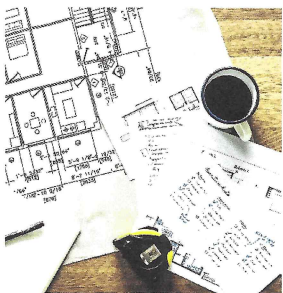


QPRTs DECODED:


Exploring the Evolution from Foundational Legal Principles to Modern Day Applications



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INTRODUCTION TO LAW SCHOOL



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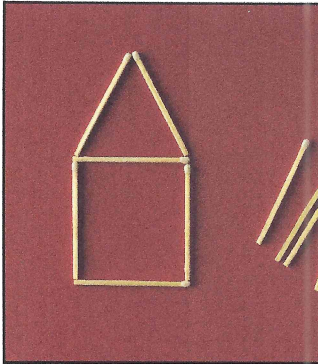
FEE SIMPLE ABSOLUTE



Highest form of ownership a person can own.

Key Property Rights
Fee Simple Absolute gives the owner the right to possession, use, transfer, exclude, enjoy, control, destroy, encumber and bequeath the property. These rights are crucial in understanding the concept of property law.

3



BUNDLE OF STICKS

Fee Simple Absolute is the most complete form of property ownership, often described as a 'bundle of sticks,' where each stick represents a different right, like the right to use, sell, or transfer the property, as well as the right to exclude others.


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WHAT HAPPENS IF YOU DON'T GIVE AWAY ALL OF THE STICKS?

This question was answered in 1943 by the Supreme Court cases *Robbinette v. Helvering* and its companion case *Smith v. Shaughnessy*.

The rule is the value of the property transferred will be reduced by the value of the interests retained, provided that those interests can be valued using generally accepted valuation principles, and if not, the value of the interests will be ZERO.

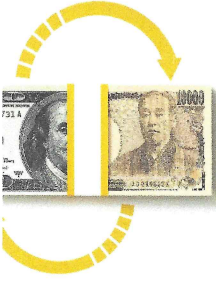
This rule is now codified in Treas. Reg. § 25.2511-1(e).



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**EXAMPLE 1 –
RETENTION OF A
LIFE ESTATE**

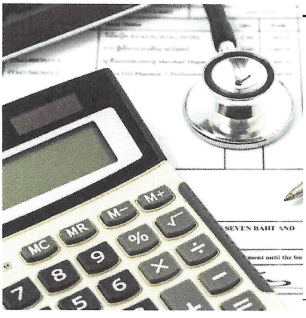
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EXAMPLE 1

- A transfers Blackacre (\$1MM) in Trust
- A for Life
- Remainder to B (who is not related to A)

7



GIFT TAX CONSEQUENCES?

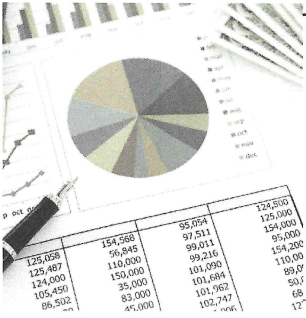
Has A made a gift?
Has he transferred property (or an interest in property) for less than full and adequate consideration in money or money's worth?

If so, what has he given away?

Can we value it?

Does it qualify for the annual exclusion?

8



ESTATE TAX CONSEQUENCES?

A dies, is anything included in his estate?

125,058	154,558	85,094	124,800
125,987	96,845	97,511	125,000
124,000	110,000	99,011	150,000
105,450	150,000	99,216	90,000
86,502	35,000	101,490	154,200
	83,000	101,684	110,000
	45,000	101,962	89,000
		102,747	50,768
			17

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EXAMPLE 2 –
RETENTION OF A
TERM OF YEARS
INTEREST


10



EXAMPLE 2

- A transfers Blackacre (\$1MM) in Trust in September 2024
- A for 15 years
- Remainder to B (who is not related to A)

11



GIFT TAX CONSEQUENCES?

