

LLC Interest Gifts

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Claudia B. Sangster, J.D.
Director, Philanthropy, Estates & Trusts Services
Harris myCFO, Inc.

Stephanie C. Buckley, J.D., LL.M.
Director, Center for Estate and Gift Planning
Pepperdine University



Why Consider LLC Gifts?

- Potentially Valuable Gifts
- Decline in Stock and Real Estate Values
- As More Business Owners Retire LLC Interest Gifts May Exceed C and S Corporations Stock Gift



What is an LLC?

- Limited Liability Company
- Owners are Members
- One Form of a Business Entity (i.e. Corporation, Partnership, Sole Proprietorship)
- Limited Liability Like a Corporation
- Pass Through Taxation Like a Partnership



When An LLC Interest Gift Arises

- Check Gift Acceptance Policies
- Ask Questions
- Gather Information
- Assess Information
- Ask More Questions
- Evaluate
- Make Recommendation



Questions To Ask

- What Business Does the LLC Operate?
- Why Gifting LLC Interest?
- Who Are Other Owners/Members?
- What Are Income Flows/Losses?
- Any Potential Buyers?
- Outright or Life Income Gift?



Information To Gather

- Copy of LLC Agreement
- Copies of Financial Statements
 - Informational Tax Return
 - K-1s for Last Several Years
 - List of Assets
 - List of Debts



Issues/Concerns To Address

- Unrelated Business Income
- Capital Calls
- Other Members/Owners
- Appraisal/Minority Interest Discount
- Conflicts with Charity's Purpose
- Exit Plan

Unrelated Business Income

- Active Trade or Business Income is Taxable
 - Outright Gift
 - CGA
 - CRT
- Make Sure CFO is Aware



Capital Calls/Debt

- Know About Debt
- Know Charity's Liability for Debt
- Know When Capital May Be Called
- Will Charity's Addition Require Debt To Be Paid?
- Will Charity Have Vote For New Debt?



Other LLC Members

- Who Are the Other LLC Members
- Can Charity Do Business with Other Members?
- Will Charity Have Vote for Addition of New Members?

Appraisal/Discount/Costs

- Be Clear Who Will Pay
- If Minority Interest There Will Likely be Discount
- Get Quotes Early in the Process
- Attorney Fees For Drafting Assignment

Exit Plan

- Know What the Charity's Exit Plan Will Be.
- Operating Agreement



Make Recommendation

- Ensure All Decision Makers are Adequately Informed – Especially CFO
- Provide All Important Details

Case Study: Donor Profile

- Mrs. R is 78, a long-time supporter of Charity and has been involved in a family business for many years.
- Wants to retire from her duties as staff “matriarch”.
- Business is held in Limited Liability Co. form.
- Assets are orange groves, oil wells, golf course and undeveloped property.

Case Study: Donor Goals

- Mrs. R wants to exit without paying substantial capital gains tax.
- Doesn't want to burden the LLC with a buyout which will drain capital and cause financial stress.
- Wants to make substantial gift to Charity.
- Wants an assured, fixed income.

Case Study: Special Issues

- LLC's income is by nature, unrelated business taxable income, and precludes use of a CRT*.
- LLC is a closely held business and as such Charity is concerned about the ability to sell a gift of any interest in the LLC.
- Rest of family is not interested in having Charity as a partner.

*although UBTI no longer destroys the tax-exemption of CRTs, the use of such assets in this CRT would result in substantial taxes negating the benefits

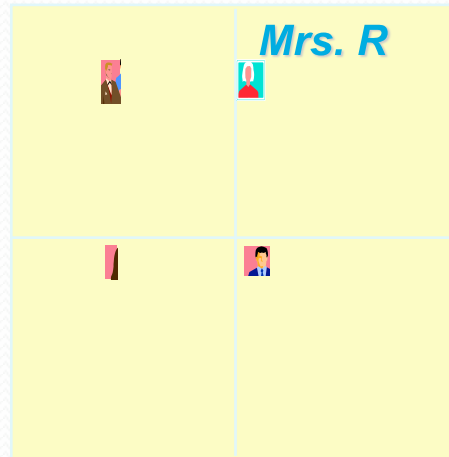
Mrs. R & The Limited Liability Company

Starting Situation:

