Better Than A 1031 Exchange

the commission-free Deferred Sales Trust

no 1031 reinvestment restrictions or Trustee commissions

By Michael George, Juris Doctorate

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No 1031 reinvestment restrictions or Trustee commissions

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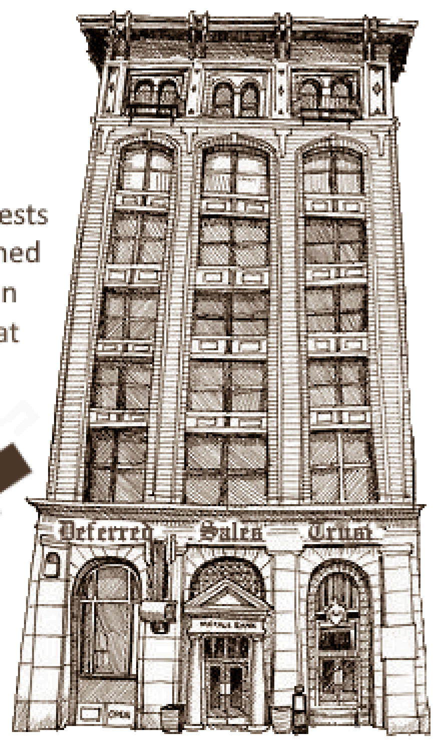
§453 Deferred Trust

1. transfer assets to Trust



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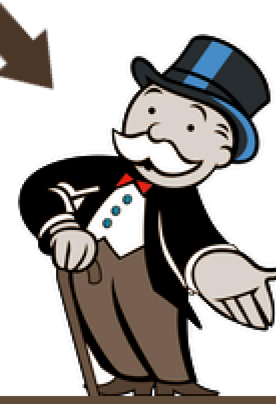
Trust sells asstes & reinvests sales proceeds & retained taxes to compound an additional fortune that covers the taxes!

3.
Trust pays Seller proceeds on installment over life expectancy



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i | the § 453 Commission-Free Deferred Sales Trust elevator pitch

The § 453 Commission-Free Deferred Sales Trust (Free DST) permits a life-long deferral of capital gains tax from the sale of real estate, businesses, and most other investments (not publicly traded stocks and bonds or business inventories).

It works by transferring your property to a legally independent non-grantor irrevocable Trust in exchange for a market value installment agreement with at least two payments no later than your IRS published lifespan.

The Free DST sells your property to a 3rd party buyer for the same amount as your installment agreement. So the Free DST does not have any capital gains or tax liability from these transactions.

Under IRS Code § 453 you do not have to pay capital gains until the Free DST distributes your installment proceeds to you which may be decades from now, depending on your age and income requirements.

The Free DST retains the 3rd party sales proceeds, ***including the capital gains taxes***! Your Free DST reinvests it all making an unspeakable compounded fortune for your beneficiaries, not just from the principal and gains on the sale, but from the decades-long retained capital gains taxes as well.

And the IRS gets their inflation-ravaged taxes decades after otherwise becoming due.

Most beautifully, Free DSTs are not subject to the 45-day real estate only reinvestment restrictions of § 1031 exchanges. The reinvestment shackles are off of a Free DST.

The problem with commercially marketed commission-based DSTs are the exaggerated Trustee commission rates of 1.5% of the entire trust proceeds (principal, gains, and DST ROI) ***every year***. It's like paying real estate agent level commissions year after year, and spoils the DDT benefits for the seller and DST trust beneficiaries.

While DSTs are required to have appointed an independent Trustee, there is no requirement to appoint a corporate Trustee charging 1.5% of the entire trust balance year after year. Except for a few states that require licensed trustees, anyone who has their wits about them, is over 17, and not statutorily "related" can serve as a Free DST Trustee (discussed in detail in Chapter 3.)

Your good friend or trusted in-law, or any other trusted person paid reasonably by the hour, (or not at all!) are excellent Trustee options. That insider appointment will save not only 1.5% of the Free DST net worth every year, but will relieve your family from mind-boggling opportunity costs, freeing up the Free DST capital to snowball into a much greater fortune from the compounding ROI that will dwarf even your capital gain from the sale over the decades of the Free DST's term.

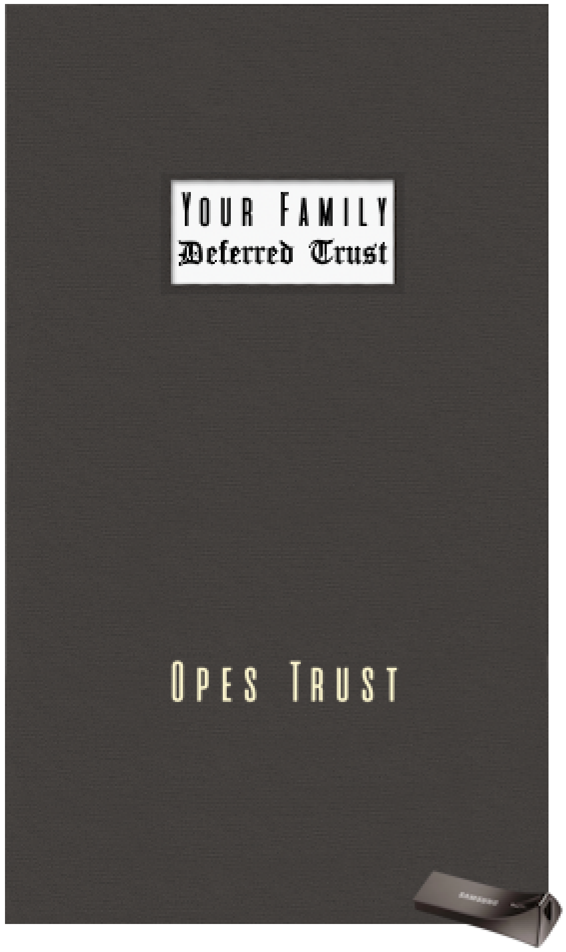
Lay people act as Trustees for their own living trust by the hundreds of thousands in the US. Acting as a Free DST trustee requires no more skill or qualification.

The Free DST strategy of this white paper is unique. You will find it nowhere else, at least until someone else flatters me by mimicking my work.

There is no incentive for financial firms to learn, teach their sales people, or offer Free DSTs to their clients. There's no money it . . . *for them*.

A Free DST may be one of the most consequential financial strategies you make.

How else could you freely increase the return of your most important investments by the cost of capital gains taxes, with a leftover compounded fortune from retained taxes to boot?



SIGN UP for my Commission-Free Deferred Sales Trust | SEMINAR for your very own Free Deferred Sales Trust at OpesTrust.us.

Services and consultations are reserved for members, so SEMINAR registration, when open, is limited to 24 investors. And there's no commitment to offer future Seminars. Join now to secure your place.

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ii | introduction

Taxes delayed are taxes denied.

The fortunes left on the table by uninformed investors for failing to employ the § 453 Deferred Trust (DT) strategy is staggering. In an example used throughout this white paper a:

- 10 year term DT
- with a 60 year old DT seller
- selling a $1 million property
- with $500,000 in gains

is liable for $127,000 in average Federal and State capital gains tax - more if there is depreciation clawback.

If capital gains tax were paid up front, a compounded fortune of **$513,422** made solely on the tax-free compounding gain on the capital gains tax would be ***lost forever!***[1]

For all intents and purposes you will completely remove paying capital gains tax because the gains on the taxes you delay paying the IRS for decades will pay for the taxes, with a fortune for your family to boot.

And that's just a 10 year DT. A 60 year old man has an IRS expected life span with 19 years remaining and can legally run the DT installment payments that long. The fortune made by a multiple decade DT is too ridiculous to say out loud in polite society, but you can let your math imagination run wild.

DTs are unequaled in their power and flexibility to build your wealth through decades-long deferral of capital gains taxes - *if you take control and limit DT fees!* Unlike other deferral strategies available, you can do any number of investments including strategically sit in cash, invest in alternative investments, and reinvest sale proceeds in real estate of lesser value than that which was sold, all utilizing strategic timing instead of usual 1031 exchange constraints. This DT strategy is authorized by § 453 of the IRS code and has a long authorized history by the IRS and courts.

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[1] The calculations and example variables are found in Appendix A.

HOW IT WORKS: the transfer of your property to the DT occurs first, followed by the property's sale by the DT to the ultimate 3rd party buyer. The DT pays you the purchase price within your life expectancy as is directed in the DT contract, plus interest on the undistributed balance.

Sale proceeds with the retained taxes are reinvested within the DT generating decades-long tax-free compounded wealth for your beneficiaries which would otherwise be lost if the capital gains tax were paid up front.

The reinvestment gains from the undistributed sale proceeds may be retained tax-free in your DT in perpetuity if your DT and the State of your DT permits that; or you can make the extra fortune available to your beneficiaries under the timing, conditions, and circumstances that is directed in the DT.

While DTs are not available for publicly traded stocks, bonds and business inventories, this strategy is available for the sale of real estate, businesses, and other property. DTs are even available for significant short-term capital gains, such as on cryptos.

Capital gains taxes can be deferred for decades - up to your IRS expected lifespan - while your reinvested, tax-deferred gains are allowed to grow within your DT like "the eighth wonder of the world" as Albert Einstein once said of the power of exponential compounding.

You will never see this windfall of wealth if you just paid all the capital gains tax in the year your property sold. You forfeit a fortune in opportunity costs from decades-long compounding returns on money otherwise belonging to the IRS - as many investor plebs do.

Non-grantor irrevocable trusts are recognized as independent tax paying entities. These types of independently taxed trusts must be used in DTs. They require a truly independent trustee which is not closely related to the seller. We'll get knee deep in the details of DT trustee requirements in Chapter 3.

A cottage industry of Deferred Sales Trust corporate trustees has developed offering a very expensive one shop prix fixe menu of trust attorneys, corporate trustees, and trust accountants.

Standard set up and annual DT corporate trustee fees of 1.5% are applied by these shops - not just to the capital gains you're trying to shield, and not just to the total sale proceeds, but ***to any DT investment gains occurring for the life of the trust as well.***

These are real estate agent level commission fees paid by corporate DTs ***every year after year***!

Standard DT corporate trustee fees would total just under a quarter million dollars in the 10 year DT example above! A seller younger than 60 with a longer trust shelflife will pay substantially more than that upon signing a standard DT corporate trustee agreement.

There's a much better way:

Don't Give Up A Cut Of All Your Annual Trust Balances -
Pay Your Privately Assembled Team By The Hour.

Instead of handing over control of the entire DT process to a corporate shop, you could educate yourself on all the intricacies and options DTs have to offer laid out in this white paper; then, rein in costs dramatically by assembling your own expert team of trustee, trust attorney, and trust accountant. Pay your hand selected trustee by the hour instead of an annual flat 1.5% of your entire trust each year and ***save another fortune*** in the process.

We specialize in economical seller-selected DT trustees at **OpesTrust.us**.

After DT formation, the amount of time a DT trustee belabors in an ongoing DT each year is commonly nominal - rarely justifying the exorbitant annual corporate DT trustee fees.

It doesn't take too many years before corporate DT trustee shop fees will cancel out all of the DT deferred capital gains tax advantages altogether.

Standard industry DT corporate trustees typically have to limit their DT clientele to those with more than $1million in sales because their fees in sub-$1 million transactions will not justify their outlandish fees.

By first arming yourself with the knowledge of DTs, and then assembling your own team, paid by the hour, you will make DTs economically advantageous for sales well south of $1 million - even low five figure sales if you have a trusted friend that is willing to serve as your DT trustee. More about that in Chapter 3.

A common refrain from cottage industry DT shop pitches includes pretending that their fees are at no cost to you because they are paid out of DT investment returns. That belies the fact that, but for the DT, investors would be running their own reinvestments sale proceeds themselves. And most run them through DT shops by consulting (telling) their corporate trustee how to invest. So those reinvestment gains can hardly be attributed to DT corporate trustees. That argument conflates to whose benefit DT returns should primarily serve.

A DT that does not reasonably limit trustee costs has a direct inverse correlation to the interests of the trust seller and his DT beneficiaries who are exactly at odds with corporate trustee shops when it comes to trustee over-compensation.

It's your gain. It's your trust. Corporate DT shops should not compete with you for your own DT profits. Paying corporate trustee shops more than a reasonable hourly rate largely defeats the purpose of DTs and makes the strategy only barely viable, if at all, for seven figure deals.

Let's face it: DT corporate trustee shops are not being selected for their investment acumen. You already know how to make money, otherwise there would be no capital gains to protect.

Unless the trustee is actively churning trust fund investments with uncommon ROI results, minimal time is required of a DT trustee regarding an ongoing DT concern - even less so where the DT requires consultation with the seller concerning DT reinvestments, as they should. On an hourly rate and over the course of the life of your DT the 1.5% of your entire sale proceeds, plus gains on those proceeds, in fees every year is obscene.

If you need to outsource your reinvestment decisions, pay a superstar hedge or mutual fund manager for superior investment ROI for the same or lower percentage cut. As far as investment acumen, corporate trustees shops aren't all that, and never will be.

There is a vested interest in the DT corporate trustee cottage industry in using fear and confusion tactics to make DTs more complex and scary than they actually are; when in fact DTs are just trust middleman cutouts to legally qualify for capital gains tax deferments.

The complexities of creating and running a DT are not much more than a living trust which the general public commonly run themselves as trustees by the hundreds of thousands. While you can't serve as your own DT trustee, you can choose someone who will not ruin the economics of having one.

Meeting your hourly compensated trust attorney for the first time well informed and prepared about DT options you have selected and want included, even to the point of a draft DT will make short work of your DT formation.

By first arming yourself with the knowledge of DTs, and then assembling your own team, paid by the hour, you will make DTs much more profitable for sales north of $1 million, and economically feasible for sales well south.

If you take control of your DT costs by mastering DT principles and forming your own DT crew - paid by the hour - a 1.5% annual fee should be reduced as much as moving the decimal left one digit - and this will result in astronomical additional compounded returns for your family.

If someone you trust who is qualified can serve as your trustee for little or no compensation, (maybe through a quid pro quo arrangement of your serving as their trustee in their own DT discussed in Chapter 3), a low five figure capital gain would even benefit from DT deferral treatment, especially if that DT is designed to economically mop up other smaller investment transactions throughout your life.

Commission-Free Deferred Sales Trust | SEMINAR members have access to the most economical DT services anywhere, and the only DT that allows sellers to legally appoint the Trustee of their own choosing. The Seminar membership also has training for lay trustees, and access to a list of qualified DT trustees and protectors available to work by the hour instead of the vig.

Coming soon to SEMINAR members are business and family trusts with wealth changing benefits too many to list here. Seminars are limited to 100. **Sign up** to reserve your place before they are no longer offered. Be prepared for when you are ready to sell your appreciated property; and make sure you're not "holding the bag" at the time you need to have it most.

Securing access now to the **Commission-Free Deferred Sales Trust | SEMINAR** members commission-free DT will pay previously unimaginable dividends when the time comes to sell your business, real estate, crypto, and other qualified property and take full advantage of the decades long capital gains tax deferrals available only to investors in the know.

If you have any constructive comments, improvements, or corrections to this work, I would greatly appreciate dropping me a line at **michael@DSTkit.us**. If you are kindly inclined to leave a highly recommended review of this **HERE**, I will notice and be very grateful.

iii | about me

I earned my law degree at the University of San Francisco School of Law. My career evolved into real estate development in subsequent decades where I gained national expertise in real estate investment, development, law and litigation.

I am also a hobby winemaking enthusiast and have crafted delicious cabernet sauvignon from a friend's Napa Valley vineyard. By the grace of God I married the most beautiful, intelligent blonde with her own career as a hospitality executive in San Francisco. We enjoy our grown four boys all in the Pacific Northwest, and our life in the little Italy neighborhood (North Beach) of San Francisco, California.

disclaimer - it's a white paper, not an attorney or CPA

This white paper is not designed to replace the consultations of attorneys and CPAs with expertise in the use of trusts in installment sales under IRS Code § 453.

This white paper is designed to educate you in the wealth building strategies of DTs and spare you the need of paying your experts to put on a master class of these strategies in order for you to sufficiently understand and make good use of their powerful potential. The DT education in this white paper will also avoid, unlike most pleb investors, leaving you in the dark, reliant on the mercy and judgment of DT experts conducting what probably is one of the most important financial decisions on your blinded behalf, all while taking the lion's share of your DT benefits.

This white paper, and the **Commission-Free Deferred Sales Trust | SEMINAR** will arm you with the knowledge and mastery of the most powerful, proven legal capital gains tax strategy of the US elite, widely unknown to the masses.

