



## FEATURE: ESTATE PLANNING & TAXATION

By **David A. Handler** & **Kristen A. Curatolo**

# Planning at the Eleventh Hour

A practitioner's checklist for clients near death

**T**he origin of “the Eleventh Hour” may be traced to “The Parable of the Workers in the Vineyard,” in which the laborers hired at the eleventh hour (before the end of a 12-hour work day) were paid as much as the ones hired early in the morning, despite only working for one hour. The parable’s message is any laborer who accepts the invitation to work in the vineyard, even if late in the day, will receive a reward equal to those who’ve been faithful from the beginning. When meeting with clients who are near death, practitioners are tasked with making valuable contributions to the client’s estate plan within a limited time frame. Using a 20-point checklist, let’s review how eleventh hour planning may help clients achieve favorable outcomes for their beneficiaries and avoid missing valuable opportunities.

## 1. Plan for Incapacity

Many techniques we discuss require that the dying client himself or someone authorized to act on his behalf take actions. If not already completed, the client should execute a durable power of attorney (POA), which is effective on execution, authorizing an agent to make gifts and establish, amend or fund inter vivos trusts on behalf of the client during the client’s life.

A springing POA, which is effective only on incapacity, presents challenges. Locating one or more physicians who will attest to the client’s incapacity may be difficult and time-consuming. As a result, a springing POA cre-

ates a risk that a court may have to determine whether the client is incapacitated, which may cause significant delays that extinguish estate-planning opportunities. Moreover, even if the client’s physicians confirm the client’s incapacity, banks and other financial institutions may require additional proof or documentation.

If the client is already incapacitated and hasn’t executed a POA, you can petition a court of competent jurisdiction to appoint a guardian, conservator or committee, which is also time-consuming.

## 2. Fund the Revocable Trust

To facilitate estate and trust administration, the client may fund his revocable trust during his lifetime. Once the trust is funded, the trustee may begin managing the client’s assets before his death. Assigning the client’s property (for example, tangible personal property, bank and investment accounts, automobiles and real estate held solely in the client’s name) to the revocable trust will greatly simplify the management of the client’s assets by: (1) allowing the trustee to enlist the client’s help in identifying and marshalling the estate’s assets, and (2) avoiding a probate proceeding to transfer assets of the estate to the revocable trust or other beneficiaries. Also, if the client owns real estate or tangible personal property located outside of his home state, retitling such property in the name of the revocable trust may avoid ancillary probate proceedings in such other jurisdictions.

## 3. Make Tax-Free Gifts

The client should maximize the use of annual exclusion gifts<sup>1</sup> and his ability to make tax-free gifts of education and medical payments.<sup>2</sup> Hundreds of thousands of dollars may be quickly moved out of the client’s estate by: (1) making annual exclusion gifts outright or to a properly structured trust (such as a health and education exclusion trust (HEET), which is discussed below);

**David A. Handler** is a partner in the Chicago office, and



**Kristen A. Curatolo** is an associate in the New York City office, both at Kirkland & Ellis, LLP



(2) paying for any individual's tuition at a qualified educational organization, which can usually be irrevocably prepaid to cover several years of expenses; or (3) paying for any individual's medical care or medical insurance.

To ensure an annual exclusion gift is complete and the funds are transferred out of the client's estate, the donee must actually receive the cash or the check proceeds. A cashier's check is preferred over a traditional check because the amount of the cashier's check is irrevocably debited from the client's account, and delivery is completed on receipt by the donee. Instead, if a traditional check is used but isn't cashed by the donee before the donor's death, the full amount of the check may be included in the client's estate for estate tax purposes.<sup>3</sup> As mentioned above, the client should have a durable POA in place enabling his agent to make major gifts in the event the client becomes incapacitated.

Cash is an ideal asset for eleventh hour gifting because it has full basis and no built-in gains, and delivery is simple. A donee will receive the client's carry-over<sup>4</sup> basis of the gifted property instead of receiving a stepped-up basis<sup>5</sup> on the client's death. While lifetime gifting may serve to reduce federal and state estate tax, forfeiting a stepped-up basis may cost the beneficiary a capital gains tax if he sells the property in the future.