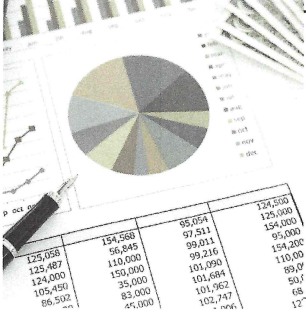
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12



ESTATE TAX CONSEQUENCES?

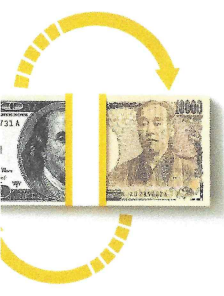
A dies in Year 10, is anything included in his estate?

What if A died in Year 20.

13

**EXAMPLE 3 –
COMMON LAW
GRIT**


14



EXAMPLE 3

- A transfers Blackacre (\$1MM) in Trust
- A for the lesser of 15 years or life
- Reversion to A if A dies within 15 years
- Remainder to B (who is not related to A)

15



GIFT TAX CONSEQUENCES?

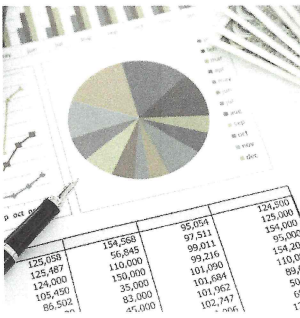
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Does it qualify for the annual exclusion?

16



ESTATE TAX CONSEQUENCES?


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What if A died in Year 20.

17

THE PERCEIVED ABUSE OF THE COMMON LAW GRIT

No Income



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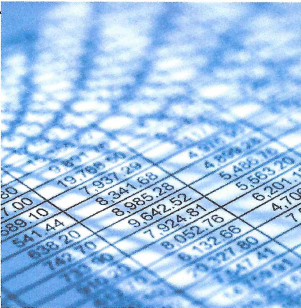
LEGISLATIVE CHANGES - CODE SECTION 2702

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VALUATION CHALLENGES


For Transfers in Trust (or Trust-Like Arrangements) to or for the benefit of a member of the donor's family (as defined in IRC § 2704(c)(2))
The Donor's retained will be valued at ZERO unless:

- Annuity Interest (Fixed Dollar Amount)
- Unitrust Interest (Fixed Percentage Amount)
- Remainder Interest after an Annuity Interest of Unitrust Interest



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EXCEPTION FOR PERSONAL USE RESIDENCES



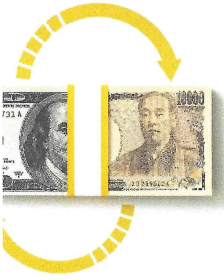
Congress made an exception to the rules under 2702 for PERSONAL USE RESIDENCES.

The theory being that Personal Use Residences are not typically income producing property and so are not subject to the concerns that otherwise existed with common law GRITs.

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EXAMPLE 4 – TYPICAL QPRT


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EXAMPLE 4

- A transfers 50% of Blackacre (\$1MM) to Trust 1 and 50% to Trust 2
- A for the lesser of 15 years or life
- Reversion to A if A dies within 15 years
- Remainder of Trust 1 to Child 1
- Remainder of Trust 1 to Child 2

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GIFT TAX CONSEQUENCES?

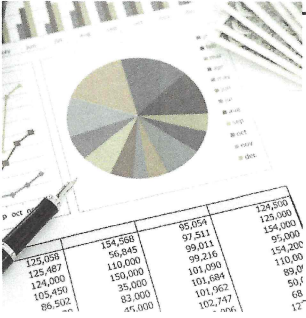
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	83,000	101,684	50,000
	45,000	101,962	68
		102,747	17
		- 006	

25



WHAT HAPPENS AFTER THE TERM INTEREST EXPIRES

Property Reassessment
Concern should be given as to whether this will trigger a reassessment for CA property tax.

Rental of Home
Donor will need to rent the home for fair market rent (these rent payments can be structured so that they are not income taxed).

No Step-Up in Income Tax Basis
Donees will not receive a fresh-start income tax basis in the property.

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CONCLUSION

Complex concepts in gift and estate tax Transfers with retained interests GRITs Legislative changes under Code Section 2702

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