I'm not your attorney. This white paper is for educational purposes only. I am not liable for any decisions you make about DTs and their appropriate application to your particular circumstances. You are hereby advised to consult an attorney and/or CPA with expertise in these strategies before making any decisions and taking any actions regarding any DT you are considering.

dedication

Heidi - this work, our boys, and my life - *you make it all enchanting*. I love you more each year of our 25-year marriage. You are my life's biggest blessing.

1 | DT demystified

Basics

When done right DT is how euphoric selling investors spell DMT.

You can defer capital gain taxes for decades on a variety of investments - not just real estate, but the sale of a business, cryptos, intellectual property, and more. And not just long-term capital gains, but short-term home runs as well.

IRS Code, § 453's installment method for capital gains deferral permits the deferral of capital gains where the sale proceeds are paid to the seller in installments, instead of one lump sum. Makes sense, right? Why should you pay capital gains on money you haven't yet recieved.

When combined with a non-grantor, irrevocable, independent trust middleman the strategy starts to really shine. The seller sells the property to the DST for a promissory note with interest. Then the DT sells it to a 3rd party buyer and reinvest all tax-deferred proceeds, including retained capital gains taxes, without limitation.

There is no tax when the DT sells to the 3rd party buyer, because the selling price equals the DT's cost basis. After decades of tax-free reinvestment compounding - up to the seller's IRS life expectancy tables - the seller is finally paid the sales proceeds with interest, and the seller's

DT beneficiaries enjoy an otherwise unavailable fortune of compounded wealth from the deferred tax.

a) one better than using other people's money - using your IRS tax money!

The DT trust strategy is not hard to understand; and it's not new. It's just not widely known because there's an incentive for financial firms to keep commission-free DTs in the dark.

In order to qualify as an arm's length transaction with your trust, the DT must pay interest to the seller at the IRS published interest rate for the installment term. Capital gains taxes are paid pro rata when distributed under the installment terms. With every installment payment you will be liable to pay tax on the capital gains in the same proportion that your gain represents to the purchase price. Delaying the DT's installment payment of sale proceeds for as long as possible is advantageous to the seller and his/her beneficiaries, given the reinvested compounding on retained capital gains tax. Sellers may delay their installment payments until the end of their life expectancy, if made with at least the mandatory two payments.

In years past capital gains were not taxed until all of your principal was paid back first - at the end of the installment term - yummy! But the law changed to make capital gains liable on a pro rata basis each year. Under current law, for example, if you sold a $1 million dollar property with a $500,000 capital gain (50% cost basis) and took annual installments from the DST for 10 years your annual installments would be $100,000, plus interest (ignoring depreciation clawbacks for simplicity). Each year your capital gains are distributed in the same proportion that the gain is to the entire sales proceeds: 50% in our example.

So, on each annual $100,000 installment, half represents the return of nontaxable investment principle, and half represents taxable capital gains on which you pay according to your appropriate capital gains tax rate in each year of the installments.

b) independent trustee and beneficiaries required

In order to take advantage of DTs the seller cannot be a beneficiary of the DT. The seller gets a note with interest for the market value of the property. The DT beneficiaries are usually the seller's spouse and children, and they benefit from the proceeds' ROI compounding, including from the deferred capital gains tax.

Neither can the seller serve as a DT trustee. Otherwise, it would be like selling to yourself and the IRS will not consider that a transaction that's taxable. The trustee must not be "related" to you (more about the specifics later). Your trusted friend or in-laws are excellent choices. You may, however, legally benefit financially in a myriad of ways discussed later in this Chapter.

c) avoid destroying DT benefits with DT corporate trustee fees

The traditional limitations of a DT have been the exorbitant fees of cottage industry DT corporate trustee shops that offer a suite of attorney, trustee, and CPA services for DTs. Standard corporate trustees charge 1.5% of the ***entire balance of the DT each year*** - including the trust principal and capital gains from the sale, and any gains the DT develops over the life of the trust!

Considering that trustee duties after year one usually are ***very*** minimal, it's not bad work when you can get it.

One and a half percent a year may not sound like a lot, but it will not take too many years of these fees to outpace the benefits of a DT entirely. And the opportunity costs and lost compounding due to excessive DT corporate trustee fees will do significant damage to the wealth of a DT.[2]

You can avoid this private tax on the ROI of your DT by knowledgeably direct-hiring your team of hourly compensated trustee, trust attorney, and CPA - mapped out in detail in Chapter 3. This is by far the shrewdest strategy that makes the most financial sense. This is the only way DTs with smaller capital gains can access DTs, for smart, motivated investors.

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[2] *See*, How To Minimize Investment Fees, (May 2023) *Forbes Magazine*, for a closer look at the cumulative havock a 1% annual fee does to investments. There's a whole investment cult out there that will only invest in low-to-no load (fee) funds because of the massive impact these fees have on compounding total return.

There is no minimum sale required to qualify for installment method deferrals under IRS Code, § 453. Yet, DT firms will not touch properties under $1 million because they won't generate enough fees to arguably justify their annual cut.

The delta is stiff between the hourly cost of hiring your own team, and the professional DT shop annual trustee cut. During the life of the DT this cut can get detached from reality very quickly and substantially.

By reining in DT costs investors can truly have their cake and eat it too.

Deferred For How Long?

Short answer: in at least two installments, over at least two fiscal tax years, and within your IRS published life expectancy.

Federal tax courts have ruled that the common meaning of "installment" under § 453 does not include interest only, nor a one time lump sum payment: "in order to qualify for installment sale treatment, two or more payments must be specifically and unconditionally called for."[3]

The term of installments cannot be longer than the life expectancy of the seller or the arrangement will be treated as an private annuity under IRS Code, § 72 rather than a capital gain deferral under IRS Code, § 453, which would result in the loss of deferred capital gains tax benefits.[4]

The capital gain pro rata payout on private annuities is taxed as regular income; so, you need to stay within installment sale criteria which not only defers capital gains, but limits taxes on pro rata paid gains to your much more limited capital gains tax rate.[5]

The DT and seller can agree to end installment payments when the seller dies and avoid the tax on the installment balance altogether! As long as the installment note term is within the seller's IRS life expectancy tables any installment note clause terminating the note at the seller's death will both maintain the note balance within the DT, and remove the note balance from the seller's estate, potentially saving estate taxes as well.[6]

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[3] Estate of Meredith v. Commissioner (1981) US Tax Court; *accord*, 10-42 Corp. v. Commissioner, (1971) 55 T.C. 593, Baltimore Baseball Club v. United States, (1973) 481 F.2d 1283; McCutcheon & Co. v. Commissioner (1934) 30 B.T.A. 1177; Pendergast v. Commissioner (1931) 22 B.T.A. 1259; Treas. Reg. 1.453-2(b)(1).
[4] IRS General Counsel Memorandum To: Charles M. Morgan III, (1986) GCM 39503. Estate of Costanza v. Commissioner, 320 F.3d 595 (6th Cir. 2003).
[5] *Ibid.*
[6] *Ibid.*

Unfortunately there are professional DT websites that are advising that interest only, one lump-sum payments, or no payments at all (indefinite deferral) qualify under IRS Code, § 453 Installment sale deferrals. These would be good litmus tests to avoid such trust "experts".

Legally, the most you can defer capital gains payments under the IRS Code, § 453's installment method is two payments in the last two months of your life according to IRS life expectancy tables.[7]

Ways Sellers Benefit

While a DT seller cannot act as trustee or beneficiary, that doesn't mean the seller cannot have arm's length interests and perks that do not amount to being a trust beneficiary.

a) the installment note

Of course, the first and foremost benefit of the seller is the installment note s/he receives from the DT in exchange for transferring the property to the DT at market value.

Schemes that permit the seller to get early access to the installment payments are illegal, and, if uncovered by the IRS, will result in the trust being viewed as a sham with the loss of DT tax deferment benefits and potentially further punished with charged interest and penalties.

Such schemes include the monetization of the installment note by the DT or a third party. The seller using the installment note as collateral to gain early access to the deferred gains is a no no. Such schemes were highlighted by the IRS as one of the top 4 "Dirty Dozen Tax Scams for 2022".

The powers that be have decided that you cannot take the tax advantages of deferring your capital gains, and then enter a scheme to accelerate the installments without also accelerating the tax due. Monetizing your installment agreement is strictly forbidden.

You can neither assign the installment stream for a lump sum payment without risking the IRS finding out and consequentially accelerating your capital gains tax liability with all their favorite penalties.[8]

What you may do is design your installment payments, in conjunction with your other income, in a way that avoids capital gains tax altogether, or at least avoids the highest capital gains tax bracket, with strategic payouts.

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[7] Fidelity.com/building-savings/learn-about-iras/irs-single-life-expectancy-table

[8] taxslaw.com/2021/05/cash-in-hand-tax-deferral-monetized-installment-sales-no-you-cant-have-it-all/

As of 2024 there is no capital gains tax when your taxable income remains below $94,051 (married filing jointly). If you can adequately control other income distributions you may avoid capital gains tax (or at least the highest bracket, whatever the case may be) by strategically alternating income types annually.

For instance, let say you could control for the distribution of other income to be dispersed to you on alternating years during your capital gains installment payment years. By alternating between the two income sources and concentrating installments payments in years you skip (or reduce) other income, you may manage your tax exposure to the lowest capital gains tax bracket possible, including the zero bracket. Work with your CPA on the income distribution formula that maximizes your tax saving.

b) legitimate trust expenses

The seller can be active in support roles of the DT as long as ultimate control and final DT decision making is retained by the DT independent trustee. The seller can act as a paid consultant. And s/he may act in any other manner that does not result in “insignia of ownership” that affects any ultimate forfeiture of last-word control by the DT trustee.

A seller may be reasonably compensated for any manner of work done for the DT, including but not limited to:

- On-call retainer for emergencies of the DT and other family trusts;
- Compensation for investigation and consultations regarding DT reinvestments, including reimbursements for costs relating to travel; and
- Compensation for any other manner of work and consultations a seller does at the behest of the trustee.

Other important trust deductions, if legitimately incurred, but often overlooked even by tax professionals include:

- depreciation on trust owned vehicles (up to $19,200 in 2022 if used by trust 50% or more) in addition to car expenses or mileage;
- deduction of personal payroll (if trust employes seller at arm’s length) and 20% deductions on business profits under QBI (if applicable);
- lease out seller residence to the trust at hotel meeting space rates two weeks a year (Augusta Rule; IRS, § 280(a));
- SEP IRA or solo 401(k) up to $60,000;
- cost segregation studies to accelerate/concentrate real estate bonus deductions.

Raise these deductions, if applicable, with your trust CPA to reduce or eliminate trust income taxes.

Some CPAs suggest that compensation may come in the form of paid expenses (like auto installment payments, travel, food, ect.) that may have tax advantages for the seller. DTs, like many other trust or business file taxes where income, capital gains, and business deductions are claimed and accounted for.

Business expenses can get very creative while remaining legal as is written extensively by Jeff A. Schnepper in *How To Pay Zero Taxes* (37th Ed., 2020), with any manner of transactions like leasebacks, compensated family member work, and other miscellaneous trust advantages. You may want to check with your trust scrooge bookends (attorney & CPA) before doing anything too creatively unorthodox.

The DT formation documents should spell out that the trustee should consult the seller about trust investments and beneficiary distributions - clearly and expressly without delegating any ultimate control or authority over the trust.

c) loans to seller and business associates

A tried and true way of pulling trust funds from a non-grantor irrevocable trust to a seller is through legitimate arm's loans.[9] Loans must be arm's length by providing sufficient security and interest and other reasonable terms. Nothing precludes interest only loans, loans with long duration, or roll-over loans which terms get renegotiated upon being due, if arm's length and consideration, interest, and sufficient collateral exists. Who knows, your own DT may just be a lot more lenient than your bank!

d) partnerships with DTs

Nothing precludes you, as a seller, from partnering with the DT on investments. Clear lines of delineation between partners, investment funds, and ROI need to be made, like any other partnership, through written agreements and meticulously documented and itemized.

e) beneficiary distributions with strings attached.

Distributions to beneficiaries may be done in a way that advances the interests of all parties. For instance, a distribution may be made to a beneficiary who agrees to use the proceeds to fund investment grade whole life mutual insurance policies that name the DT (or other business or family trust) as the beneficiary of the whole life policies designed to make liquidity, double investment, and the exponential intergenerational wealth possible, discussed in Chapter 5.

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[9] *Loans From An Irrevocable Trust: How To Do Them Right*, (December, 2021) Shenkman, Martin, ESQ., Forbes.com

In this way, income tax liability may be marginalized by shifting DT income to willing beneficiary members, while the DT reaps a source of low-cost guaranteed borrowing from those policies. The gargantuan benefits of whole-life insurance death benefit payouts will serve to replenish and expand the trust in this infinite generational wealth spiral.

Not For Proceeds Over $5 Million

If the sale is over $5 million a seller will have to pay the IRS interest on that portion of the capital gain tax that remains undistributed until sale proceeds are under under $5 million.[10] Some online sources claim that private annuities under IRS Code, § 72 is an available remedy. That strategy was shut down by a 2006 US Treasury regulation.[11]

However, the $5 million threshold applies individually. A married couple are each entitled to their own $5 million cap before the IRS will start to charge interest on deferred tax over that amount.[12]

As discussed in greater detail in Chapter 4, you can include proceeds greater than $5 million in a DT which will function as a low interest rate loan; or you can just choose another tax advantaged strategy discussed in Chapter 4 for the excess. Of course, you can also just choose to apply the DT to the first $5 million in proceeds, and take the rest at the sale and pay capital gains taxes on what is due on that excess.

Infinite DT Deferrals

Capital gains resulting from the reinvested sales proceeds within a DT cannot be deferred by the original DT. The same entity that made the gain - the DT - cannot just hold on to capital gains it made and legally shield the tax, obviously.

Another DT is required - a child DT - where the original DT sells its appreciated property to a child DT. An additional independent trustee is appointed for the child DT, and the beneficiaries stay the same, or, if changed, done so with the parent DT's beneficiaries express written permission since DT trustees are fiduciaries that must always act solely in the financial best interests of its beneficiaries.

As a legally recognized entity, your DT is entitled to the benefits of § 453 installment sales as well. That can be achieved through a child DT. The child grantor may be any person or legal entity unrelated to the new independent trustee.

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[10] The Tax Advisor; irs.gov/pub/irs-utl/interest-on-deferred-tax-liability.pdf
[11] Proposed Treas. Reg. Sec. 141901-05, 2006 IRB 47; irs.gov/irb/2006-47_IRB#REG-141901-05
[12] IRS Technical Advice Memorandum No. 9853002, 9/11/1998

Section 453 installment sale deferments are precluded from statutorily “related” parties. IRS Code, §267(b)(4)-(8) precludes certain relations between trusts, and the parent/child DST strategy outlined above qualifies for installment sale deferment.

Authorization for any child DT should be included in the DT trust founding document.

If you’re as successful in the DT investments as you were with the original, subsequent capital gains taxes may be deferred indefinitely. And once a child DT has been formed, the cost/benefit weighs in favor of including smaller and short-term capital gains in the child DST. All that would be needed to vacuum up all manner of DT deals would be a simple written authorization by both parent and child DTs.

Once you’ve done one DT, subsequent DTs will be a piece of cake, especially when you have assembled your own cost-effective DST team.

Common Misconceptions

There is an abundance of misinformation about DTs in the wild, even on many professional DT corporate trustee websites, unfortunately.

Public and published incompetencies about DTs on corporate trustee websites I will not name include:

- **MISCONCEPTION:** Sellers can be named as a direct beneficiary in DT non-grantor irrevocable DT trusts and and may directly benefit, not only from their installment payments of the original sale proceeds as a trust creditor, but as a direct beneficiary of returns and interest of the DT’s reinvestment of the original tax-deferred sale proceeds. Some of these sites label the seller as a potential “beneficiary” of the DT.

  FUN FACT: Beneficiaries receive the value and gain on DT reinvestments, of which the seller may have no part. Sellers of the property transferred to the DT cannot be named as DT beneficiaries. The DT grantor will name beneficiaries, control the DT through the formation of the DT including how the DT reinvests funds, and retains, compounds, or distributes funds to named beneficiaries. However, as an installment note holder, the seller is a trust creditor, and cannot be a trust beneficiary. The DT beneficiary should be other family members of the seller, or a common law family trust where the seller is excluded from any beneficiary distributions.

