to grow and remain protected.

Peace of Mind for You

By including Crummey Powers, you can make annual gifts without worrying about gift taxes, and your beneficiaries can benefit from the assets when the time is right.

Is the Annual Gift Trust Right for You?

Consider the Annual Gift Trust as your family's nurturing garden if you:

- Want to make smaller, regular gifts that accumulate over time.
- Seek to utilize annual gift tax exclusions efficiently.
- Desire to maintain protections for assets gifted during your lifetime.
- Prefer flexibility in how beneficiaries can access and use the funds.
- Aim to reduce your taxable estate significantly over time without incurring gift taxes.

A Tailored Approach for Your Family

Just as every garden requires careful planning and nurturing, your family's financial future benefits from a thoughtful approach. The Annual Gift Trust provided John and Lisa with a way to support their grandchildren's growth and dreams, all while keeping the assets secure and reducing their taxable estate by over a million dollars.

Moving Forward with Confidence

By integrating the Annual Gift Trust into their overall estate plan, John and Lisa could enjoy the satisfaction of contributing to their family's success now and in the years to come. They found a balance between generosity and prudence, knowing that their gifts were both meaningful and protected.

By using the Annual Gift Trust, you too can make the most of your annual gifts, providing substantial support to your loved ones while maintaining essential protections and maximizing tax benefits. Whether you're helping with education expenses, seeding future investments, or simply sharing your success, the Annual Gift Trust offers a flexible and secure way to nurture your family's aspirations while effectively reducing your taxable estate.





After exploring both the Heritage Trust and the Annual Gift Trust, John and Lisa wanted to understand how these options compared to making outright gifts. They needed to determine which approach best aligned with their goals and their family's unique circumstances.

IV. Comparing Your Gifting Options: Finding the Right Fit for Your Family

Choosing the Best Path Forward

When considering how to make lifetime gifts, it's essential to weigh the benefits and limitations of each option. Here's a simplified comparison to help you decide which strategy might be right for you:

Option 1: Outright Gifts

The Simple but Unprotected Approach

Just as every garden requires careful planning and nurturing, your family's financial future benefits from a thoughtful approach. The Annual Gift Trust provided John and Lisa with a way to support their grandchildren's growth and dreams, all while keeping the assets secure and reducing their taxable estate by over a million dollars.

Simplicity: Outright gifts are straightforward—you give cash or assets directly to your loved ones.

Control: Once the gift is made, you have no control over how it's used.

Protection: Assets are not protected from creditors, lawsuits, or divorce. If your child faces financial difficulties or a marriage ends, the gifted assets could be at risk.

Tax Considerations:

- Gifts within the annual exclusion limit (\$18,000 per person in 2024) generally require no gift tax filing.
- Gifting appreciated assets may lead to capital gains taxes for the recipient if they sell the asset, due to the carryover of your original cost basis.

Is This Right for You?

- Ideal if you value simplicity and have minimal concerns about asset protection or control.
- Suitable for smaller gifts where the risks are acceptable

Option 2: Annual Gift Trust

Flexible, Protected, and Tax-Efficient for Regular Gifts

Simplicity: Requires setting up a trust, but we handle the complexities for you.

Control: You set the terms of the trust, guiding how and when assets can be used.

Protection: Assets are protected from creditors, lawsuits, and divorce. Beneficiaries can enjoy the benefits without exposing assets to external risks.

Is This Right for You?

- Ideal if you wish to make regular, incremental gifts while maintaining protections.
- Suitable for building a significant, protected fund for education, business ventures, or future needs.

Option 3: Heritage Trust

Comprehensive Protection for Significant One-Time Gifts

Simplicity: Involves detailed planning and trust setup, but provides robust benefits.

Control: Beneficiaries can serve as trustees, managing assets within the protective structure.

Protection: Assets are strongly protected from creditors, lawsuits, and divorce. The trust structure preserves wealth across generations.

Tax Considerations:

- Significant gifts typically require filing a gift tax return (Form 709), utilizing part of your lifetime exemption.
- Can help reduce potential estate taxes for you and your beneficiaries by removing assets from your taxable estate.

Is This Right for You?