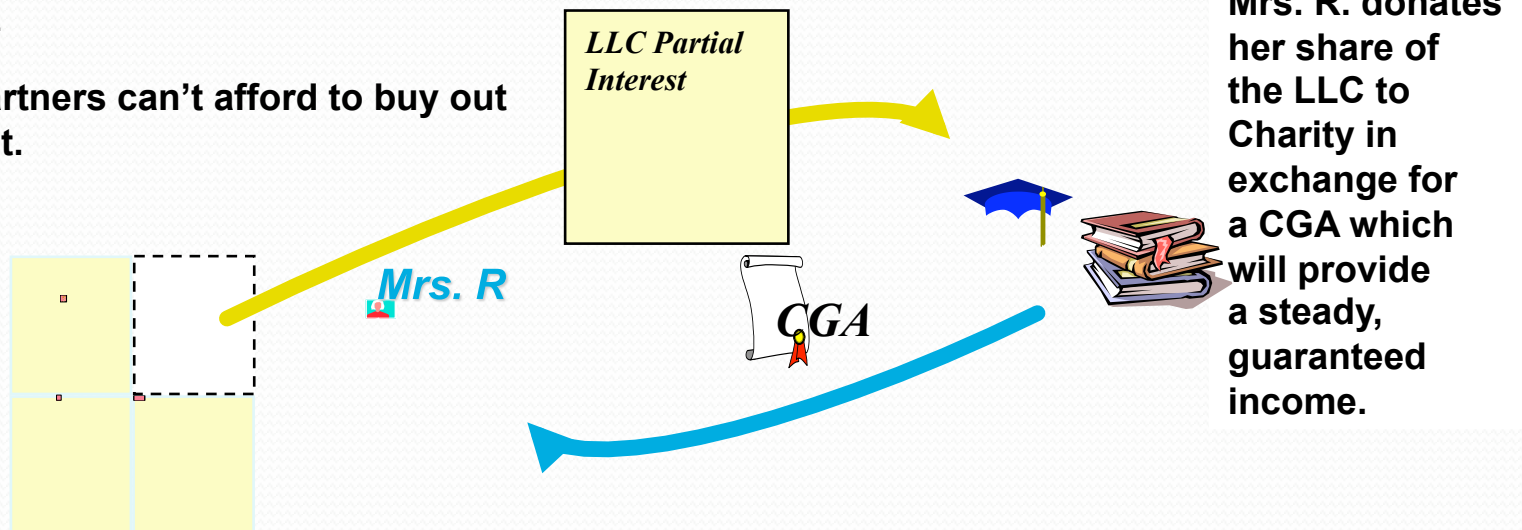
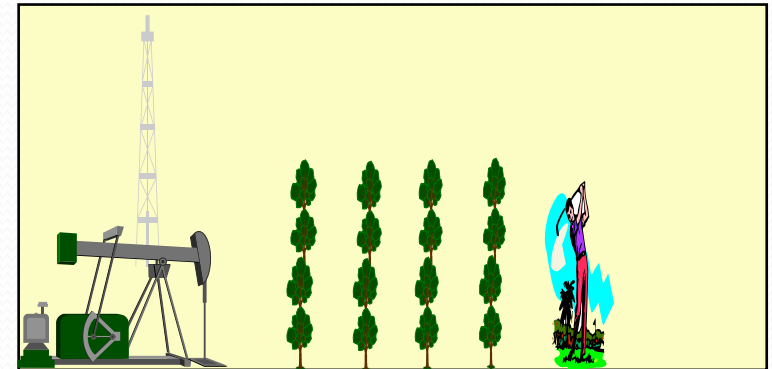
Mrs. R is part-owner in a family business organized as an LLC which owns oil wells, orange groves, land, and a golf course.

Mrs. R wants to step down as the matriarch and convert her illiquid asset into an income producing asset for her retirement years.