- **MISCONCEPTION:** DT property sellers can control DT proceeds, such as having investment co-signing authority.

  FUN FACT: they can't! In fact, DTs which have permitted grantors or sellers to maintain control of DT proceeds have been determined by the IRS, and confirmed by courts, to be a sham trust with their capital gains deferments voided.[13] The trustee may consult the seller about DT investments and distributions as long as the trustee maintains ultimate control authority. Any seller with "insignia of ownership", such as DT check signing authority, risks the DT being found out as a "sham trust".

- **MISCONCEPTION:** professional DT corporate trustee shop services fees of 1.5% of all DT balances every year are economical since they will be paid out of DT reinvestment returns and interest.

  FUN FACT: This completely glosses over the opportunity cost of sellers' reinvesting their own original sales proceeds without the exorbitant fees. It also misstates whose interests a DT should serve. There is an opportunity cost for every dollar in costs that is being diverted from trust beneficiaries. Every DT engaging a corporate trustee needs to do the math on their particular deal to determine how many years of these fees will actually exceed the cost of just paying the capital gains tax and having the seller make their investments directly. Better yet, do the work to form your own DT team paid by the hour, not by an annual cut of all DT trust balances and transform your DT into an efficient, well-oiled multi-generational wealth machine.

- **MISCONCEPTION:** At least one corporate trustee shop which has gotten wide mainstream accolades is claiming in videos and private webinars that non-grantor irrevocable trusts can avoid capital gains altogether by just allocating trust capital gains to corpus (trust principal), citing IRS Code, § 643(A)(3).

  This is fundamentally and horribly wrong.

  FUN FACT: That section reads that "Gains from the sale or exchange of capital assets shall be excluded to the extent that such gains are allocated to corpus . . ." This entire section only applies to "(A) Distributable Net Income" (*Ibid*.) Distributable Net Income (DNI) are trust funds allocated to beneficiaries and taxed to the beneficiaries.

  This does not mean that the ***trust*** is not on the hook for retained trust capital gains not distributed to beneficiaries! It is; and this conflation of DNI with trust capital gains tax

[13] Section 453: Installment Sales Involving Related Parties or Trusts, (Fall 1979) DePaul Law Review, Vol.29, Issue 1.

liability is dangerously misplaced.[14] The entire legal trust community which has commented on this issue to my knowledge is in line with the fact that trust capital gains allocated to corpus results in a trust capital gains tax obligation, notwithstanding that it's excluded from DNI and direct beneficiary tax obligations.[15]

Significant capital gains of a trust the tax of which is desired to be deferred should be placed in a child DT discussed in the previous section, above.

- **MISCONCEPTION:** There is another misplaced refrain in the internet annals of DTs that you can defer your capital gains indefinitely.

  FUN FACT: The installment sale exception to paying capital gains tax in the year of sale is that there is an installment. Interest only payments do not involve any installments and do not qualify as an installment sale. Section 453 does not spell out the contours of the installment terms. But the IRS and courts have recognized that installment sales with a minimum of two installments lasting as long as the IRS promulgated lifespan tables for the seller are valid.[16] Going beyond that is courting disaster.

Not a Delaware Statutory Trust (another DST)

Section 453 Deferred Trusts (DTs), also referred to Deferred Sales Trusts (DSTs) are often confused with another tax deferral strategy - the Delaware Statutory Trust - also known by the same acronym (DST). Delaware Statutory Trusts are funds that qualify for 1031 like-kind reinvestments for qualified investors. The two DSTs are compared and contrasted in Chapter four.

There are over 400 private IRS rulings (74 of which deal specifically with trusts), 136 US Treasury decisions and IRS guidance, 83 court cases, and 11 final and temporary regulations concerning § 453 tax deferred installment sales. I've read and analyzed all of them so you don't have to.

[14] *See*, IRS, Code § 1.643(a)(3) example 1 where trust allocation of capital gains to corpus resulted in trust capital gains tax obligation.
[15] "Capital gains are not considered income to such an irrevocable trust. Instead, any capital gains are treated as contributions to principal. Therefore, when a trust sells an asset and realizes a gain, and the gain is not distributed to beneficiaries, the trust pays capital gains taxes." simscampbell.law/how-are-capital-gains-in-irrevocable-trust-taxed/; *accord*, journalofaccountancy.com/issues/2014/apr/trusts-estate-planning-20138750.html, legacycarelaw.com/blog/trust-administration/do-irrevocable-trusts-pay-capital-gains-taxes/, 26 CFR. § 1.643(a)-3.
[16] *See*, footnotes 3 and 4, supra

Nevertheless, DTs aren't as complicated as they are made out to be by DST trustee financial shops that have services to sell. Hoards of investors serve as their own trustee in living trusts. Appointing an independent trustee is not at all that much more complex. And the financial advantages are enormous.

Most of the pitfalls are common sense overreach by ill-advised grantors. This white paper is meant to give you the best non-legalistic, easy to understand education possible on how to most effectively build and run your DT to legally minimize your capital gains exposure and maintain the lion's share of § 453 Deferred Trusts benefits for the DT beneficiaries, as it should be.

2 | own nothing

Own nothing, control everything is an infamous trust axiom. Trusts are a powerful strategy to limit taxes and personal liability while maintaining control over property placed in trust. As governments and litigious societies expand their encroachment on private property, strategic, successful wealth builders can maintain their property rights through the powerful use of trusts. And they have since antiquity.

Trusts allow you to enjoy so many liberties and benefits that governments have made impossible for mere plebs acting in their own legal capacity. Although beyond the scope of DTs, common law business and family trusts, in general, give families optionality with taxes, inheritances, privacy protections, wealth and asset protection of which mere individual mortals are deprived. Acquiring a quiver of other legally recognized entities of your own strategic creation will aid you in achieving wealth strategies unknown to, and, therefore, unavailable to the general investing public.

Trusts are simple to understand. A trust is a contract. It splits property ownership into two parts: controlling property (trustees) and benefiting from property (beneficiaries). The trust contract allows for property to be placed under the ownership, control, and care of trustee(s) for the benefit of one or more beneficiaries. That's it. They are made to look more complex, because lawyers like to do things like actually speak Latin and use legalese to make clients feel stupid and dependent, e.g., *corpus* and *res* (Latin for trust property); and grantor/settlor/trustor (legalese for trust creator). A confused client makes a great milking cow.

An Ancient History Of Protecting Families Against Government Overreach

a) Trusts as a legal strategy against government abuse

Trusts have a recorded history going back to the time of Egyptian pharaohs.[17] The Bible records the trust of Esau selling his birthright to Jacob.[18] Plato even used a trust to form his university in Greece in 400 B.C.[19] In Rome citizens employed *fedei-commissum* trusts as a workaround of laws precluding the leaving their inheritance to non-Roman citizens.[20]

You think the U.S. Federal Government is awful? Get a load of medieval British monarchies. When knights left their estates for the crusades, after some time the King would confiscate their unprotected property to finance his military budget. These knights resorted to the creation of trusts and appointed the Church trustee to stop this audacious royal thievery. The trust common law legacy we have to this day was developed by the Royal Courts of Chancery in that era.[21]

Colonial immigrants from England encountered regulations requiring the onerous process of acquiring a corporate charter (that took an act of English Parliament) in order to buy and develop real estate. The common law "Massachusetts Trust" was devised by our U.S.

[17] *The Art of Passing The Buck*, Arthur, Charles (2007), p.33.
[18] *Genesis*, 25:29-33.
[19] *Ibid*., Arthur.
[20] *The Law of Trust and Trustees*, Bogert, George Gleason, (1984) p. 15.
[21] *Id*., Arthur, p. 34.

ancestors, to pool resources and avoid “having to deal with state-imposed controls and burdens.”[22]

b) constitutional right of common law trusts

Some of these common law revolutionary-era Massachusetts trusts continue to this day, and provide part of the body of legal precedent for common law trusts which are independent of Government created trusts by state law (*e.g.*, statutory trusts).[23]

Furthermore, private party trust agreements were so vital to our government-skeptical colonists, that the U.S. Federal Constitution enshrines the right to common law trusts in Article 1, Section 10, Clause 1, declaring “No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . . .”

While courts have curtailed the unbridled freedom of private parties to contract, limitations on private party contracting have been consistently tailored to the health and welfare of citizens. And while statutory trusts may curtail the power of a common law trust, they do not even pretend to replace them. For example, the Nevada Revised Statute 163.4167 expressly preserves the common law of trusts when establishing rules for its statutory trust scheme:

> “Common law. The provisions of NRS 163.414 to 163.419, inclusive [Nevada statutory trust law], do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of NRS 163.414 to 163.419 . . . .”

Common law trusts remain the freest form of trusts with the fewest state restrictions and the broadest powers compared to their state created statutory trust cousin. The right of parties to enter an enforceable common law trust agreement remains a judicially validated, strategically preferable constitutional right.[24]

Parties To A DST Trust

There are at least three parties to a trust: 1) the grantor(s); 2) the trustee(s), and the beneficiary(ies).

[22] *Id*., Arthur, p.35.
[23] *Ibid*.
[24] Statutory Versus Common-Law Trusts: Understanding The Difference, (May 2021) Forbes Magazine

a.) grantor

The grantor can also be known as the:

- Settlor
- trustor
- trust creator
- donor
- founder

These are synonyms. The grantor is the creator of the trust, the one who contributes the property to the trust, and the one who controls how the trust is set up and administered through the careful drafting of the trust contract which governs the trust.

The property that the grantor contributes to the trust can be called the:

- corpus
- res
- capital
- principle
- estate
- property

Again, these are just fancy, confusing synonyms for the property originally transferred to the trust by the grantor.

In § 453 installment sales which legally defer capital gains tax up to the IRS recognized lifespan of the seller, the original sale between the seller and the DT must be between statutorily unrelated parties. A grantor and trustee of the same trust are related.[25] The grantor may be another individual not statutorily related to the proposed DT trustee, or an unrelated business entity, such as another trust, LLC, S or C corporation. An LLC unrelated to the seller, created for the sole purpose of acting as DT grantor will suffice.

b) trustee

The trustee receives the trust property from the trust creator and controls it in trust according to the trust contract as a fiduciary for the beneficiaries. Trustees have a fiduciary duty - a legal duty of loyalty and care on behalf of the beneficiaries.

[25] IRS Code, §267(b)(5)

Under some trusts the grantor can serve as the trustee, as is common in living trusts. However, this is not the case with DTs. A non-grantor irrevocable trust which is a legally recognized separate taxable trust and must have an independent trustee (more about that later in this chapter).

c) beneficiaries

The beneficiaries are the ones with the right to ultimately get the earnings and property of the DT under the terms of the DT. Under some trusts the beneficiary may be the grantor or trustee , but not in a DT. In a § 453 installment sales deferring capital gains tax the seller may not be a beneficiary. The seller is a trust creditor. And if the seller were to be a beneficiary that would void the tax deferral under §453. A family trust may be the beneficiary of a DT if the family trust excludes as a beneficiary the DT original seller. Families can have multiple trusts to address multiple legal requirements and strategies.

If a seller who co-owns a property with their spouse wishes a spouse to be a DT beneficiary, the beneficiary spouse would need to deed over their interest to the seller-spouse. If not, both spouses would be precluded from being beneficiaries of the DT, although the would both be trust creditors with rights to the installment proceeds.

d) protector

Rarely if ever discussed in DT circles, but highly beneficial to a DT of economic significance, is a protector to guard against any wayward trustee that starts to act like a loose cannon, such as refusing to take the reasonable investment advice of the seller, or exposing the DT to unreasonable expenses, or just good old fashion fraud.

The protector can be empowered to veto any objectionable trustee decision, to replace a trustee in which the protector has lost all confidence, or even to change the terms and beneficiaries of a trust.[26] The DT must carefully balance the powers of the protector vis-a-vis the trustee, or you can end up with the same potential for a wayward protector with no reasonable solution, short of court litigation where the costs make everyone but the lawyers losers.

The role of trust protector is even included in the Uniform Trust Code adopted by 31 States and the District of Columbia.[27]

A protector should only become active if there is a disaster of trustee decision making. Protectors are emergency stop gaps for an out of control trustee. God forbid, they should ever have to do a thing.

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[26] *The Complete Book Of Wills, Estates & Trusts* (4th Ed. 2021) Bove, Jr., Alexander A., Esq., et al., p. 259-261.
[27] mattersoftrustlaw.com/2016/03/uniform-trust-code-will-impact-blog/

Protectors are not often appointed in trusts. You should balance the hassle and cost versus the size of the trust as it relates to your net worth to determine if you should employ this very effective prophylactic against trustees gone wild.

Powers Of The Parties

a) grantor

The grantor is the god of the trust. The trust is created, funded, and formed out of the strategic goals of the grantor. In an irrevocable trust - legally required of DTs - once formed, the god of the trusts rests and the DT is run on its own terms at the direction of those given dominion and control of it - the trustees.

In revocable trusts, such as many living trusts, the trust grantor may act as trustee and control the administration of the trust. However, if the DT grantor retains "insignia of ownership" and controls a DT, that trust, if found out, will be disregarded by the IRS and courts as a sham trust and will lose the deferral tax advantages.[28]

As discussed earlier, under IRS Code, §267(b)(4) the seller may not act as grantor in a DT because the grantor and the DT trustee are statutorily related. The DT must have a grantor that is statutorily unrelated to the trustee, such as another unrelated person, trust, or business entity.

b) trustee

The trustee may have as much or as little control over the trust as the god of the trusts determines. Trustee powers may be controlled by the trust to be unlimited or limited to the extent and at the pleasure of the god of the trust and may, through the authorization of the trust, control:

- investment types
- investment allocations
- distribution of trust income
- distribution of trust corpus
- who to hire
- who to consult
- when to terminate or rollover the trust into another trust (decanting)
- and many other powers too many to list here

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[28] okbar.org/barjournal/feb2019/obj9002hallman/

Retained trust income is often taxed at a higher rate than at the beneficiary level. Most trusts will allocate trust income to beneficiaries with lower tax rates in consultation with their CPA.

The trustee should have the power to decant the trust - that is, to roll over trust assets into another trust, and terminate the original, in order to address important issues unanticipated by the original trust and, if left unresolved, would ruin the intent and purpose of the trust. This is how unexpected, undesired consequences of a trust can be remedied, even though the trust is "irrevocable" by the grantor.

A trust needs to establish the right balance between trustee powers and limitations in order to empower the trustee to meet the goals of the trust without too many restrictions that may unintentionally hamper the trustee to achieve trust goals as circumstances, laws, and regulations change over time.

Economic, beneficiary, and circumstances change and evolve. A trust that is a family constitution of sorts, needs to strike the right balance between general and specific language, and powers and proscriptions of the trustee so that the trust may achieve its purposes in the long term. That is achieved by using generalities in language, with goals underscored rather than means, whenever possible.

c) beneficiaries

Beneficiary duties are largely to just receive trust income and corpus as directed by the trust and administered by the trustee . However, the beneficiaries *may* play an important role when a new trustee or protector needs to be replaced or appointed, or where a trust forming document calls on beneficiaries for advice and consulting in investments and other important trust functions.

Important psychological and character-building considerations should be well thought out in structuring a trust so that significant wealth passed to beneficiaries will serve them rather than make them dependent and ruin them - more about that in Chapter 6 - entitlement.

d) protector

Since the protector may have the right to replace the trustee , an unchecked wayward protector is an equal or greater threat to the appropriate administration of a trust than a wayward trustee.

The protector role is a crucial check and balance on any wayward trustee acting in a manner not in the interest of the trust, or even illegally. Just as your DT must create the right balance between powers and proscriptions with the trustee , it must create a similar balance between the powers of the protector vis-a-vis the trustee.

The powers of a trust protector are derived exclusively from the DT contract. If fraud, negligence, or significant trustee stupidity arises, the protector can have the power to veto trustee activity. The trust protector can have co-signing authority over trust account funds, and sign off on any investments, money transfers, costs, ect., the trustee makes.[29] The protector may have very broad powers to terminate the trustee and appoint another, change the beneficiaries, or even change the terms of the trust as a work around of a so-called irrevocable trust (irrevocable by grantor).[30] But too many powers assigned to a protector can risk an unbalanced disaster.

A careful balanced assignment of power to the protector is recommended. Having veto power over the trustee, while having no power to proactively mandate trustee decisions is a good middle ground. Also, giving the protector the right to remove a wayward trustee, while giving the beneficiaries the right to appoint the replacement maintains a prudent balance of power.