Additionally, if the client desires to pay for his descendants' education or medical expenses, he may exercise his limited power of appointment (LPA) over a non-generation-skipping transfer (GST) tax-exempt trust in favor of a HEET. No allocations of GST tax exemption are made to the HEET. The transfer to the HEET doesn't trigger GST tax because it's not a skip person, and distributions are paid directly to an educational organization or medical care provider for the benefit of the client's desired beneficiaries. The HEET is especially appropriate when the client has fully used his GST tax exemption and has significant assets.<sup>6</sup>

#### 4. Make Charitable Gifts During Life

The client's will or revocable trust may contain one or more sizable charitable bequests. Instead of waiting until death, the client may prefer to make lifetime charitable gifts and receive an income tax charitable deduction.<sup>7</sup>

The client may also enjoy the added benefits of seeing the fruits of his generosity and ensuring the gift is used for its intended purposes. An attorney should revise the client's will or revocable trust to ensure that the charity doesn't receive the gift twice.

#### 5. Use Tax Exemptions

While a married client's unused estate tax exemption is portable to his surviving spouse (assuming a timely filed federal estate tax return reflects the deceased spouse's

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unused exemption (DSUE) amount), the same can't be said for the client's unused GST tax exemption. That is, the client either uses or loses his unused GST tax exemption at his death (unless the client's executor or trustee allocates the client's GST tax exemption at his death). Optimally, if the client has available GST tax exemption, the client should use it during his lifetime to avoid wasting it. For example, the client may allocate GST tax exemption to existing non-GST tax-exempt trusts created during his lifetime.

Alternatively, if the client has a wealthier (and healthier) spouse, then the client's spouse may transfer assets to the dying client to enable him to use his estate tax and GST tax exemptions. This may be preferable to relying on preserving the DSUE amount via portability, which may disappear if the surviving spouse remarries and outlives that spouse. A surviving spouse can't accumulate DSUE amounts of several spouses who died and add the amounts together. Instead, a surviving spouse may only apply the DSUE amount from her last deceased spouse.<sup>8</sup>



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### 6. Make Taxable Gifts

The client may also contemplate making taxable gifts in excess of his available federal gift tax exemption because the effective federal gift tax rate is less than the effective estate tax rate. While no gift tax is payable on funds used to pay gift tax, estate tax is payable on funds used to pay estate tax. This result occurs because the federal estate tax is tax “inclusive” and the federal gift tax is tax “exclusive.” Accordingly, even though gift and estate tax rates are the same (40 percent in 2016), the effective gift tax rate is approximately only two-thirds of the effective estate tax rate. Thus, the client may give more to his beneficiaries by making lifetime instead of testamentary

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transfers, with the added bonus of also transferring any future appreciation on the gift.

**Example:** Mom has completely exhausted her federal gift tax exemption by making prior gifts.

Mom now gives her child \$1 million as a gift. Using a 40 percent federal marginal tax rate, the gift tax will be \$400,000 (\$1 million x 40 percent = \$400,000). As the donor, Mom pays the gift tax, which results in Mom’s child receiving the full \$1 million and an additional \$400,000 being removed from Mom’s estate. Thus, it costs

\$400,000 for Mom to give her child \$1 million.

If Mom waits until her death to give the gift, it would take a \$1,666,667 gift for Mom to leave her child \$1 million (40 percent of \$1,666,667 = \$666,667 in taxes, leaving \$1 million for child).

The result: It will cost \$266,667 more to give her child \$1 million at her death than during her lifetime (\$666,667 less \$400,000 = \$266,667).

A drawback to this approach is that the gift tax on transfers made within three years of the client’s death will be included in the client’s gross estate for federal estate tax purposes.<sup>9</sup> So, if the client dies within three years of the gift, the \$400,000 of gift tax paid will be included in the client’s estate, negating the differential in how gift and estate taxes are calculated. However, any post-gift income and appreciation on the assets will escape estate tax.