- Ideal if you're considering large, one-time gifts and want to maintain maximum protection.
- Suitable for preserving family wealth and providing beneficiaries with control within a safeguarded framework.



John and Lisa's Decision

For their situation, John and Lisa chose a combination:

- **Heritage Trust** for their significant gifts to Emily and Michael, ensuring those assets were protected while giving their children control to pursue their goals.
- **Annual Gift Trust** for their grandchildren, allowing them to make regular contributions that would grow over time, providing support for education and future endeavors.

They decided against outright gifts, recognizing that the lack of protection and potential tax implications didn't align with their desire to safeguard their family's future.

Conclusion: Protecting Your Gifts and Securing Your Family's Future

John and Lisa felt a profound sense of relief and satisfaction. They had found a way to support their children's dreams and invest in their grandchildren's futures, all while maintaining the protections and tax efficiencies they had worked so hard to establish. By thoughtfully choosing the right gifting strategies, they could witness the joy their generosity brought today and rest assured that their family's legacy was secure for generations to come.

Your Opportunity to Give Wisely and Protect What Matters Most

Making lifetime gifts to your loved ones is a meaningful expression of your love and success. It's about more than transferring wealth—it's about empowering your family, supporting their aspirations, and witnessing the positive impact firsthand.

However, as we've explored through John and Lisa's journey, the how of gifting is just as important as the what. Without proper planning, well-intentioned gifts can lead to unintended consequences, exposing assets to risks or creating unnecessary tax burdens.

By considering strategies like the **Heritage Trust** and the **Annual Gift Trust**, you can:

- **Provide Immediate Support:** Help your loved ones achieve their goals now, whether it's starting a business, investing in property, or pursuing education.
- **Maintain Essential Protections:** Safeguard the gifted assets from creditors, lawsuits, divorce, and other potential threats.
- **Maximize Tax Efficiency:** Utilize tax laws effectively to reduce or eliminate gift and estate taxes, preserving more wealth for your family.
- **Preserve Family Harmony and Legacy:** Ensure your estate plan remains intact, preventing potential conflicts and fostering unity across generations.

Take the Next Step Toward Peace of Mind

Just like John and Lisa, you have the opportunity to give generously and wisely. By choosing the right approach to lifetime gifting, you can enjoy the satisfaction of supporting your family today while securing their future.

1. Personalized Consultation

Every family's situation is unique. We invite you to schedule a no-obligation consultation with our experienced team at The Sheppard Law Firm. We'll take the time to understand your goals, concerns, and the specific needs of your loved ones.



2. Customized Planning

We'll guide you through your options, explaining the benefits and considerations of each strategy in clear, accessible language. Together, we'll design a gifting plan that aligns with your values and objectives.



3. Expert Implementation

Our team will handle all the details, from setting up trusts to ensuring compliance with tax laws. We aim to make the process seamless and stress-free, so you can focus on what matters most—your family.



4. Ongoing Support

Life is full of changes. We'll be here to support you over time, adjusting your plan as needed to reflect new circumstances or goals. Our commitment is to help you maintain the protections and efficiencies you've established, now and in the future.



Ready to Begin?

There's no better time than now to take control of your gifting strategy and ensure that your generosity brings joy without unintended consequences.

Contact us today online at sheppardlawfirm.com/contact OR call us at 239.224.3441 to schedule your personalized consultation.

At The Sheppard Law Firm, we're dedicated to helping you give with confidence and protect what you've worked so hard to build. Let us partner with you to create a legacy that reflects your values and supports your family's dreams for generations to come.

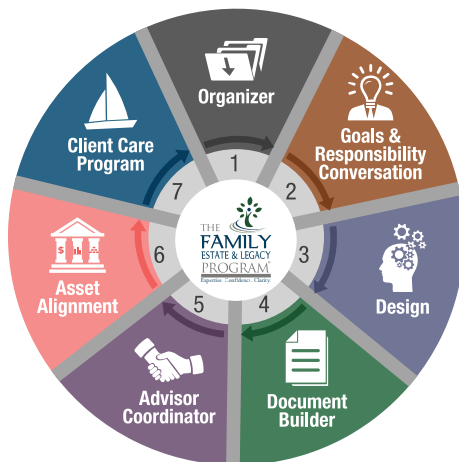
Final Thoughts

Your generosity has the power to shape your family's future. By choosing the right path, you not only provide for your loved ones today but also set the foundation for lasting security and harmony.