And, consider a unanimity power in the trustee and beneficiaries to replace the protector. In this way the protector remains a check and balance on the trustee , without having the power and authority to become a menace to the goals and purposes of the trust himself.

[29] *Ibid*.
[30] *Ibid*.

While the protector may have the power to decant the trust (roll over assets into another trust with additional or different terms to achieve trust goals in unanticipated circumstances, and terminate the original), it's not advisable. Keeping the decanting power with the trustee maintains the right check and balance in my opinion. For all intents and purposes, the trustee can only decant the trust with the implicit approval of the protector, since the protector can veto any attempt to decant, while not having the power to initiate a decant himself.

Inspired by the separations of power in the U.S. Constitution, this divided power structure should work well to check and balance potential disasters of out of control fiduciaries without the need to get expensive and time consuming remedies from a court.

Common Types Of Trusts

We learn in this section that a DT should be a common law trust, but must be a complex, non-grantor, irrevocable trust.

a) statutory vs. common law trusts

Statutory trusts are created by government legislatures through the normal democratic legislative processes. Statutory regulations may require statutory trusts to act in certain ways (e.g., lose privacy by publically registering with a Secretary of State), or preclude and limit trusts from acting in certain ways.

Common law trusts have legal precedent reaching back into antiquity. Common law means judge made law, in recognition of the conduct of private parties contracting with each other in the historical and ordinary course of business.

Depending on the State where the trust is formed (called situs), there is much greater liberty afforded to common law trusts than statutory trusts. For example, there generally is no public registration requirement for common law trusts, which allow common law trusts to maintain their privacy through anonymity.[31]   The privacy of common law trusts through being legally opaque affords trusts a very powerful tool for staying under the radar of prying government and private eyes.

DTs should maximize their autonomy and privacy by forming as common law trusts.

b) simple vs. complex trusts

A simple trust distributes all trust income to beneficiaries every year, but does not distribute trust corpus - the property or value of the property that was originally contributed by the trust

[31] (*Trusts: Common Law and IRC 501(c)(3) and 4947*, Thomas, Ward L. (2003) p.10, noting that some states require trust registration with some courts; cited as authority by IRS, at irs.gov/pub/irstege/eotopica03.pdf.)

grantor, or property earned by trust investments. Nor may simple trusts legally contribute to charities.[32]

All other trusts are complex trusts, *i.e.*, any trust that either accumulates undistributed trust gains, distributes original trust corpus, or contributes to charities.

DTs should have the right in their contract to accumulate income and distribute principle. Therefore, DTs should be complex trusts.

c) grantor vs. non-grantor trusts

> "A grantor Trust is a Trust over which the grantor has retained certain interests or control. The grantor Trust rules in IRC 671-678 are anti-abuse rules. They prevent the grantor from taking tax advantages from assets that have not left his or her control. The anti-abuse rules treat the grantor as owner of all or a portion of the Trust. The grantor is subject to tax on Trust income so treated even if he or she does not actually receive the income."[33]

DTs must be non-grantor trust; and the trustee must be independent from the grantor for a DT to be legitimate, enforceable, and defensible in any IRS §453 DT audit.

Information on the web, even on professional DT corporate shop sites which claim a DT can be set up with the grantor retaining direct control of DT funds and investments (such as co-signing authority) is misplaced and dangerous, as numerous court cases have ruled these DTs types are illegitimate scam trusts for maintaining grantor control.

d) revocable vs. non-revocable trusts

> "If the grantor retains the ability to revoke the trust and revest the trust assets in the grantor, the trust is revocable and the income is taxable to the grantor under the grantor trust rules."[34]

Since DTs are meant to avoid trust income being attributed to the grantor, the DT must be formed as an irrevocable trust. That does not mean that any serious unanticipated problems that arise can't be fixed. That's what the power of decanting by either a trustee or protector, discussed above, is for.

e) common trusts

- Living trust - to avoid probate
- Business trust - useful for privacy, legal tax avoidance, and estate planning

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[32] (*F. Trust Primer*, Lin, Easel, et al, p.3; cited with approval by IRS at irs.gov/pub/irs-tege/eotopicf01.pdf.)
[33] (*Ibid*.)
[34] (*Id*., p.4.)

- Family trust - can avoid probate, useful for privacy, wealth preservation and legal tax avoidance
- Charitable Trusts - useful for tax avoidance and tax-advantaged giving
- Asset protection Trusts - useful for privacy and protection
- Spousal Lifetime Access Trust (SLAT)
- Special purpose Trusts
- Foreign Trusts

and many more.

Trust Situs - Go Where Your Trust Is Treated Best

The trust situs is where the trust is legally domiciled. The situs determines which state laws will govern the trust. Nothing requires a trust to share the jurisdiction of its grantor, trustee , beneficiary, the place where trust property is located, or the place where investments are intended, made, or located.

Maximizing trust optionality, tax benefits, asset protection rights, and privacy are keys to the selection of the best trust situs.

The selection of the trust situs is critical for several reasons, including the selection of a state that:

- doesn't require licensed trustees so you can hire an affordable private trustee;
- doesn't tax trust income;
- provides maximum trust protections from creditors and litigation;
- permits "decanting" - giving the trust the flexibility to transfer trust assets to an updated trust required in light of unforeseen circumstances; and
- maximizes trust privacy.

"[T]he Trust laws of South Dakota and Nevada offer the best combination of tax benefits, asset protection, Trust longevity and flexible decanting provisions."[35]

Second tier states[36] include:

- Alaska
- Delaware
- New Hampshire
- Tennessee; and
- Wyoming

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[35] (*Best States For Trusts: How To Choose One That's 'Trust-Worthy'*, (October, 2022) Kiplinger.com.)
[36] (*Ibid.*)

3 | control everything

Cherry-picking your own personal DT team is next level wealth creation.

The Devil In The Details

Professional DT shop fees can quickly ruin the DT's capital gains deferred tax savings. While it sounds small and reasonable on its face, annual 1.5% fees not only deplete trust fund balances, they have a tremendous opportunity cost in lost compounding wealth.[37]

The difference between a corporate trustee charging 1.5% of trust balances year after year, and the hourly costs of a private DT team is mind-numbing.

For example, a personal trustee compensated by the hour may result in an additional compounded balance of $412,400 (5x) at the end of a 10 year trust term with the following variables I've used throughout this white paper:

- 60 year old seller
- 10 year trust term (life expectancy trust could run 19 years!)
- two installment payments at end of trust term
- selling a $1 million dollar property
- 50% cost basis ($500,000 gain)
- historical real estate ROI of 10.6% on reinvestment
- federal capital gains tax rate of 20%
- average state capital gains tax rate of 5.4%
- annual private DT trustee fees of $2,500

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[37] *See*, *How To Minimize Investment Fees*, (May 2023) Forbes Magazine, for a closer look at the cumulative havock a 1% fee does to investments.

These criteria would result in the following divergent DT balances:

	CORPORATE TRUSTEE	PERSONAL TRUSTEE
Seller installments (pre-tax)	$1,085,725	$1,085,725
DST fees	$249,572	$30,000
DST fortune	$101,022	$513,422

* Pre-tax gain on deferrred capital gains taxes only.
Example variables: $1 million sale, $500,000 gain, average ROI & capital gains tax rate

DSTkit.com

Because corporate trustee fees apply to the entire DT balance every year, the divergence in DT balances between the 1.5% vs. hourly compensated personal trustee becomes much starker the longer the trust term. You would start to lose in fees more than you saved in DT deferral benefits in the example above in the 25th year because of the exponential compounding value of original sale proceeds which are included in the calculation of annual corporate trustee fees.

However you slice the variables, limiting trustee fees through reasonable hourly compensation agreements results in savings that can dwarf the amount of the original capital gains by the end of the DT term.

The divergence is also exponential where the percentage of capital gain on the property transferred to the DT corpus is lower for the same reasons.

Some (most? all?) years could result in *de minimis* hourly paid personal trustee fees where a DT has long-term passive investments requiring no ongoing annual investment churning or excessive attention. And, of course, the DT profits get much sweeter if you have a no-cost qualified trustee, like an in-law, a trusted friend, or a mutually assured trustee (discussed below) that may charge nothing at all in return for you serving as *their* DT trustee.

Finding Your Trustee

This is your most important hire. This person will have control over the administration of your DT. Almost anyone, other than disqualified close family members, who have the requisite intelligence and that you trust can act as your DT trustee.

Trustees owe trust beneficiaries a fiduciary duty of acting in their best interest. The fiduciary duty is legally recognized, and if the trustee acts in a negligent or willfully abusive way, beneficiaries have a legal recourse against trustees in court.

In order to entice or assure a personal trustee consider offering legal protections against beneficiary lawsuits through liability restrictions, such as an indemnification and hold harmless clause, where trustees can be free from trust liability unless there is criminal fraud.

a) who ***cannot*** serve as DT trustee

"It is imperative for capital gains tax deferral that the DST must be considered a bona fide, third-party trust with independent trustees."[38] Therefore, certain related members of your family cannot serve as a trustee of a DT including the seller's:

- current spouse;
- father;
- mother;
- ancestors;
- children;
- lineal descendants; or
- siblings (whole or half)[39]

Your spouse at the time of creating the DT, or anyone who becomes a spouse subsequent to the creation of the DT cannot serve as your DT trustee.[40]   If legally separated or divorced prior to the creation of your DT, your ex may serve as your DT trustee , lol - thanks IRS![41]

Neither can the following subordinates act as your DT trustee:

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[38] *Deferred Sales Trust - What's All The Hype?*, Hallman, Dawn D., Oklahoma Bar Association (February 2019.)
[39] (IRS Codes, § 453(e)(1)(A), § 318(a)(1)(A)-(B), § (672(c)(2).)
[40] (*Id.*, (e)(1)(A)-(B).)
[41] (*Id.*, (e)(2).

- The DT grantor;
- your employees;
- a corporation owned or controlled 50% or more by the DT grantor;
- a corporation or employees of corporations of which the DT grantor or trust has significant holdings
- Trusts with prohibited relations to the DT seller, or trustee.[42]

b) who should serve DT trustee

Any mildly intelligent trustworthy friend or in-law that can make themselves available for a handful of DT transactions and accounting documents per year is an excellent candidate. If your DT requires trustee investment consultations with the seller the trustee function is largely ministerial and takes little time, little attention and exists primarily for legalistic purposes.

Sure, the trustee is required to say no to seller investment consultations which will directly benefit the seller at the detriment of DT beneficiaries. In those circumstances the seller is shooting himself in the foot by risking a sham trust. And even if a trustee acts negligently, the indemnification and hold harmless clause relieves him of liability. As long as the trustee maintains pro forma last-word control of the trust, all is well.

Commission-Free Deferred Sales Trust | SEMINAR members have access to trustee training and instructions, access to professional grantors, trustees, and protectors at reasonable fees. It's not rocket science. Anyone who is not a prohibited related party can do it for you in any state that doesn't require licensed trustees. People commonly act as trustees for their own living trusts. You're not required to give the lion's share of DT benefits to corporate trustees. And, frankly, you shouldn't.

c) mutually assured trustees

A mutually assured DT trustee with a good reputation would suffice.

In the 1960s and 1970s the United States and the Soviet Union had a cold war policy of mutually assured destruction. One could not launch a nuclear attack against the other because the retaliation would mean certain destruction of the one contemplating the first nuclear strike - a Mexican standoff, to risk a politically incorrect simile.

Similarly, if you don't have a friend or qualified relative to act as trustee, you may be able to find a person with a good reputation who needs, or will need sometime in the future his own DT, and one can act as the trustee of the other, and vis-a-versa. With each grantor acting as the other's trustee , you can have another layer of self-interested assurance that each trustee will treat each trust with the highest degree of ethics and care.

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[42] (*Id*., (c)(2), § 267(b).)

There is a statutory prohibition of selling a property to a “related person” to qualify for §453 installment sale and gain tax deferment benefits up to $5 million in sales proceeds. The law spells out with specificity which parties are related when it comes to trusts.[43] The trustees of two trusts which share a common grantor are statutorily related.[44] A shared grantor is not the case with mutually assured DTs. Each DT trust has separate and independent grantors.

The amount of money you will save with a cost-free trustee will be monumental - the DT income, principal, and gains will compound uninhibited by any trustee fees.

Of course, even where a personal trustee is handsomely rewarded by the hour for his trouble, the amount of wealth saved by avoiding a 1.5% annual chunk on all trust balances is tremendous.

d) when no one fits the bill

If all else fails, **Commission-Free Deferred Sales Trust | SEMINAR** members have access to a current list of reputable, capable, and willing DT grantor, trustees and protectors in strategically advantageous states for a reasonable retainer for hourly fees.

Trust management pays well by the hour and is not bad work, when you can get it. If you’re interested in a well paying side gig, have at least bachelor’s degree (preferably in finance or economics), and have an excellent reputation (no history involving questions of moral turpitude), drop me your resume at **michael@OpesTrust.us** to be considered on a resolving list of trustee/protector gigs.

e) grantor trust monitoring

The grantor and/or the seller can monitor your DT. There is nothing that precludes you, as the seller, from having account log on privileges to closely monitor any trustee financial activity regarding the DT. You risk invalidating the trust by transacting trust funds, but not by just keeping your eye on trust assets.

As an added protection your DT can appoint a protector that you trust to provide checks and balances with regard to your trustee. The DT protector can have co-signing authority over trust account funds, and sign off on any investments, money transfers, costs, ect., the trustee is poised to make. And the DT protector may have the power to remove and replace any wayward trustee. The higher the value of the assets in the DT vis-a-vis your net worth, the more prudent it is to appoint a protector.

[43] IRS Code, §267(b)(4)-(8)
[44] *Id.*, (b)(5)

Finding The Right DT Trust Attorney

If you're a **Commission-Free Deferred Sales Trust | SEMINAR** member, you have access to my outfit - the only business that specializes in commission-free DTs.

If the SEMINAR is at capacity, then finding the right DT attorney is critical. Trusts are a specialty field for attorneys. You don't want to pay several hundred dollars per hour for your attorney to educate himself in trust law, specifically common law DTs, especially when you show up to this game more educated and prepared than your own attorney.

A good way to start your search is to ask your family's attorney for a recommendation. If you or your family don't have experience with an attorney, reaching out to an attorney in your area who *doesn't* practice trust law is the next best approach. Attorneys know which local colleagues of theirs are competent even in fields they don't themselves practice. It's very improbable that an incompetent trust attorney will garnish a good reputation among his non-trusts practicing peers. I certainly know which attorneys to hire and avoid in my area regarding law specialties I do not practice and know little about.

Before you meet with an attorney, make sure that the initial consultation is at no expense. If, during or after your initial meeting, you're not happy with his approach, attitude, personality, fees, or trust expertise, the experience will educate you and not set you back financially.

In any event, show up to your meetings with DT professionals educated, yourself, about DTs. Know what you want to achieve in advance of your professional hirings. Know who your Trustee is in advance. Know who the beneficiaries are, and all the terms you require and desire. Your DT team should either charge you an hourly rate, with a narrow estimated range, or charge you a flat fee for all DT services.

Your preparation will make short work for DT professionals. And your selection of a strategic private Trustee will make for the most economically rich DT anywhere. Once a DT is set up, it should allow for the mopping up of other investments of your life, without requiring an additional trust - just a clause allowing future installment sale investments.

Finding Your DT CPA

You absolutely need a Certified Public Accountant (CPA) to advise and file DT tax returns. As non-grantor irrevocable trusts, DTs are recognized by the IRS as independent taxable entities. Trust taxes can be complex, require a specialized 1041 tax return, and you need more than a local accountant with no trust experience to assure trust accounting, tax deduction consulting, and tax preparation are done properly. Meticulous, competent accounting and tax consulting is a must from a CPA.

Your trust attorney will be a great source for a CPA recommendation. If your trust attorney and CPA have a long-standing work relationship, that should grease the DT wheels with efficiency and save the headache of having professional, personal, and expensive conflicts between them.

Of course, **Commission-Free Deferred Sales Trust | SEMINAR** members access to a CPA for trust taxes (and attorney, trustees, and protectors) in strategically advantaged States.

Finding Your Protector

Of course the grantor cannot act as a DT protector. And because the protector should be as independent as the trustee, the grantor cannot legally retain the power to appoint a new trustee once a protector has dismissed a wayward trustee. That would violate the non-grantor irrevocable trust requirement that the grantor not retain the "insignia of ownership" and control over the trust.

Neither should a DT beneficiary act as protector.[45] The DT is meant to safeguard trust assets from beneficiary plundering. You don't want to incentivize beneficiaries to appoint protectors acting like a rubber stamp to beneficiary desires.

