SALE TO GRANTOR TRUST

The disadvantage of a gift to a descendant or other beneficiary is that gift taxes *generally* must be paid upon the transfer. A Sale to a Grantor Trust is a transfer tool that can avoid the gift tax consequences of a direct gift while transferring significant wealth to descendants or other beneficiaries.

A Sale to a Grantor Trust (or a “Sale to Intentionally Defective Grantor Trust”) is a transfer tool structured to “freeze” the value of an asset in the grantor’s estate by selling the asset to a trust in exchange for a long-term, preferably low interest rate, promissory note. If the asset has income or appreciation in excess of the interest rate on the note, the excess income and appreciation is essentially transferred tax free to the purchasing trust. The transfer of the property is not considered a taxable transfer because the property was transferred to the trust for full and adequate consideration

The purchasing trust is typically structured as a multi-generational trust for the benefit of the client’s children and more remote descendants and is created as a “grantor trust.” A grantor trusts is treated, for income tax purposes, as *owned* by the grantor so that no gain is recognized on the sale of assets to the trust and no income is recognized on the interest received on the note. A sale, compared to other transfer tools, may be beneficial even if the seller does not survive the term of the note.