

From: "jeffrey E." <jeevacation@gmail.com>
To: Ada Clapp <[REDACTED]>
Subject: Re: Purchase of townhouse
Date: Thu, 05 Jun 2014 23:24:41 +0000

alans idea is right

On Thu, Jun 5, 2014 at 5:15 PM, Ada Clapp <[REDACTED]> wrote:

Hi Jeffrey,

Eileen, Rich and I had a call today with Alan to discuss the purchase of the new townhouse. We discussed who should buy it:

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- If we think the townhouse is a good investment that will appreciate over time, then it makes sense for a trust to buy it.
 - Alan felt that we could take the same approach regarding Leon's use of the residence that we do for the art (that is, as long as Debra is a beneficiary and they are married, Leon can live in the townhouse and not pay rent). We are however concerned with the cumulative effect of taking this position and see merit to Leon paying rent (including the transfer of the rent \$\$ to the trust transfer-tax free). There is flexibility to go either way.
- **Alan raised an alternative suggestion: a split interest purchase.** He has used this technique in the past and thinks it would be a good fit here. It works as follows: Leon would purchase a life estate directly from the seller and the trust would purchase the remainder interest directly from the seller. What Leon pays would be calculated under IRS tables based on his life expectancy (about 1/3rd of the purchase price). The trust would pay the balance. Leon would live in the townhouse as the life tenant and pay all regular day to day maintenance expenses. Capital improvements are split between Leon and the trust based on his life expectancy at the time the funds for capital improvement are expended.

On the upside:

- Leon could live in the residence for his lifetime (even if Debra predeceased or divorced him) without paying rent.
- On Leon's death, no portion of the residence should be included in his estate

On the downside:

- Leon has to use the residence as a personal residence, so he could not say, use the first floor as a gallery for commercial sales.
- The trust has a smaller basis in the residence as a result of the split purchase (but you don't have an estate tax to pay either-so maybe not a downside).
- Leon would have to own the life estate individually and not in an entity (the trust could acquire the remainder interest in an LLC).

Alan is putting together some slides to illustrate the technique which he will send me tomorrow. Alan-please correct any misstatements on my part. Thanks!

Ada Clapp

Elysium Management LLC

445 Park Avenue

Suite 1401

New York, New York 10022

Direct Dial: [646-589-0303](tel:646-589-0303)

Fax: [646-589-0330](tel:646-589-0330)

Email: [REDACTED]

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