Just as John and Lisa discovered, with thoughtful planning and the right guidance, you can make a profound difference in the lives of those you care about most—now and for years to come.

We look forward to helping you on this important journey.

Disclaimer: This white paper is for informational purposes only and does not constitute legal advice. Please consult with a qualified attorney to discuss your specific circumstances and the best strategies for your situation.



Comfort. Clarity. Peace of Mind.

Learn more about our Family Estate & Legacy Program™ process, created by our Florida Board-Certified Estate Planning Attorneys.



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LEARN MORE: FLORIDAESTATEPLANNING.COM/OUR-PROCESS/



Craig R. Hersch

Craig R. Hersch is a Florida Bar Board-Certified Wills, Trusts & Estates attorney and holds his Florida CPA license, with over 30 years of experience in his practice. Craig is a senior partner at Sheppard Law Firm and has created several trademarked processes tied to his estate planning and administration practice, including The Family Estate & Legacy Program and The Estate Settlement Program.

Craig has authored six books for clients: The Florida Estate Planning Guide, Selecting Your Trustee, Common Cents Estate Planning, Legal Matters When a Loved One Dies, Asset Alignment and Your Estate Plan and Common Cents Estate Planning II. His work has appeared in several professional journals, including The Practical Tax Lawyer, and The Florida Bar Journal, as well as being on the editorial advisory board for Trusts & Estates Magazine, the premier trade journal for estate planning attorneys, CPA's, and financial advisors. Craig also writes a weekly estate planning column that is published in Sanibel's Island Sun newspaper and on his firm's blog.

Craig is a multiple graduate of the University of Florida with accounting and law degrees and has provided his expertise as a continuing education lecturer for The Florida Bar and the Florida Institute of Certified Public Accountants.

Craig holds an AV Martindale Hubbell rating, the highest attainable by the independent national attorney rating service, has been selected as a Worth 100 Top Attorney and has been named to the Super Lawyers list every year since 2009, a highly-esteemed recognition given to no more than five percent of attorneys in Florida.

During his free time, Craig enjoys bicycling long distances, swimming, boating, hiking and other outdoor recreational sports. Craig is married to his wife, Patti, and they have three daughters: Gabrielle, Courtney, and Madison, as well as two sons-in-law, Benji and Philip.

FROM OUR CLIENTS

"My wife and I engaged the Sheppard Law Firm last year to establish our trust after reading Craig Hersch's book on Florida Residency & Estate Planning...We now feel secure that **we have a law firm that we can turn** to as our estate matures, and that **we weren't just "one time" clients**. We highly recommend the firm!"

Randall W. | Sarasota, FL ★★★★★



Michael B. Hill

As a partner of Sheppard Law Firm and a board-certified specialist in Wills, Trusts, and Estates, Michael is committed to redefining estate planning for families in southwest Florida. With over two decades of legal expertise, he, along with his partners, have distinguished their practice through a blend of exceptional legal acumen and deep personal empathy. They are proud to be among the few practices to boast multiple board-certified attorneys in their specialized field within Florida.

Having experienced the challenges of inadequate estate planning within his own family, Michael brings a deeply personal understanding to his practice, ensuring that every client receives thoughtful, meticulous planning tailored to their unique needs. Their innovative approach extends beyond drafting documents to fostering enduring relationships through their Client Care Program, ensuring plans remain effective as life changes.

A former trumpet player and dedicated runner, Michael infuses his passion for education and personal engagement into every aspect of their practice. He believes in empowering his clients through understanding, allowing them to make informed decisions that secure their legacies and protect their loved ones.

Connect with him to explore how thoughtful estate planning can bring peace of mind and secure your family's future.

FROM OUR CLIENTS

Attorney Michael Hill at the Sheppard Law firm is **exceptionally professional and knowledgeable**. Mike takes the time to **explain things in simple terms** and is **always up to date** on the very latest regarding Estate Planning. We've trusted for years now that we are with the best professional Estate Planning Team in the area who have met and will meet all our and our family's Estate Planning needs.