There are, however, no restrictions in common law (or any US state law to my knowledge) on the appointment of a protector, as there are in the appointment of a trustee. But having ultimately more authority over the DT than the trustee, any appointed protector must be just as carefully selected as is the trustee.

A good trusted friend or qualifying family member (not close relative) of the grantor is a good choice. A mutually assured protector is similarly a good choice (see section on trustee above for the definition).

[45] (*Id*., Alexander, p. 260.)

The grantor's DT trust attorney may be a good choice for DT protector, who, although employed by the grantor to finalize the trust, is uniquely suitable to serve in another capacity as protector, and maintain independence from the DT grantor in his capacity as protector. Attorneys often have split fiduciary duties and are uniquely qualified to understand and perform the dual function.

Most DTs don't have protectors. That level of protection is up to the grantor and should be informed by the value of DT assets in relation to his/her net worth. Can you afford a wayward trustee where your only remedy for trustee removal is costly and uncertain litigation?

Again, if all else fails, **Commission-Free Deferred Sales Trust | SEMINAR** members have access to our in house protectors as part of our economical trust follow up and maintenance services.

Private Annuities No Longer Defer Capital Gains Over The $5 Million Threshold

There is a $5 million dollar threshold for DT proceeds under which the IRS is just giving you free use of its money for decades. For sale proceeds in excess of the $5 million threshold installment sale you'll have to pay the IRS interest on the excess capital gains tax deferred at the appropriate current published interest rate.[46]

Having to pay the IRS interest on deferred capital gains tax on the proceeds over $5 million may largely defeat the purpose of DT, unless, and to the extent that investors are confident they can secure an ROI delta between the ultra-low IRS interest rates and any ROI they can generate. In that case, it's like borrowing from the IRS at extremely low interest rates that you cannot get from a bank, which may be very attractive to many investors.

Those investors who are not happy with what amounts to a low interest rate loan on retained capital gains taxes above $5 million should (1) choose another available tax shelter, or (2) only take up to $5 million in the form of § 453 installment payments, and just pay the balance of capital gains taxes owed on proceeds in excess of $5 million.

Several professional DT corporate trustee outfits (*even attorney sites, ugh!*) claim property sellers may still defer capital gains in excess of § 453's $5 million threshold without paying the IRS interest on the deferred gains by supplementing an installment sale with a private annuity under IRS Code, § 72.

[46] irs.gov/applicable-federal-rates

Prior to October of 2006[47] sellers could sell their property, without monetary limitation, to their trust in exchange for a private annuity, and capital gains taxes would be deferred by the lifetime of the seller, and even his or her spouse as well. That changed with proposed US Treasury Regulation 141901-05 which ended this previously long-recognized deferral strategy.[48]

While this Treasury regulation has not been finalized, the fact that the US Treasury is interpreting the existing law to preclude capital gains tax deferrals through private annuities, taxpayers would be unadvised to use this strategy relying on the "proposed" status of the regulation:

> "Temporary and final regulations have the force of law, while proposed regulations generally do not (except that proposed regulations can be cited as substantial authority for avoiding the understatement of income tax liability under I.R.C. § 6662(b)(2))."[49]

Without naming names, DT professional outfits that claim otherwise online do not cite or attempt to even deal with the 2006 US Treasury Regulation unambiguously ending this strategy.

Therefore, Investors may no longer reasonably rely on private annuities under IRS Code, § 72 to defer capital gains tax in excess of $5 million in sale proceeds. Either take the low interest loan, choose another tax-advantaged strategy for sale proceeds in excess of the $5 million threshold discussed in this chapter, or just pay the capital gains tax owed on the gain in excess of $5 million and exclude that excess from your installment agreement.

DT Advantages Over § 1031 exchanges

Investors endeavor to buy low and sell high. Those investors utilizing a § 1031 like-kind exchange may sell into strength, but, in order to take advantage of this capital gains deferral, they are forced to reinvest in another real estate property within 45 days, notwithstanding market conditions.

You cannot sit in cash and wait for the next optimal investment, and are forced to reinvest in real estate of equal or greater value near the time of the sale of their prior property. Many investors seek to buy during pullbacks in the real estate market, or jump on a deal that doesn't necessarily materialize in the short window required by § 1031 exchanges.[50]

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[47] Proposed Treas. Reg. Sec. 141901-05, 2006 IRB 47; irs.gov/irb/2006-47_IRB#REG-141901-05
[48] taxlawsolutions.net/2016/10/04/irs-giveth-irs-taketh-away.htm; en.wikipedia.org/wiki/Private_annuity_trust
[49] legalresearch.usfca.edu/c.php?g=523831&p=3581100
[50] irs.gov/pub/irs-news/fs-08-18.pdf

With your DT you can sit on cash until the cows come home lying in wait for the next home run investment. You can reinvest at any time in anything your economic heart desires - a determinative advantage over § 1031 exchanges.

DT advantages over Qualified Opportunity Zones.

If you reinvest all types of capital gains within a Qualified Opportunity Zone you can defer capital gains tax.[51]

The major problem with reinvesting within Qualified Opportunity Zones, is that you have to reinvest in Qualified Opportunity Zones! You may be able to find a few investment diamonds in the rough. But DT opens the entire world to capital gains tax-free reinvestment, not just ghettos whose economic regulation is so hostile to investors so as to contribute to the creation of these shitholes in the first place.

DT advantages over solo 401k

If you own your own business with only you and your wife employed, you can create your own solo 401(k) plan, contributing with either pre-tax funds with tax on gains deferred until retirement (traditional 401k), or with tax-paid funds with tax on gains removed altogether (Roth 401k). The main difference is that a traditional 401(k) allows for deduction for statutory limited contributions, while the Roth doesn't allow for contribution deduction, but the gains within the 401k escape capital gains taxes all together.

Business owners with employees have to make their 401k plans available to all employees, not just themselves.

Although legally permissible, very few (if any?) company sponsored 401k will give you the liberty to self-direct your own 401k investments.

The limits of 401k capital gains tax deferment (traditional) or tax avoidance (Roth) (of which there is no comparable restriction with DTs) include:

- Limits on contributions - you'll likely not be able to get sufficient capital into these plans.
    - 2023 contribution limits on 401k are $22,500 (plus $7,500 if 50 an over - make up contributions the Biden Administration is trying to nix), per spouse;[52]
    - Plus up to $66,000 with matching contributions from your business.[53]

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[51] irs.gov/credits-deductions/opportunity-zones-frequently-asked-questions
[52] irs.gov/newsroom/401k-limit-increases-to-22500-for-2023-ira-limit-rises-to-6500
[53] forbes.com/advisor/retirement/401k-contribution-limits/

- With a few exceptions, you cannot withdraw 401k funds before you reach 59.5 years of age unless:
  - you make an plan authorized loan up to $50k to yourself;[54] and/or
  - you have qualified medical expenses;[55] and/or
  - You have hardship funeral expenses;[56] and/or
  - You have hardship educational expenses;[57] and/or
  - you have a qualified SEPP installment plan;[58] and/or
  - you withdraw tax-paid Roth contributions.[59]
- Except for non-recourse real estate loans, you cannot use leverage with your 401k investments funds.[60]

Your 401(k) is tied down like a Gulliver's Travels giant. None of these restrictions and limitations apply to DTs.

DT Advantages Over Delaware Statutory Trusts

Delaware statutory Trusts- the other "DST" - allows your § 1031 exchange to be placed in a real estate fund for accredited investors. Having fractional ownership, Delaware Statutory Trust participants gain greater real estate diversification through passive ownership and can enjoy regular distributions of trust income.

The disadvantage of Delaware statutory Trusts when compared to DTs are that:
- you cannot control your reinvestment through trust guidelines and trustee consultation - you become a passive real estate investor;
- unlike exchange traded REITs, this investment is not liquid;
- you must qualify as accredited investor to participate; and
- you are time-restricted in the reinvestment with no meaningful market timing allowed.[61]

DT Advantages Over Charitable Remainder Trusts

The DT advantage over Charitable Remainder Trusts (hereinafter, "CRT") is that CRTs preserve just a fraction of your total sale proceeds and reinvestment ROI, which is paid to a qualified

[54] irs.gov/retirement-plans/plan-participant-employee/retirement-topics-loans
[55] irs.gov/retirement-plans/401k-plan-hardship-distributions-consider-the-consequences
[56] *Ibid*.
[57] *Ibid*.
[58] investopedia.com/ask/answers/101314/how-do-you-withdraw-money-your-401k.asp
[59] bankrate.com/retirement/how-to-withdraw-from-401k-early/
[60] forbes.com/sites/forbesfinancecouncil/2022/09/02/using-an-ira401k-to-invest-outside-the-stock-market/
[61] *Delaware Statutory Trusts*, (2022) Kiplinger.com

charity of your choosing when you (and your spouse) are deceased, or when the term of the CRT ends.

While you get about a 10% write off for contributing property to your CRT, that benefit pales in comparison to retaining your entire sale proceeds, plus any ROI before taxes available through your DT, and accessible in total by your beneficiaries.

Two considerable advantages of a Charitable Remainder Trust are that:

1. The capital gains tax on property transferred to this trust is deferred until paid through trust installments; and
2. The grantor may take a tax deduction, usually equal to 10% of the value of the sale proceeds (trust corpus) which, if not usable in the year of corpus transfer, may be carried forward up to five years.

The grantor, or other beneficiaries named in the trust can either receive a fixed amount (an annuity), or a fixed percentage of trust funds which will fluctuate depending on trust investments. The terms of the CRT must allow for a retention of a calculated 10% of the value of transferred corpus in order to keep the CRT in compliance.

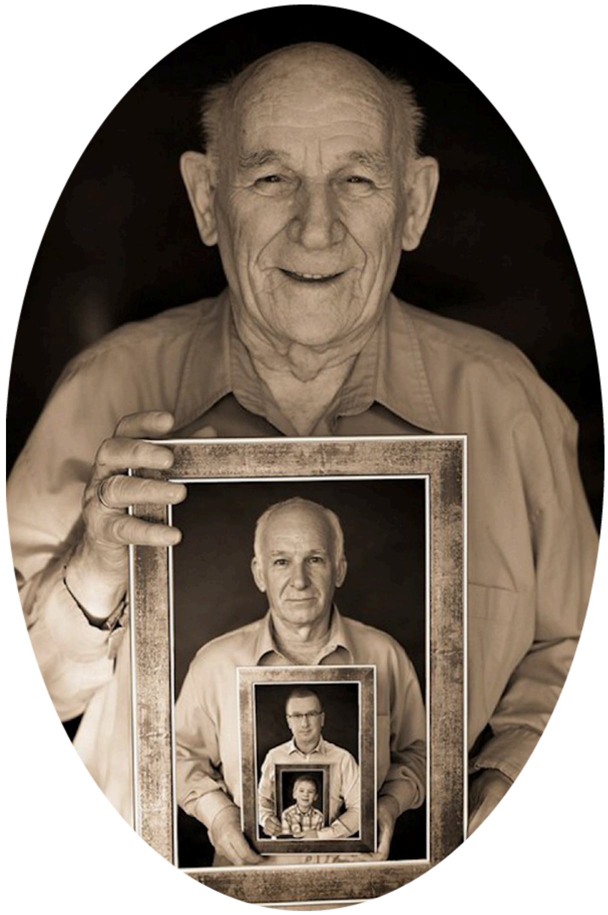
Anything remaining after payments to beneficiaries cease will go to a charity named by the trust. The grantor may act as trustee in a CRT but cannot self-deal. The only advantage the grantor may receive from this trust are the payments made in consideration for the transfer of trust property (corpus).

If set up as an annuity, the trust may run out of funds before beneficiary payments cease. If set up as a fixed percentage of trust assets, trust funds by operation of math cannot cease - a fixed percentage of any balance can never result in zero. But even with a fixed percentage payout the trust may be virtually depleted before payments to beneficiaries cease.

CRT may present economic advantages over DTs for sale proceeds over $5 million, depending on the grantor's objectives. Depending on a grantor's giving objectives, a CRT may complement a DT, or may be strategically deployed elsewhere in the grantor's asset strategy. Talk to your trust CPA to see if a CRT will further your objectives in coordination with your DT.

For more detail about CTRs see this outstanding six part video series by Russell James, professor at the School of Financial Planning at Texas Tech University.

5 | dynastic trusts



A dynastic trust means strategically leaving means for your children, and their children, ect., for a hand up with education, first home buying, medical emergencies, or capital to facilitate their own good fortune through their hard work in business.

Dynastic trusts are usually in lieu of inheritances that just mindlessly dump family fortunes on descendants that are rarely prepared to handle them and end up corrupting their ambition in life (if the inheritance is large enough) or just squandering the family fortune (if not large enough to be ruinous).

If creating a dynastic trust is of interest to you that can affordably and powerfully be accomplished by family trusts (including a DT), through strategic whole life mutual insurance policies, and aligning your trust investments with the coming long-term commodities supercycle (along with diversified investment in other asset classes).

By maintaining a centralization of family wealth through trusts, skillfully arranging for its long-term growth management, and regulating its beneficiary distributions to only encourage character building constructive endeavors, a trust can be utilized to give a hand up to your lineage, instead of stripping ambition and productivity through dependency discussed in more detail in the last chapter on entitlement.

In *What Would The Rockefellers Do?: How The Wealthy Get And Stay That Way, And How You Can Too*, (2016), Garrett Gunderson does a workmanlike deconstruction of the trust strategies that sustained the most powerful 19th-century family - that remains a top 50 richest family to this day - the Rockefellers. Gunderson compares the Rockefellers dynastic success to a family that built similar wealth, but through poor inheritance management, became broke after just three generations - the Vanderbuilts.

Besides the centralization of family wealth through trusts, strategic growth management of trusts, and limiting contributions to family members to items that build character rather than dependency, a critical component of the Rockefellers' success is the use of whole-life insurance to replenish family trust wealth every generation in a most strategically brilliant way.

How To Guarantee Dynastic Wealth For Next To Nothing

There's an insurance product that can fund intergenerational trust wealth for virtually next to nothing. It's a tax-advantaged instrument that:

- is historically safer than banks;
- offers tax-advantaged compounding of dividend and distributions;
- the trust gets to use the premiums it paid to fund its other investments through low cost guaranteed borrowing
- the borrowing interest rate is historically lower than the dividend distribution paid out, and you're borrowing against the death benefits while your policy's cash value compounds unhindered by your guaranteed loan
- and it provides life-changing payouts upon family members' deaths, guaranteeing a massive influx of wealth at the end of each generation to refund or expand the trust for the next generation.

The smartest investment brains on the planet work for life insurance companies. Banks invest a substantial amount of their reserves in life insurance policies - *in the billions!* This investment is so good it's not uncommon for bank balance sheets to show holdings of twice as much life insurance than real estate.[62]

[62] bankingtruths.com/banks-branch/

Because of their significant social benefit life insurance dividends are tax-sheltered making their compounding superior to other forms of “risk-off” investments like US Treasuries, bank CDs or bonds.

Also, and significantly, death benefits are entirely tax-free.

Life insurance companies hedge their investments to maximize returns while taking minimal risks. They have superior century-long investment records of steady, reliable returns.

Whole life policies from mutual insurance companies offer guaranteed tax-free growth rates of 2-3% and pay tax-free non-guaranteed, but reliable annual dividends on top of that. Albert Einstein said that compound interest is the 8th wonder of the world. Those who know get it. Those who don’t pay it. Making interest on interest tax free in this investment snowballs your trust funds into a family fortune in the safest and most reliable manner possible.

There is no safer, more reliable way to compound a risk-off investment than a fine tuned, whole life mutual insurance policy. It’s no wonder why they’re banks' investment vehicles of choice, not to mention a strategy of capital formation for industry titans like Disineyland, McDonalds, JC Penney, Foster Farms, the Pampered Chef, and much more.[63]

Whole-life mutual insurance policy investments should be a DT staple for ***guaranteeing*** intergenerational family wealth.

There are several insurance companies that are wholly owned by policyholders directly, called mutual life insurance companies. These are advantageous because all the gains these companies make go directly to policyholders as opposed to profits being siphoned out to stockholders.

These mutual life insurance companies offer their shareholders a guaranteed tax-free multi-million dynastic wealth option at very marginal opportunity cost.

Here’s how they work:

1. Choose a mutual life insurance company so that dividends paid on your policy are not diluted by public shareholder dividends.
2. Max out the cash value of whole life insurance on yourself, and/or your family members with paid-up additions and term insurance riders which offers cash value as high and as close to your paid premiums as possible.

