


# Current Planning Environment

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- **“Depressed”**  **Asset Values**
- **Potential Changes in Tax Laws**
- **Updated Mortality Tables**
- **Low Interest Rates**



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# Estate Planning Techniques

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- **Private Annuity**
- **SCIN**
- **GRAT**
- **CLAT**
- **Gift**
- **Loan**



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# Deferred Payment Sales

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- 1. Installment sales - taxable transactions**
- 2. Installment Sales ignored**
- 3. Taxable private annuity sales**
- 4. Private annuity sales ignored**
- 5. SCIN taxable sales**
- 6. SCIN ignored**



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- **Introduction**
  - **Typical Situations**
  - **Advantages**
  - **Disadvantages**
  - **Transactional Planning**
  - **Case Analysis**



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# Advantages

## A. Estate Tax Savings

### Analytical Factors:

- Superior investment results
- Short life expectancy
- Valuation discounts
- Low interest rates Example
- Transferor's death before next annuity payment
- Increased consumption/gifting
- Planning for annuity payments



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# Advantages-Continued

**B. Retain Wealth in Family**

**E. Liquidity**

**F. Diversification**

**G. Retirement Income**

**H. Avoidance of Probate**

**I. Asset Protection Devices**

**J. Favorable Tax Benefits**

**K. Inflation**



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# Disadvantages

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- A. Longevity Risk**
- B. Investment Risk**
- C. No Interest Deduction**
- D. Recognition of Gain**
- E. Default Risk**
- F. Economic Burden on Transferee**
- G. Tax Burden**
- H. Valuation Risk**



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# Analytical Approach

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- A. Analytical Approach**
- B. Individual Transferees**
- C. Business/Investment Interests**
- D. Irrevocable Non-Grantor Trusts**
- E. Grantor Trusts Advantages & Disadvantages**



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# Analytical Approach

- net worth exceeds the unified credit
- rapidly appreciating assets
- actual life expectancy < actuarial tables (terminal illness)
- valuation discounts
- low interest rates
- consumes or disposes
- transferor dies before the next annual payment
- strategies and techniques
- cash flow analysis
- maintain family control
- highly appreciated property
- closely held business or other illiquid asset
- retirement income
- potential asset protection device
- adequate means



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- **Introduction**
- **Typical Situations for SCINs**

# Advantages of SCINs

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- **Estate and Gift Tax Savings**
- **Income and Security**
- **Interest Deduction**
- **Retirement Planning Tool**
- **Basis**
- **Tax Planning Options**
- **Recognition of Loss**



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# Disadvantages of SCINs

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- **Potential Recognition of Gain upon Seller's Death**
- **Uncertainty of Income Tax Effect on Buyer**
- **Risk of Challenge by the IRS**
- **Imputed Interest**
- **Burden of Payments on Buyer**
- **Restrictions on Alienability**
- **Limited Term**



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- **Summary**
- **GRAT and GRUT Defined**
- **Tax Implications**
- **Advantages/Disadvantages**
- **Transactional Planning Opportunities**



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- **Tax Implications**
  - **Gift Tax**
  - **Estate Tax**
  - **Income Tax**



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- **Advantages**
  - **Valuation Discounts**
  - **Fixed Annual Income**
  - **Estate Tax Savings**
  - **Shifts Appreciation**
  - **Maintain Family Control**



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- **Disadvantages**
  - Mortality Risk
  - No Gift Tax Annual Exclusion
  - No Additional Contributions
  - Carryover Basis at Grantor's Death
  - Transaction Costs
  - Irrevocable
  - Valuation Audit Risks
  - Retained Annuity Payments are included in gross estate



- Transactional Planning Opportunities
  - ✓ Layered GRATs
    - Minimize mortality risk
    - Mitigates investment risk
  - ✓ Zeroed-Out GRATs
  - ✓ Sale of Remainder
  - ✓ Sale of Contingent Reversion
  - ✓ Low Interest Rates
  - ✓ ILIT
  - ✓ Married couple



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- Grantor may purchase GRAT assets then contribute them to a new GRAT
- Grantor may contribute annuity interest to a new GRAT



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# Charitable Lead Trust

- Irrevocable
- Created During life or at Death of Grantor
- Gives Charity the First or "Leading" Interest (rather than the remainder interest)
- Payments to Charity for a Life or a Predetermined Number of Years
- Reversion in the Grantor or a Remainder in Family Members



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## Gift Tax Considerations

- **Gift tax charitable deduction for the actuarial present value of the charity's lead interest**
- **The remainder interest does not qualify for the gift tax annual exclusion – low interest rates**
- **If donor (1) can vote stock transferred to the CLT, or (2) holds a fiduciary position with a charitable beneficiary (e.g., is an officer or director of a charity to which the income is payable) gift may be incomplete.**



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## Estate Tax Considerations

- **An estate tax charitable deduction is allowed for the actuarial present value of the testamentary charitable lead interest.**
- **Basis of the assets transferred to the testamentary CLAT equals the date of death value.**



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# Income Tax Considerations Non-Grantor CLAT

- **Complex trust for income tax purposes**
- **Unlimited income tax charitable deduction for payments of gross income that are, pursuant to the governing instrument (CLAT), paid for charitable purposes**
- **Excess income (after payment of charitable distributions) will be taxed to the CLT at compressed trust tax rates**
- **Income tax charitable deduction disallowed for any UBTI but CLT is allowed a deduction for actual payments of UBTI to charities the same as individuals**



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- **Donor receives charitable income tax deduction.**
- **Subject to limitations to type of property, and amount, and AGI.**
- **Excess income (after payment of charitable distributions) will be taxed to the CLT at compressed trust tax rates .**
- **Income tax charitable deduction disallowed for any UBTI but CLT is allowed a deduction for actual payments of UBTI to charities the same as individuals.**



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- Annual exclusion gifts
  - Outright
  - In Trust
- “Leveraged” gifts
- Tuition or medical care exclusions



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# Intra-Family Loans

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- **Interest Rates**
- **Appreciation**
- **Loans between Trusts**
- **Refinance existing Loans**
- **Balloon Payments**



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