E. K. | Fort Myers, FL ★★★★★



Hayley E. Donaldson

Hayley E. Donaldson is a partner of the Sheppard Law Firm and a Florida Bar Board-Certified Wills, Trusts & Estates Attorney. Florida Bar Board Certification is a distinction only awarded to the few attorneys who can demonstrate profound proficiency and competence in this complex field, as well as unwavering ethics and professionalism.

After the passing of a loved one, Hayley guides family members in the trust administration and probate process. Additionally she assists clients with their tax and estate planning, drafting simple and complex wills, trusts, and related estate planning documents.

Graduating first in her class, Hayley received her Juris Doctor from the University of Florida Levin College of Law. In law school, she was a member of the Florida Law Review and Volunteer Income Tax Assistance (VITA) program which assists lower income individuals with their yearly tax returns.

As a Certified Public Accountant (CPA), Hayley previously worked as an Internal Audit Consultant for a national firm. With a Masters in Professional Accounting from the University of Texas, Hayley holds degrees in Accounting and Finance from the University of Miami. Raised in Fort Myers, she is also a proud graduate of the International Baccalaureate program at Fort Myers High School.

In her free time, Hayley enjoys running, swimming, and watching the Boston Red Sox.

FROM OUR CLIENTS

We thought we understood living trusts when we went to see Hayley at the firm, but we learned how much we didn't know. Hayley was very knowledgeable, asked questions, and truly listened to our answers. While helping us broach tough subjects. Everyone we dealt with was exceedingly helpful and professional. It was **obvious that their goal was to create a trust to meet our specific needs**. No matter how many questions we asked, **everyone was always happy to help**.

Gary & Connie H. | Fort Myers, FL ★★★★★



ABOUT SHEPPARD LAW FIRM

Established in 1924, Sheppard Law Firm has a century-long history of providing legal services to Florida residents and consulting with local counsel for clients around the country.

For 100 years, we have dedicated ourselves to delivering peace of mind and clear guidance through tailored legal strategies that meet our clients' unique objectives and needs. Our team includes multiple Florida Bar Board-Certified Attorneys in Wills, Trusts, and Estates.

We use cutting-edge research, thorough analysis, and the latest technology to stay updated with ongoing legal developments. Sheppard Law Firm remains committed to offering personalized legal advice in Estate Planning, Probate and Trust Administration, Asset Protection, Guardianship, and Real Estate Law, ensuring our clients receive the highest standard of legal expertise.

COMFORT. CLARITY. PEACE OF MIND.

Learn more about our Family Estate & Legacy Program™ process, created by our Florida Board-Certified Estate Planning Attorneys. Learn how we guide you through the creation of the best estate plan for you & your loved ones. Visit floridaestateplanning.com/our-process.

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OUR ESTATE PLANNING PROCESS

Comfort. Clarity. Peace of Mind.

Learn more about our **Family Estate & Legacy Program™** process, created by our Florida Board-Certified Estate Planning Attorneys.

Learn how we guide you through the creation of the best estate plan for you & your loved ones. What to talk to one of our attorneys? Click below to schedule your very own complimentary 15 minute Strategy Session.

Schedule a FREE Strategy Session
 100% FREE. No obligation.

SCAN HERE

SUCCESS STORIES

“My husband and I have been clients of the Sheppard Law Firm for 17 years. We have always been very pleased with the knowledge, counsel, and professionalism of Craig R. Hersch. Recently, we had our estate planning documents reviewed and updated, and **we could not be more pleased with the results and Craig's dedicated efforts.**”

Pamela M. | *Naples, FL* ★★★★★

My husband and I have worked with this firm for 5 years, and we couldn't be happier. Craig Hersch and Maria Reimer are exceptional, **taking the time to understand our goals thoroughly.** Craig even arranged a meeting with our executor (daughter) to ensure she knows the firm beforehand. Maria's meticulous work on our revocable trust gave us **great confidence.** Mike Hill has also been impressive with ongoing updates. We appreciate the complimentary educational seminars on legislative actions. Craig's books are an added benefit...the quality of work is outstanding. **We trust this firm and confidently recommend them to our friends!**