[63] paradigmlife.net/5-businesses-saved-cash-value-life-insurance/

3. Borrow back your premiums for reinvestments against the policy's large death benefits, up to (as near as is possible to) the cash value availability created by your paid-up premiums.
4. You will be charged an interest rate for your loan, but it will be historically more than offset by the tax-free distributions your mutual insurance company pays on your policy.
5. Pay off any of your life insurance loans with the cash flow from your policy and reinvestments (do not let it cannibalize the death benefit);
6. In about a month (insurance loan processing time) after you make premium payments, you'll have a very significant portion of the cost of this policy returned to you in cost-free loans, so you can reinvest how you would have had you skipped this dynastic wealth building strategy altogether. Or you can just let your life insurance cash value policy compound, if you feel you have no better investment alternative.
7. Generational wealth will flood into your family trust in the form of death benefits as one generation passes, and another one flourishes nearly cost-free every generation thanks to the compounding investment results of these world-class investment geniuses of centuries old whole-life mutual insurance companies.

In this strategy you get to employ the best minds in the investment world working for returns on your paid premiums. You get a return on your policy which is not reduced by policy loans - rather, they're collateralized by the policy's death benefits. And you get guaranteed loans with interest rates less than the growth and dividend value of the policy whereby you can reinvest the money you paid for premiums into any other investment your DT chooses. You're getting two returns on two investment vehicles (the policy and your reinvestment of policy loans) for the cost and capital layout of one! Where else (other than Lloyds of London insurance writing) can you double dip ROI on one investment?

The loans used to reinvest (if you chose) are also drawn tax-free. They can be repaid with policy dividends, so they are largely cost free as well. Because of this loan option your trust premium investments are only temporarily diverting your capital from working its own magic on your own trust investment portfolio.

And while your whole life mutual insurance distributions pay off your loans, you're left with a small positive delta between your mutual life insurance cash value compounding growth (thanks to your mutual life insurance whole life policy ROI) and your life insurance loan repayment. All the while, your DT reinvestments are hardly hindered by a temporary diversion of investment funds to front run these whole life mutual insurance policies.

In the end your family can gain multi-million dollar payouts every generation at nearly no opportunity cost because of the investing brilliance of your (in every sense of the word) mutual life insurance company.

The DT can own policies paid for by the trust. Having the seller as insured doesn't violate trust rules, since the seller is not the insurance beneficiary. The DT can be the beneficiary of the payout of these policies to protect against irresponsible fortune squandering by wayward *nouveau rich* family members who would otherwise take the death benefit windfall. And the generational death benefit payouts will more than replenish the DT investments in family members in a way that empowers instead of corrupts.

Each generation can educate, train, and, when ready, hand over family trustee responsibilities to a family member, or investment professional, or a cohort of family members of the next generation who have the investment curiosity and character to learn how to shepard the family trust into each successive generation.

This strategy of using whole life insurance from mutual insurance companies in generational estate planning goes by many names.[64] So - why wouldn't you front run your capital through whole life mutual insurance policies first, before borrowing the same funds against death benefits at a net ROI gain, just to turn around and reinvest policy loans in the investments you plan to make in any event, ***<u>and collect millions in death benefits every generation to boot</u>***? What's the downside? The upside is millions in additional trust fund assets that would otherwise be lost.

Be that guy in your family that walks out of the financial stone age and establishes constructive generational wealth for all your successive lineage through this risk-off no-brainer strategy.[65]

Align Investments With The Commodities Supercycle

That an investment portfolio should be diversified with real estate, bonds, equities and alternative investments like bitcoin is an obvious axiom that I will not belabor here. Investment in those asset classes can be found in an abundance of resources readily found elsewhere.

For reasons discussed below, one long-term asset class trend I'd like to highlight for sustained trust asset appreciation and income is the coming supercycle in commodities.

I have long followed a certain cadre of sober, adept, proven natural resources investor titans and have consistently made bombshell returns from their insights on long-term economic cycles and conditions in the natural resources space.

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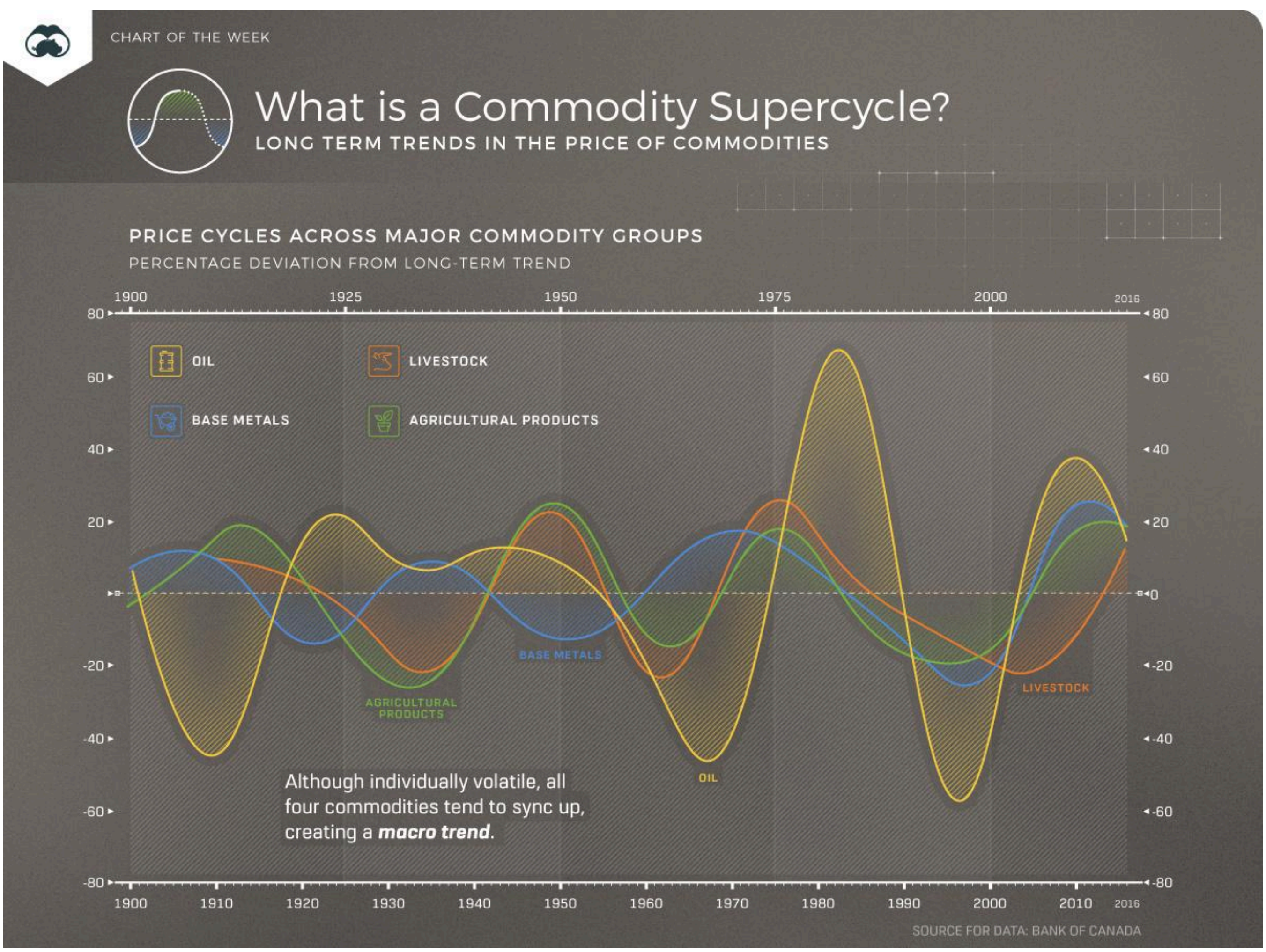
[64] Such as "infinite banking" "be your own bank" (BYOB), "cash flow insurance", "family private bank", and other labels.
[65] *See*, the classic *[Becoming Your Own Banker](#)* (5th Ed. 2008) by R. Nelson Nash

For reasons about to be explained, I have confidence that we are at the cusp of a commodities supercycle. Especially poised for a decade-long superior capital gains bull march are the sectors of uranium, copper, and silver.

These commodities may be one of the most lucrative asset classes available for the upcoming 10 years and beyond. If you end up sharing my conviction of the current long-term commodities supercycle, I urge you to consider joining me in cherry-picking the best-in-class companies in the most poised commodity sectors as a reasonable part of your long-term trust investments.

I have invested handsomely from my own DT, child-DT, family and business trusts in the world-class companies of these sectors, as have most of the trusts in which I personally serve as trustee (deferentially, because that's what the grantor wanted, of course).

a.) the coming commodities supercycle



A commodities supercycle has been defined by the simultaneous surging of commodity demand, supply, and prices for an extended period of years.[66] They are caused by the trailing reaction of commodity suppliers to meet a sustained demand caused by cyclical global economic growth.

When producers over supply commodities to a market with insufficient demand, prices tank. Suppliers mismatching their production with weak demand are met with ruin. So only producing with a tailwind of established commodities demand is critical for base metal and energy producers.

However, surviving producers who delay production to meet *established* demand are decidedly too late to the game to avoid a sustained lack of commodities supply with resulting price surging for about a decade or so. Demand surges quickly based on global economic activity, but commodity production takes years to catch up: you can't produce sufficient copper, uranium, other metals, or even oil to meet much more agile demand for years.

Ramping up base metals, precious metals, and oil production takes years to mine and produce. Because you can't turn these ships on a dime on changing demand sentiment, the inevitable lagging supply continues well past peak demand which creates a surplus and falling prices repeating the shockingly reliable 18.6 year global supercycle in commodities.[67]

Thanks mostly to the developing world, global demand for all types of energy will increase 47% by 2050.[68] Moreover, the energy needs of the burgeoning AI phenomenon is expected to double global energy requirements.[69] Political and legal requirements in the developed world will focus energy investment on clean energy.[70] And few commodity sectors will benefit more than uranium - the fuel for the next generation of safe, clean, nuclear power - and copper, and silver - the two most important metals in the production of clean energy.

As of this writing we are at the point in the commodities supercycle where many commodity reserves are historically and unsustainably depleted. Burgeoning global demand for just the bare minimum of our civilization for energy and electricity throughout third world continents are primed to take the best in class companies on a long bull journey. The coming powder keg of demand once lit, will decimate what remains of reserves and send prices soaring for years, repeating the bull phase of this historical decades long supercycle.

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[66] spglobal.com/en/research-insights/featured/special-editorial/look-forward/the-world-isn-t-in-a-commodity-supercycle-but-it-should-be

[67] etf.com/sections/features-and-news/profiting-commodity-supercycle

[68] spglobal.com/commodityinsights/en/market-insights/latest-news/oil/100621-global-energy-demand-to-grow-47-by-2050-with-oil-still-top-source-us-eia

[69] www.aei.org/op-eds/feeding-the-beast-ais-energy-demand-may-double-by-2026/

[70] media.rff.org/documents/Report_23-02_IUFa9f5.pdf

b) royalty companies

Royalty companies provide capital directly to commodity explorers, developers and miners in exchange for a percentage of commodity production at prices simply unavailable to other investors. They're paid either in the form of a percentage of income from commodities sold by the producer (royalties) or by taking physical possession of a certain percentage of production of the commodity directly and selling or holding it themselves (streams).

Unlike explorers, developers and mining companies, royalty companies' liability is limited to their investment. They do not share the rest of the industry's exposure to all other capital, labor, environmental, regulatory, or political risks.

If run astutely, royalty companies are a superior investment vehicle to owning individual mining companies (due to diversification), company bonds (due to upside appreciation participation), exchange traded funds (due to superior acquisition price), or physical commodities directly (due to mining equities significantly outperforming the holding of commodities directly.)

Legend natural resource investor Rick Rule goes into greater detail why royalty and streaming companies are such an exceptional commodities investment model.[71] For these reasons, when available, sanguine run royalty companies should provide the best exposure to commodities by trust investors.

c) uranium

The production of nuclear power emits zero greenhouse gasses and is the only viable option available today for the production of clean energy at the scale needed to replace oil to meet the coming global demand for clean energy.[72]

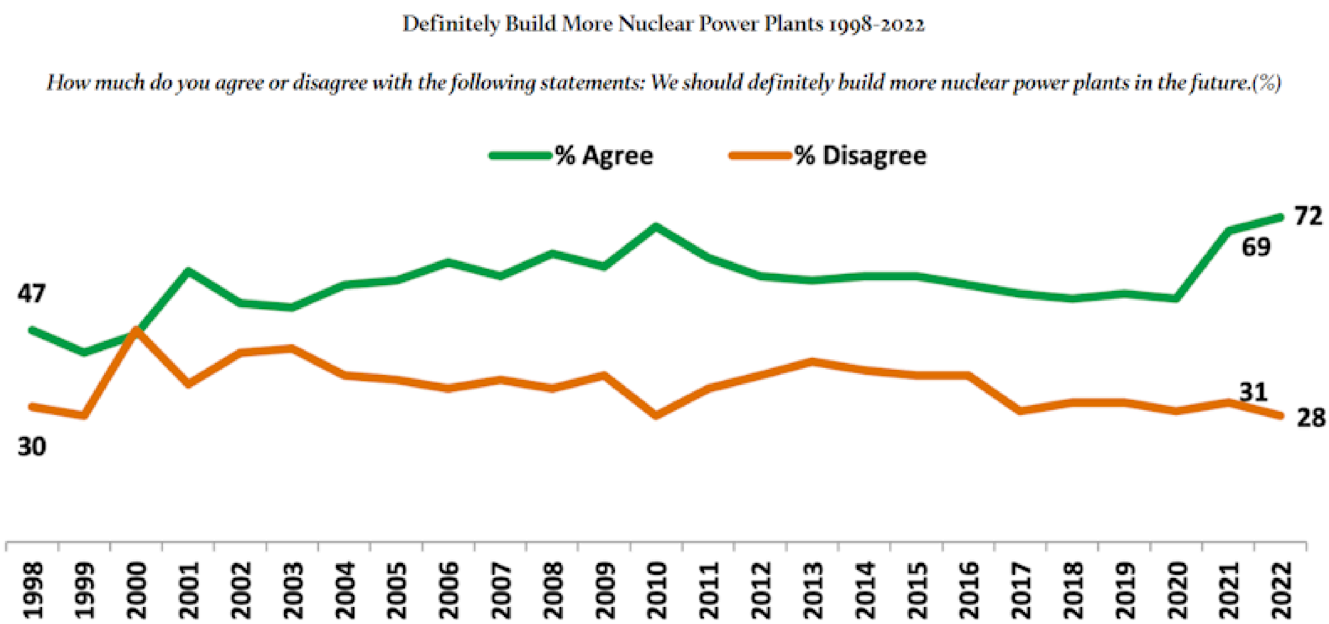
Of course, uranium is its fuel.

Once maligned by environmentalists as dangerous due to historical disasters like Three Mile Island (1979), Chernobyl (1986), and Fukushima (2011), the science of current generation

[71] youtube.com/watch?v=_8zgn3qCv4Y
[72] orano.group/en/unpacking-nuclear/7-good-reasons-for-turning-to-nuclear-power-to-combat-global-warming

nuclear energy is fail-safe.[73] The challenge of nuclear waste has been solved with nuclear waste recycle technologies converting nuclear waste itself into nuclear fuel.[74]

Many green energy advocates have lagged the science in their prejudice against nuclear energy because of its environmental disaster-prone history. But they have largely come around to support current nuclear generation as the most viable option for sufficient, safe, and clean energy to meet the growing global demand caused by inevitable global population growth and AI technologies.[75]



76

There is an undisputed massive global uranium reserve shortage.[77] Production will not catch up with the coming demand for years.[78] This is the classic recipe for an inevitable multi-year uranium bull market.