1. Other LLC partners can't afford to buy out Mrs. R's interest.



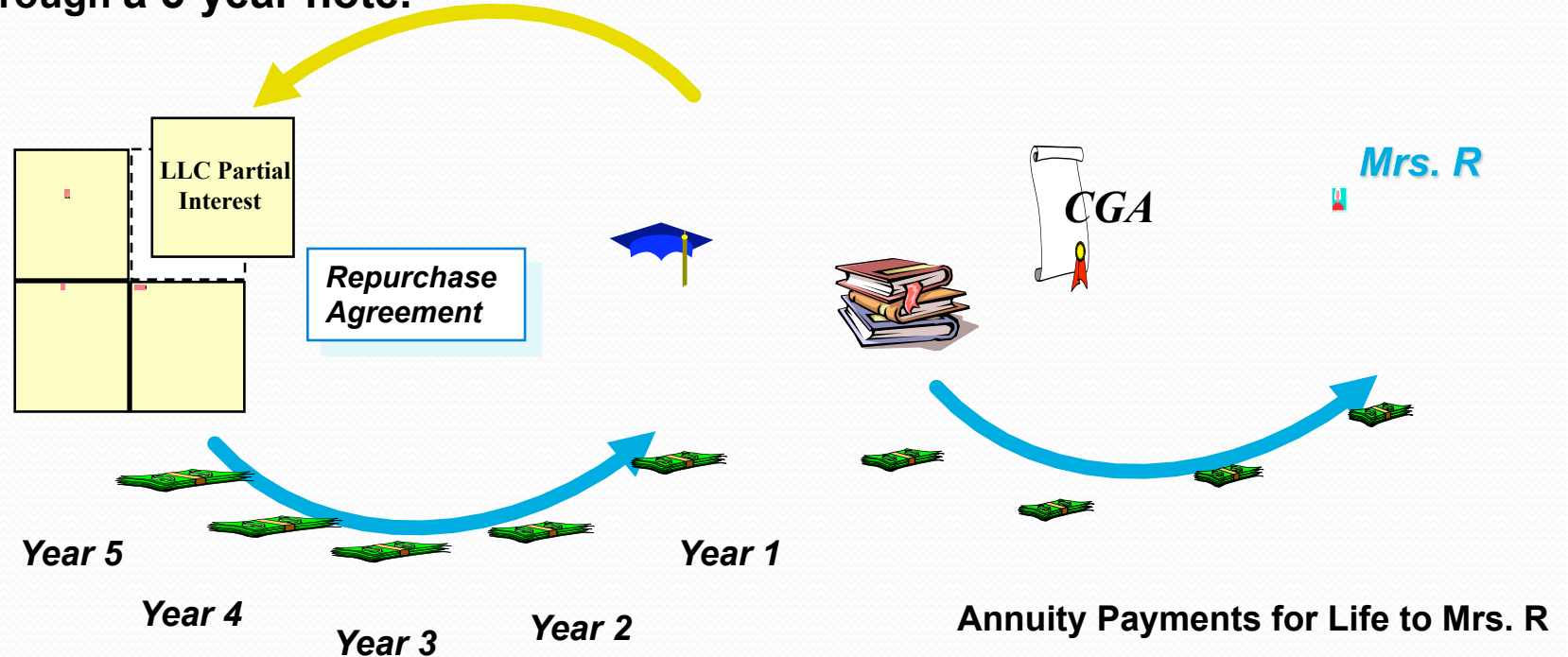
Family Business LLC



2. Instead, Mrs. R. donates her share of the LLC to Charity in exchange for a CGA which will provide a steady, guaranteed income.

Mrs. R and the Limited Liability Company (cont'd.)

3. Final Situation: Mrs. R receives regular income from Charity via CGA. Meanwhile, the LLC repurchases Mrs. R's former interest back from Charity through a 5-year note.





Questions?

Contact Information

Stephanie C. Buckley, J.D., LL.M.

310-506-4082

stephanie.buckley@pepperdine.edu

Contact Information
Claudia B. Sangster, J.D.

310-407-1141

Claudia.Sangster@HarrismyCFO.com

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