Diana P. | *Fort Myers, FL* ★★★★★

“We cannot thank enough Attorney Michael Hill for his courteous, professional, gracious, and attentive service regarding the estate plan, trust, and related documents he prepared for us. When it came time for us to deal with matters relating to the trust twelve years later, he was once again courteous, professional, gracious, and attentive to our needs and questions. **We would recommend [Sheppard Law Firm] to anyone seeking assistance with estate planning, trusts, and related issues.**”

Theresa S. | *Fort Myers, FL* ★★★★★

“What sets Sheppard Law Firm apart is their personalized approach. They took the time to listen to my concerns, goals, and family dynamics. Instead of offering cookie-cutter solutions, they tailored their recommendations to fit my specific circumstances. **I felt like more than just a client—I was a valued individual with unique needs.**”

Bronwyn B. | *Captiva, FL* ★★★★★

“I have worked with the Sheppard Law Firm for the last five years. As the former CEO of one of the largest independent Trust Companies in the US, I have seen the work of many law firms. Sheppard ranks among the very best in my view. **They operate with the highest integrity and are well versed in the intricacies of estate planning.**”

Jim M. | *Fort Myers, FL* ★★★★★

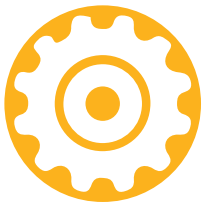
Our Advanced Estate Planning Process

To ensure our clients achieve their estate planning goals effectively and efficiently, we have developed our trademarked **Advanced Estate Planning Process™ (AEPP)**. We designed this unique process to address the complexities and needs of advanced estate planning, ensuring that all strategies are well-considered and expertly implemented.

Phase I: Understanding Your Goals



We begin by asking specific questions about your goals. As we've mentioned, unlike revocable trust planning, advanced estate planning usually requires creating irrevocable legal documents during your life. Once you've set the plan in motion, it's difficult to unwind without adverse consequences. We therefore discuss in depth which strategies might be congruent with your mindset and which aren't. We'll target the strategies that are right for you and your loved ones.



Phase II: Control & Decision-Making

Under many advanced strategies, you cannot control the trust or other vehicle once the transfer is made, while under limited ones you can. If you must have another serve in this critical role, we'll review the options (spouse, child, loved one, attorney, CPA, trust company) which will best serve your purposes. If you want to retain control, then we'll discuss which strategies may accomplish that either directly or indirectly.

Phase III: Illustrations and Design



Next, we'll illustrate the strategies you targeted. This may include a detailed spreadsheet based on the assets you plan to transfer. The outcome will usually be determined by variables no one has control over, such as future interest rates, growth rates, dates of death, tax, and trust law changes. We'll discuss the relative advantages and disadvantages of each strategy, so you'll make informed decisions.

Once you've decided on a strategy, we'll guide you through the various choices that you have when designing the plan. Every advanced strategy should be molded to fit your unique circumstances, so we'll spend the time necessary to create that structure.

Phase IV: Preparation & Implementation



We build your documents based on your design phase specifications and will summarize the documents in writing as well as during our conferences. In many cases we'll record a video review that you may share with your advisors and family. You will have as much time as you need to ask questions and consider revisions.

We want to answer any questions that you may have before the next stage. Once you've signed your plan documents, we will help in the transfer of the assets into the plan. This may require counsel in other states if it involves real property in those states. We may also coordinate with your financial advisors, CPAs, appraisers, or other professionals who may be necessary.



Phase V: Reporting & Compliance

Often advanced planning strategies require the filing of a Federal Gift Tax Return Form 709. Even though a gift tax return may be required, the taxpayer (you) typically pays no tax unless you've exceeded your available lifetime exemptions. Gift tax returns are unlike income tax returns and require special expertise, so typically our office will prepare those. If, however, you prefer that someone else prepares the return, we will provide your transaction's information to that individual.

Phase VI: Annual Review



It's important to stay on top of the strategies implemented on an annual basis. Consequently, we'll meet with you, your CPA, investment professionals and those individuals who serve as Trustees or in other important roles. Some strategies require specific annual distributions, which we may calculate for you.