URANIUM
ROYALTY CORP

Uranium Royalty Company (NYSE: UROY) is the right uranium royalty business at the right time. It is the first royalty company in the uranium space. It is led by a top uranium player, Amir Adani - the CEO and director of top-tier uranium company Uranium Energy. “Amir is the

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[73] world-nuclear.org/information-library/safety-and-security/safety-of-plants/safety-of-nuclear-power-reactors.aspx
[74] energy.gov/ne/articles/3-reasons-why-nuclear-clean-and-sustainable
[75] npr.org/2022/08/30/1119904819/nuclear-power-environmentalists-california-germany-japan
[76] bisconti.com/blog/public-opinion-survey-finds
[77] cruxinvestor.com/articles/uraniums-compelling-investment-case
[78] world-nuclear.org/press/press-statements/more-uranium-development-needed-to-meet-demands-of.aspx

serially-successful entrepreneur behind URC [now UROY on NYSE] and UEC in addition to GoldMining Inc and its [wildly successful] Gold Royalty Corp offshoot."[79]

Top UROY investors include natural resources investor legends Rick Rule, Sprott Investments, and Marin Katusa. UROY has a spectacular portfolio of uranium royalty projects including a world-class yellowcake placement and has bagged 18 other cherry-picked extraordinary uranium royalty projects.[80]

UROY has locked in over 1.5 billion pounds of high quality uranium at an average cost of $42.32 per pound which is a 30% premium to spot uranium as of this writing - even at uranium's current depressed prices. And future royalties under contract include another 500,000 pounds of uranium at $47.71/lb. through 2025 from UROY's CGN Global Uranium Limited royalty agreement alone.[81]

Notwithstanding UROY's world-class portfolio of uranium royalties, UROY has a very low market cap of just $196 million, and a bargain basement book-to-value ratio of only 1.49 which will massively pump when uranium retail investors start focusing on this sector when reserves vanish and prices start hiking - which they already have.

For those desiring even more diversity, I recommend adding to your trust's uranium holdings Global X's uranium ETF (URA), and holding physical uranium (not with your hands) through Sprott's Physical Uranium Trust (SRUUF).

For the very adventurous, UROY has a warrant with a strike price of $2.00 expiring on December 6, 2024 which is currently trading at .94¢ on the Canada's Toronto Stock Exchange.[82] If uranium prices take off before expiration, that warrant will trade many multiples of its current price. A small allocation of your uranium play allotted to these warrants could have an oversized payout if the uranium price continues to march up in time. For those unfamiliar with warrants, they are a type of option issued directly by the company. You can read up on them here.[83]

[79] privateplacements.com/campaign/the-new-way-to-play-uranium
[80] uraniumroyalty.com/_resources/presentations/corporate-presentation.pdf
[81] *Ibid.*
[82] sec.gov/Archives/edgar/data/1711570/000149315221009471/ex99-50.htm
[83] investopedia.com/ask/answers/08/stock-option-warrant.asp

d) copper

Famed natural resources financier Rick Rule views mining legend Robert Friedland on a very exclusive "A" list of the best minds in the natural resources sector.[84] Mr. Friedland is uniquely informed that copper is poised to "explode ten times".[85] The reasons are similar to uranium - failing "to increase supply ahead of 'accelerated demand'":

> "The world is facing a crisis of supply in copper, with not enough mines being built to satisfy future demand, he said. * * *
>
> "Copper is essential in electric vehicle motors and batteries, as well as cabling and transformers, to build out the nationwide electric vehicle charging infrastructure in the US and worldwide.
>
> "According to a recent S&P Global report, EVs require twice as much copper as an internal combustion engine vehicle. The report said copper demand will double to 50,000,000 metric tons annually by 2035, more than all the copper consumed worldwide between 1900 and 2021.
>
> "Friedland's longer-term view of higher copper prices is supported by a combination of decarbonization efforts globally, rising China demand, the emergence of India, and the modernization of militaries after the Ukraine war.
>
> "He said the market has yet to realize the significance of copper and how it is essential to decarbonization efforts. He noted there are very low physical inventories of copper with historically low relative valuations of mining companies.
>
> "Friedland pointed out that recent acquisitions of mines at high premiums indicate the mining industry is aware prices of the metal are headed higher. He said the tightening of the copper market could increase prices like other commodities in recent years.
>
> "'When metals are required, the prices go crazy and nobody's willing to sell them', he said. 'We're heading into that sort of situation.'
>
> "Even with increasing gloom about the global economy as global central banks tighten interest rates, Friedland remains very bullish on copper."[86]

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[84] privateplacements.com/videos/legendary-mining-investor-rick-rule-on-the-power-of-private-placements

[85] zerohedge.com/commodities/billionaire-mine-owner-warns-copper-market-headed-train-wreck-supply-woes-emerge

[86] *Ibid.*

According to the best minds in the natural resource space on the planet copper is a no-brainer best option to invest trust assets for long-term capital appreciation.

Rick Rule has been clamoring about Friedman's Ivanhoe Mines (IVPAF) when it was one tenth of its current market capitalization of $11.6 billion. My family trusts thank him profusely. Nevertheless, in Robert Friedman Ivanhoe is run by the best of the best and remains very reasonably priced based on its current enterprise value which is three times its current market price as of this writing. Its price to earnings (24.95), and price to book value (3.85) are insufficient ratios for determining Ivanhoe's value since Ivanhoe is deep in its capital expenditure phase of mining its resources and P/E and book value will catch up when the mines are producing at their potential.

Rick Rule believes Ivanhoe copper projects are in the top three copper finds in the last century and the best current collection of copper resources on the planet.[87] Trust assets are sagely parked in Ivanhoe Mines for the foreseeable future.

Ivanhoe is listed on Canada's Toronto Exchange. There is a corresponding listing in the US over the counter market (IVAPF).

Since Ivanhoe is not a royalty company, standing alone, it is not sufficiently diversified for a trust's total copper investment. Consider rounding out your trust's investment in Ivanhoe with any one of these three best-in-class copper ETFs: Global X Copper Miners (COPX); US Copper Index (CPER); and/or Ipath Series B Bloomberg Copper Subindex Total Return (JJC).[88]

e) silver

Silver has a monetary use tradition since antiquity and has been historically a safe haven during times of inflation and financial crises.[89] Silver consumption is also a staple for the jewelry industry, as well industries using electronics - silver being one of the best electrical conduit metals. As of this writing silver is at historic lows in relation to the price of gold.[90]

[87] bnnbloomberg.ca/video/rick-rule-discusses-ivanhoe-mines~2392154
[88] fool.com/investing/stock-market/market-sectors/materials/metal-stocks/copper-stocks/copper-etfs/
[89] cnbc.com/2023/01/20/metals-silver-prices-could-hit-a-9-year-high-in-2023-outpacing-gold.html
[90] macrotrends.net/1441/gold-to-silver-ratio

Silver has been in a decade-long supply stagnation in both price and production.[91] The 2022 silver production worldwide is 822 million ounces per year.[92] That's ***down*** .6% year over year; and it's expected to grow an anemic 2.4% in 2024.[93]

However, the tsunami use case for silver is as an indispensable industrial metal in two green energy industries reliably poised to grow exponentially. We are on the cusp of undeniable and unprecedented upcoming global silver demand fueled by silver's specific requirement in green energy sectors that makes silver equal to uranium and copper as the best source for impending investment wealth in the entire commodities space.

While silver supplies in 2022 dropped by about a half of one percent, silver demand was up sharply by 18%.[94] Just two green sectors currently account for 30% of the entire worldwide annual silver production: solar power, and electric cars, which consume 160 million, and 80 million ounces, respectively.[95] Solar power and electric vehicle production alone are set to consume every ounce of projected silver production in the upcoming two decades.[96]

There isn't enough silver being mined to meet total demand. And like any other mined metal, providing sufficient supplies will take multiple years.

The price of silver can have only one reaction. It will respond like any commodity does when demand is being drastically squeezed with no readily available alternative: price rockets so that the scarce metal is allocated to the most important economic need determined by price. And when it does, prepared silver investors in the best-of-class silver companies will flourish like few others.

The two above industrial use case analysis is without silver taking its historical place with gold as a safe haven monetary alternative when financial systems are stressed and tested - of which many economic minds much smarter than I are sounding alarms.

Wheaton Precious Metals (NYSE: WPM) has the highest exposure to silver than any royalty and streaming company, with half of their revenue coming from silver streams.[97] They give 30% of their average operating cash flows back to shareholders through dividends.[98] There is a consensus within top minds in the natural resources field that Wheaton is the best collection

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[91] statista.com/statistics/253293/silver-production-volume-worldwide/
[92] World Silver Survey 2023, *page 9*.
[93] *Id., pages 9, 14.*
[94] *Ibid.*
[95] Cambridge House interview of First Majestic CEO Keith Nuemeyer
[96] *Ibid.*
[97] *Investing In Silver Stocks* (April 2023) The Motley Fool
[98] *Ibid.*

of silver assets in the industry.[99] With all of the upside of a diversified silver portfolio, with none of the real-world downside risks suffered by actual silver miners (like unforecasted capital expenditures, and substantial environmental, regulatory and political risks), this royalty company produces all the exposure you would ever want to the silver market.

Looking to add physical silver to their trust portfolio? I trust, recommend, and own Sprott Physical Silver Trust (NYSE: PSLV). For those interested in a more in depth analysis of the coming silver supercycle, please see this excellent recent interview by Jay Martin of Cambridge House of leading silver expert Keith Neumeyer, CEO of Majestic Silver.[100]

IMHO, based on the best minds in the natural resources sector, uranium, copper, and silver best meet the criteria for the most explosive capital appreciation in the entire commodities asset class. Trust investors would be well advised to become mindful and gain a working knowledge of technical analysis, as well, which may significantly give insight to the timing of both entry and exit strategies while investing in these sectors over the coming supercycle bull decade.[101] At the maximum you should enter ⅓ positions when prices pull back to support levels over a course of several months.

Tapping A Massive Income Stream From Your Commodities Portfolio

Write yourself massive income every year from your commodity portfolio with low-risk, strategically timed naked put and covered call options.

An ideal investment portfolio includes both capital appreciation *and* income. Dividend paying stocks have been shown to outperform non-paying stocks in total returns.[102] Some of the factors that lead to superior results from dividend paying stocks include the additional fiscal discipline required of companies paying dividends.[103] The cash pouring out of these investments takes company profit that is directly shared with stockholders. Taking profit in the form of dividends also gives portfolio owners the optionality of cash flow that non-dividend paying stocks lack.

If income is required or desired by DST parties, dividends may generate income without having to liquidate shares and trigger undesired capital gains tax issues.

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[99] Wheaton is best-in-class silver streamer (@ 12:30-20:11)
[100] Cambridge interview of Nuemeyer, *id.* (silver discussion starts @ 21:28)
[101] amazon.com/Technical-Analysis-Financial-Markets-Comprehensive/dp/B087Z1SPT
[102] papers.ssrn.com/sol3/papers.cfm?abstract_id=4263210
[103] thebalancemoney.com/why-dividend-stocks-outperform-non-dividend-stocks-357353

Some of the world-class commodity companies in my portfolio share their profits with shareholders in the form of dividends, albeit some payouts are pretty paltry. For example, as of this writing, oil and gas rockstar Devon Energy has a rich yield of 9.5%. Their royalty business should continue to pump out income for their investors as oil demand continues to dominate global energy production over the coming decades.

Precious metals royalty darlings Franco-Nevada and Wheaton Precious Metals pay dividends yielding 1%, and 1.4%, respectively. A best-in-class copper mining giant Freeport McMoRan yields 1.5%. Two of the very best commodities sector investments offer no dividend income at all: Uranium Royalty Company and Ivanhoe Mines.

Of course I appreciate all the dividend income I can get from a portfolio of poised commodity sector all-stars. But we can do a lot better creating our own dividends, squeezing income out of our portfolio by writing low risk naked put and covered call options.

a.) how to get paid to build a supercycle commodities portfolio

Instead of just buying these world-class company shares outright, you can get paid to offer downside insurance to investors hedging their long position (or investors just speculating to the stock's downside) by selling naked put options. That may sound scary to some, but the practice actually lowers your risk by guaranteeing heavily discounted acquisition prices.

Selling naked put options to hedgers and speculators allows you to make income in the form of the option premium the option buyers pay you for just doing what you were going to do anyway - acquire your favorite shares.

For example, let's say you wanted to buy the world-class copper mining giant Freeport-McMoRan. Instead of just buying it, we're going to get paid to buy it!

Options are sold in lots of 100 shares. Freeport-McMoRan (FCX) is trading at $13.47 as of the very moment of this writing. The average bid/ask premium paid for a $140 strike with one month duration put option is $3.90. As the option writer, the strike ($140) is the price that the put option buyer has the right to own the shares you optioned (but don't yet own) when the option expires in a month (or earlier in American style options). This strategy is a naked put because you don't own the shares yet.

If the price does fall, the option buyer has the right to put the shares to you at the strike price up to the time that the option expires.

Since the current market price is .53¢ in the money (below the strike price in a put) the premium paid includes .53¢ in market stock price equity (difference between the market price and the strike price - .53¢ in our example). That .53¢ equity should be deducted from the total premium to determine the pure premium paid to you for writing the put option.

In our example, the premium total is $3.90. The put option is $53¢ in the money so the pure intrinsic premium paid by hedgers and speculators is $3.37 per share.

That's 2.4% *for one month of pure premium - not per year*!

On an annualized basis, the premium paid in this example is more than 19 times the FCX dividend!

Unless you sell the option before expiration, once you write the naked put option only one of two scenarios can occur: At the time the option expires a month from now the price will either be above or below the strike price of $140.

If option expires with price above the strike price you keep the premium; you rinse and repeat for each put writing opportunity and make up to the annualized equivalent of about 29%, getting paid handsomely before finally acquiring FCX in your portfolio when the market does pull back and finally triggers the put.

If the option expires with the price of FCX below $140 you get put the shares, and you still keep the premium to boot. You've acquired FCX at a 2.4% discount than you would have otherwise been happy to pay for it. Your downside was hedged 2.4% by the premium you received at the time of your purchase.

So, you're either getting paid a premium if the put expires out of the money, or getting paid a premium for acquiring your shares at a discount to what you would otherwise have paid if the put expires in the money. Win-win.

Next, take this option writing strategy to the next level by timing your put writing at the stock's support levels to raise probabilities significantly that you will repeat this income cycle many times before finally acquiring your shares.

Further, after you acquire your shares, when reliable technical analysis evidences a high risk of a market top - short term or otherwise, you can do the corresponding strategy while owning shares during topping markets by writing covered call options.

For example, if there is a double top formation, a divergent RSI, or some other reliable technical indicator evidencing a high risk of a short-term pullback significantly outweighing the probabilities of continued uninterrupted upside, you can give speculators the right to buy your shares at about the current price for a month for more juicy premiums by writing covered call options. You already own the shares, so there is no upside risk. You risk only the opportunity cost of missing out on share appreciation at a time where the risk of a pull back in price is considerable.

When the technical analysis is correct and the stock pulls back you get to keep your shares *and* you're rewarded with more income. Repeat *ad infinitum* while your shares ebb and flow over time. If the stock marches up in spite of the technical indicators you keep the premium, relinquish your shares at the call option's strike price and expiration, and you can re-enter as price retests support levels with the next income grabbing cycle of naked put writing.

Whatever happens, you pocket write call income premium and double your income opportunities over just writing naked puts. Moreover, you get paid to hedge your own stock by the amount of the premium at a time when the risk of a pullback is at its highest.

The income made from writing options can, of course be plowed back into an ever increasing portfolio of commodity assets with intrinsic value (if tax strategies permit - discussed below).

This is how you get paid to build your portfolio of world-class companies in supercycle sectors.

There are Exchange Traded Notes (EFTs) in desirable commodity sectors that offer this option writing service. They can pay very generous dividends. For example, Credit Suisse offers two exchange traded notes that write covered calls in the silver and oil sectors - SLVO and USOI, respectively. And as of this writing they have bombshell dividend payments of 19.23%, and 40.42%, respectively! However, by blindly writing calls with no attention paid to the technical weakness or strength of the shares, these ETNs have lost the lion's share of their commodities' bull run.

These buy-write funds neither employ naked put writing to hedge their entry position, nor technical analysis to tune and retain more capital appreciation of their underlying commodity.

Of course you will not enjoy as many write option income opportunities if you time your strategy to correspond to market conditions instead of blindly writing covered calls every month, as these funds do. You may or you may not capture all the upside of the commodity's movement, ***or you may capture more through hedging pullbacks***, depending on your market timing skill.

You will, however, over time and on average, have a larger total return by writing your own options, both naked put and covered calls, while taking market conditions into consideration through reliable technical analysis. These funds mindlessly write covered calls and ignore entering with naked puts and will pale in comparison to what you can achieve with a more nuanced timing strategy.[104]

<u>IShares Silver Trust vs. Credit Suisse Silver Covered Calls (1 year)</u>

The above chart shows how much equity blind covered calls can lose in relation to the underlying security they're writing calls on. Not good. You can do much better.

