WIGGIN
WIGGIN AND DANA

ADVISORY

2024

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SUBSTITUTE ASSETS IN EXISTING GRANTOR TRUSTS

Property transferred to a grantor trust (also known as an "intentionally defective grantor trust," or "IDGT") is excluded from the value of the grantor's estate for estate tax purposes at death, but included as part of the grantor's taxable income during life. This is, in fact, advantageous because payment of the trust's income tax will remove assets from the grantor's estate and allow the trust to grow income tax free. While the current law remains in effect, this is an excellent strategy to make "phantom gifts" that do not generate a taxable recognition event.

An IDGT is often structured such that the grantor has a substitution power to exchange or "swap" property held in the trust with other property of equal value. In light of the proposal to recognize gain on such a transfer, clients should consider swapping low basis assets into trust now to hedge against the imposition of capital gains tax before any such law may take effect.

Note that our **SLATs** and **Dynasty Trusts** are often also IDGTs, and therefore we can combine several gifting strategies together.