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[104] For more detailed information on writing options to enhance income on your portfolio, see The Options Wheel Strategy (Freeman Publications, 2021).

What if the shares you own don’t have a liquid options market, or an options market at all? You can use an alternative security of the same commodity and type with a much more liquid options market as a proxy. For example, Ivanhoe doesn’t have options. But copper producer Freeport-McMoRan has a very active options market. Because they are both copper producers they trade hand-in-glove in the short term (FCX is the orange line, which traces Ivanhoe’s price to the tee):

Every turn in one stock is traced by the other because they are in the same sector. Although one will outperform the other in the long term, for purposes of monthly option writing, they are hyper-correlated.

So if you own Ivanhoe and want to benefit from writing naked puts and covered calls, write them on FCX. Just take the income when the put options expire worthless, or swap FCX for Ivanhoe when they’re put. Conversely, just keep your Ivanhoe when “covered” calls expire worthless, or swap your Ivanhoe for FCX if they’re called away.

In order to use this proxy strategy you must use two securities not just of the same commodity, but of the same type as well. The underlying commodity will trade with much less volatility than mining companies in that commodity. So you can’t write options directly on copper as a proxy for a copper mining company like Ivanhoe. You would have to write options on one copper mining company (FCX or an index of miners) as a proxy for another copper mining company.

Also, research to make sure there are no earnings reports due that will be made public, or other expected company news in either security before the option expires which may cause divergence in how the two securities trade.

You will have to be authorized to write options by your broker. Some brokers commonly patronize their clients with restrictions, refusals, and rebuffs when applying for naked put writing (they all allow covered call writing without issue). I'm not going to name names. Well . . . , ok . . . Charles Schwab is a pain in the ass when it comes to option writing authorizations. I have never had a Charles Scwab account, and never will, but I know people who have, and they can treat their clients like errant teenagers regarding their own money. Fidelity and tastytrade (which I use) are for the grown ups in the room.

Maximizing your commodities portfolio with a significant income surplus through advanced option writing strategies. You might just get so good at this strategy that it replaces more mundane money making activity in your life!

Regardless of your investment convictions, you will either write options on the equities you want, or you will leave a fortune on the table in reliable, consistent premium income.

Unless a trust has sufficient write-offs to cover trust generated income, passing along trust income to beneficiaries often has tax advantages since trust tax rates on income will commonly and significantly exceed the beneficiaries' tax rates. Consult your trust CPA for the most efficient tax strategy for handling trust income.

Futures Hedging - Next Level

You can take these same hedging principles discussed above, and use them in the future's market for the most low cost, leveraged hedge to your commodities portfolio available anywhere. This is beyond the scope of this book. If you're going to use technical analysis to hedge topping markets, and get some leverage at pullbacks to rich to skip, consider futures.

Business & Family Trusts

There is an abundance of smart strategies that should compel running businesses, holding assets and running entire estates through common law trusts.

Privacy can be unparalleled since the parties to a common law trust need not be publicly disclosed in several jurisdictions, including Nevada and Delaware, affording perfect anonymity.

When different businesses and assets are held in limited liability companies which are, in turn, owned by trusts, another layer of protection is afforded. Even an EIN tax ID number from the IRS will disclose only the LLC, and not the personal information of trust parties.

By siloing assets in different LLC, trusts, or combinations thereof, you can legally protect them against cross-pollination of liabilities. Trusts may be more economical to form than LLCs for stacking entities depending on State tax and filing requirements.

An irrevocable trusts' ability to remove businesses, real estate, and other property out of a taxable estate has estate tax advantages for those with estates that may otherwise trigger estate taxes. Consult the trust CPA on how trusts can be utilized in your estate planning.

Seminar members at **Commission-Free Deferred Sales Trust | SEMINAR** will have access to business and family trust services as well as DST templates.

6 | entitlement

"Hard times create strong men.
Strong men create good times.
Good times create weak men.
Weak men create hard times"

G. Michael Hopf

"Toxic generosity is a real thing:
give once: you elicit appreciation;
give twice: you create anticipation;
give three times: you create expectation;
give four time: you create entitlement;
give five times: you establish dependency;
stop giving: you create enemies.
You think you're helping but you're hurting the individual long term.
Be intentional when you choose to give."

Patric Bet-David

"Only the man who does not need it is fit to inherit wealth - the man who would make his own fortune no matter where he started. If an heir is equal to his money, it serves him; if not, it destroys him. But you look on and you cry that money corrupted him. Did it? Or did he corrupt his money?"

***Atlas Shrugged*, Ayn Rand**

By maintaining a centralization of wealth in sagely managed family trusts, shrewdly arranging for its growth management, and regulating its distribution to descendants to only empower constructive endeavors, a trust can be utilized to give a hand up, instead of stripping ambition and productivity through creating dependencies.

Money is said to magnify one's characteristics for good or evil. There is something foul with the entitlement attitude and lazy disposition of untethered trust fund babies (trustafarians). Trusts may be built, however, to avoid the development of poor character in your lineage, and encourage productivity and wealth building in generations to come.

Trustafarians are too often sheltered from the experiences in life that form good character. Like lottery winners, *nouveau riche* inheritance benefactors too often take their privileges and good fortune for granted, and lose it all with haste, becoming the corrupted victims of an easy life.

Trustafarians too commonly sidestep lessons that come from financially challenging lives, the byproduct of which can be to learn the value of money and to develop the ambition and the drive learned from a painful lack in life. Like diamonds, our human nature requires much pressure to transform the ugly and spoiled into the beautiful and useful.

Trusts can be set up to either empower or corrupt their beneficiaries.

History teaches that wealth which is just dumped on your lineage without financial and investment preparation, without estate planning mentoring , and without controls to encourage good character and productive choices in life can be a character crushing generational curse.

On the other hand, wise generational wealth management through trusts can give a strategic helping hand up in building the businesses, assets, investments and estate planning of its family members - a blessing for generations to come.

The Pyro-Decamillionaire

A decamillionaire in his late 70s that founded his family fortune had a son of whom he desired to take over the family construction businesses. He told the early twenty something college-graduated son that he had to make $100,000 on his own before the titan would begin handing over control of the family business.

The son, anxious to take over, excitedly agreed. After thinking it over, the son decided to go behind his father's back to one of his father's younger and successful electrician subcontractors he knew and liked with a sweetheart deal. "Lend me this money and I'll return it 100% per year as soon as I take control of my family's fortune," the son propositioned. That 100% ROI per year represented a great deal of money to the subcontractor, and an investment like none other, so the subcontractor agreed to take on this reliable windfall.

With the cash in hand, the son waited four months before returning to his father one cold winter night with a red Nike sports bag with 1,000 $100 dollar bills stacked and wrapped into plastic bricks. He went into his father's office where his father was reading in front of an oversized stone framed cozy, roaring fire. The son couldn't contain his smile as he confidently placed the bag on a walnut side table next to his father's chair and started explaining how he was able to trade stocks and options to make the funds in just four months.

The father listened intently while getting up, lifting up the bag, and without even peeking inside, his father walked over to the fireplace and casually tossed the bright colored red bag into the roaring flames. The son stopped his story midstream, his mouth now wide open and silent while his eyes opened wide to reflect the flame's crackling light ensnaring the red nike bag which was engulfing into flames.

The son, stunned, left without saying a word. Later he figured that the subcontractor let his father know what happened, his business with his father being too important to risk joining the son's hussle.

The following week the son approached his friend's father who was hugely successful in the financial sector. The son offered a written contract, guaranteed by his inheritance that he would return 100% per year for $100,000 cash, until paid, with a $100,000 minimum return - even if returned in a few weeks.

The deal only took a week to complete, but the son waited six months this time before returning to his father with his second $100,000 cash tranche - this time with a single cashier's check inside an envelope sized brown accordion folder. Telling his father he imported French art to flip the son didn't even finish his story's first sentence before his father plopped the entire accordion folder into the unlit fireplace, drenched it in lighter fluid, and began its incineration with the toss of a well struck oversized fireplace wooden match. The son couldn't believe his eyes, which began swelling up with tears.

Not knowing how his father knew, and fearful that he was losing his father's confidence to take over their precious family businesses at all, the son finally got to work on two jobs - one full-time position with a company his college friend got him in for $85,000 a year, and another night gig bartending 4 nights a week which paid very well in tips - especially in New York City where they lived.

It took the son over two years of savings before he returned to his father with a second cashier's check for $100,000 that he handed directly to his father. As his father waded it up and tossed it into the unlit fireplace, the son screamed "no!" and, with trembling hands and tears streaming down his cheeks the son covered the check with his body to retrieve it before his father could set it ablaze. Securing it in his pocket, and then covering it with his hand, his father saw, for the first time, it was money earned through belabored effort and sweat.

The long, careful transition of the family businesses to the son commenced, after confessing how he got the first $200,000 which was paid by the father without delay to cut off interest, and reimbursed to the business by the son out of his salary over the next five years.

Vanderbilts vs. Rockefellers

In 1877 shipping and transportation industrialist Cornelius Vanderbilt was the richest man in American history. At the time of his death Cornelius amassed an estimated $200 million fortune - greater than the entire coffers of the US Treasury at the time. Leaving his inheritance in the most common and destructive way possible, this massive fortune was dumped on his unprepared lineage.

While one of his sons, William, followed in his father's footsteps and doubled the Vanderbilt family fortune, the following couple of generations engaged in an orgy of lavish, conspicuous consumption. In a family gathering in 1973, not one millionaire remained. It took less than 50 years for one of the grandchildren of the wealthiest families in American history to die penniless. His great-great-great grandson, CNN host Anderson Cooper had to forge a press-pass to begin a career with a small-time news agency. The inheritance misfortune led grandson William K. Vanderbilt to realize that "Inherited wealth is a real handicap to happiness. It is as certain a death to ambition as cocaine is to morality."[105]

John Rockefeller made his industrial age fortune in oil and chose a different path to generational wealth management. Trusts were developed and the bulk of their family wealth was centralized and professionally managed to avoid the corrosive effects money had on unprepared inheritors that corrupted the Vanderbilt lineage. While some of the Rockefeller fortune was spent on lavish residences and other opulences, care was taken not to divide the family fortune to death, but maintain it through trusts. Allowances were made to prioritize the education and encouragement of productive family businesses.

Trust investment and estate planning preoccupied trust professionals with a substantial centralized fortune to preserve, protect, and flourish what remained of the family estate. And measures were taken to protect the family fortune from irresponsible family members.

Included in the Rockefeller intergenerational trust management were, significantly, whole life insurance policies taken out for every Rockefeller child born, with front loaded liquid cash

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105 independent.co.uk/news/inherited-wealth-is-a-real-handicap-to-happiness-it-is-as-certain-a-death-to-ambition-as-cocaine-is-to-morality-william-k-vanderbilt-1328294.html

values and death benefits which replenished the trust investments in the family's education and unfruitful business excursions.

By wisely managing generational wealth through the setting up trusts that not only fostered brainiac investment and estate planning, but that also fostered the development of productive characters, and protected against the corrosive effects of dumb and blind wealth dumping on an unprepared lineage, the Rockefellers have largely maintained their wealth and remain one of the most successful and influential families in America today.

Be a Rockefeler, not a Vanderbildt.

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APPENDIX A

****TWO INSTALMENTS AT END OF LIFE EXPECTANCY**

$1,000,000	DST UNDISTRIBUTED GAIN	DST SELLER DISTRIBUTIONS WITH INTEREST	PERSONAL TEAM PRINCIPLE COMPOUNDING (same for personal team and no DST at all)	PERSONAL TEAM ADMINISTERED DST FEES	PERSONAL TEAM ADMINISTERED DST CAPITAL GAIN PRE-TAX COMPOUNDING	CORPORATE TRUSTEE ADMINISTERED PRINCIPAL COMPOUNDING	CORPORATE TRUSTEE ADMINISTERED DST FEES (1.5% ON ALL PROCEEDS)	CORPORATE TRUSTEE ADMINISTERED DST CAPITAL GAIN PRE-TAX COMPOUNDING
BEGINNING BALANCE	$0		$746,000	$5,000	$254,000	$746,000	$15,000	$254,000
YEAR 1	$500,000	$9,525	$825,076	$2,500	$268,899	$813,886	$11,190	$265,924
2	$500,000	$9,525	$912,534	$2,500	$285,377	$887,950	$19,708	$277,915
3	$500,000	$9,525	$1,009,263	$2,500	$303,602	$968,753	$20,819	$289,886
4	$500,000	$9,525	$1,116,245	$2,500	$323,759	$1,056,910	$22,031	$301,734
5	$500,000	$9,525	$1,234,566	$2,500	$346,053	$1,153,088	$23,354	$313,338
6	$500,000	$9,525	$1,365,430	$2,500	$370,709	$1,258,019	$24,796	$324,556
7	$500,000	$9,525	$1,510,166	$2,500	$397,979	$1,372,499	$26,370	$335,220
8	$500,000	$9,525	$1,670,244	$2,500	$428,140	$1,497,397	$28,087	$345,138
9	$250,000	$504,763	$1,847,290	$2,500	$466,261	$1,633,660	$29,961	$354,084
10	$250,000	$504,763	$2,043,102	$2,500	$513,422	$1,782,323	$28,255	$361,801
TOTALS	$0	$1,085,725	$2,043,102	$30,000	$513,422	$1,782,323	$249,572	$361,801

APPENDIX B

IRS Single Life Expectancy Table

Age	Life expectancy factor	Age	Life expectancy factor	Age	Life expectancy factor
0	84.6	41	44.8	82	9.9
1	83.7	42	43.8	83	9.3
2	82.8	43	42.9	84	8.7
3	81.8	44	41.9	85	8.1
4	80.8	45	41.0	86	7.6
5	79.8	46	40.0	87	7.1
6	78.8	47	39.0	88	6.6
7	77.9	48	38.1	89	6.1
8	76.9	49	37.1	90	5.7
9	75.9	50	36.2	91	5.3
10	74.9	51	35.3	92	4.9
11	73.9	52	34.3	93	4.6
12	72.9	53	33.4	94	4.3
13	71.9	54	32.5	95	4.0
14	70.9	55	31.6	96	3.7
15	69.9	56	30.6	97	3.4
16	69.0	57	29.8	98	3.2
17	68.0	58	28.9	99	3.0
18	67.0	59	28.0	100	2.8
19	66.0	60	27.1	101	2.6
20	65.0	61	26.2	102	2.5
21	64.1	62	25.4	103	2.3
22	63.1	63	24.5	104	2.2
23	62.1	64	23.7	105	2.1
24	61.1	65	22.9	106	2.1
25	60.2	66	22.0	107	2.1
26	59.2	67	21.2	108	2.0
27	58.2	68	20.4	109	2.0
28	57.3	69	19.6	110	2.0
29	56.3	70	18.8	111	2.0
30	55.3	71	18.0	112	2.0
31	54.4	72	17.2	113	1.9
32	53.4	73	16.4	114	1.9
33	52.5	74	15.6	115	1.8
34	51.5	75	14.8	116	1.8

Age	Life expectancy factor	Age	Life expectancy factor	Age	Life expectancy factor
35	50.5	76	14.1	117	1.6
36	49.6	77	13.3	118	1.4
37	48.6	78	12.6	119	1.1
38	47.7	79	11.9	120+	1.0
39	46.7	80	11.2		
40	45.7	81	10.5		

Source: Amendments to the Income Tax Regulations (26 CFR part 1) under section 401(a)(9) of the Internal Revenue Code (Code), §1.401(a)(9)-9 Life expectancy and distribution period tables, (b) Single Life Table. This table generally applies for distribution calendar years beginning on or after January 1, 2022. This table sets forth the life expectancy of an individual at each age. Transition rules under the regulations may apply to certain beneficiaries when the original account owner or their surviving spouse died before January 1, 2022. Please consult a tax advisor to discuss whether the transition rules may apply to you.

APPENDIX C

REV. RUL. 2023-12 TABLE 2

Adjusted AFR for July 2023

	Period for Compounding			
	Annual	Semiannual	Quarterly	Monthly
Short-term adjusted AFR	3.63%	3.60%	3.58%	3.57%
Mid-term adjusted AFR	2.91%	2.89%	2.88%	2.87%
Long-term adjusted AFR	3.01%	2.99%	2.98%	2.97%

REV. RUL. 2023-12 TABLE 3

Rates Under Section 382 for July 2023

Adjusted federal long-term rate for the current month	3.01%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	3.01%

REV. RUL. 2023-12 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for July 2023

Note: Under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.91%
Appropriate percentage for the 30% present value low-income housing credit	3.39%