Finally, the loss of a basis step-up on property transferred by gift must be measured. Generally, assets owned at death will obtain a stepped-up basis and eliminate tax on unrealized gains, and assets transferred during life will have a carry-over basis. This rule is subject to two exceptions:

1. The basis of gifted property is increased by a fraction of the gift tax paid (but not above the fair market value (FMV) of the property) when the fraction is the net appreciation in the value of the gift (that is, the unrealized appreciation) over the amount of the gift (excluding the portion qualifying for the gift tax annual exclusion),<sup>10</sup> and
2. If property with a built-in loss is gifted, then for purposes of determining the donee’s loss, the basis is its FMV (that is, the donee doesn’t recognize the loss).<sup>11</sup>

Therefore, cash or other high basis assets (when the basis is greater than or equal to the FMV at the time of the gift) should be gifted before low basis assets.

Also, assets that can be discounted (that is, a minority interest in a closely held company or family limited partnership) are often ideal assets for gifts because they maximize the use of the client’s gift tax exemption. For example, assume Andrew owns a minority interest in a family-owned and operated company worth \$5 million. The value of Andrew’s interest is discounted because



a buyer may only be willing to pay \$3.25 million (or 35 percent less) for an interest in a company that can't be controlled. If Andrew gifts his interest in the company (valued at \$3.25 million) to his children, he's effectively transferring \$5 million worth of assets while using only \$3.25 million of his gift tax exemption. This also means that the value of Andrew's interest (and all of its subsequent appreciation) is outside of Andrew's estate for estate tax purposes.

### 7. Reduce State Estate Taxes

If the client resides in a jurisdiction that has an estate tax exemption below the federal exemption amount but no gift tax (for example, New Jersey, New York or Illinois), the client may make lifetime gifts to reduce his taxable estate and fall below the state estate tax threshold. If the client lives in a jurisdiction with a gift tax (for example, Connecticut), consider whether triggering a gift subject to state and federal gift taxes makes financial sense. Or, if the client lives in a jurisdiction without a gift tax but with an estate tax (such as New York), making a lifetime gift can avoid the state estate tax and greatly increase the benefit even if the client dies within three years of the gift (unless the state also has a 3-year clawback, such as New York).

Making gifts may be particularly prudent if the client's taxable estate is close to exceeding his state's estate tax exemption and there's an estate tax "cliff"—so that the state's estate tax exemption disappears entirely if the decedent's taxable estate exceeds the exemption. For example, New York's estate tax exemption is \$4,187,500 for decedents dying between April 1, 2016 and March 31, 2017. If a New York taxable estate exceeds the exemption by more than 5 percent, then the estate wouldn't benefit from the exemption. Instead, the entire estate would be subject to New York estate tax.

**Example:** Dad died on April 1, 2016 with a taxable estate of \$4.2 million, which exceeds the New York estate tax exemption of \$4,187,500. Dad's estate will be subject to \$302,000 in New York estate tax. However, if Dad made just \$12,500 in non-taxable lifetime gifts (for example, to a spouse or charity or through annual exclusion gifts) and reduced his estate to \$4,187,500, Dad's estate wouldn't have been subject to any New York estate tax.

### 8. Substitute Trust Assets

If the client has a grantor trust giving him the power to substitute trust assets with assets of equivalent value, the client may transfer cash or other high basis assets to the trust in exchange for low basis (appreciated) assets. This exchange achieves a step-up in basis for the trust's low basis assets at the client's death, and the swap isn't a taxable event.<sup>12</sup> If the trust agreement doesn't expressly include a substitution power, the client may buy assets from the trustee to achieve the same result.

When deciding whether to buy low basis assets from a grantor trust or disregarded entity (such as a limited liability company (LLC) owned by one or more grantor

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trusts), take into account timing and the value of the assets. For example, the client should avoid purchasing a low priced asset shortly before its value skyrockets. While the client can only make educated predictions, a large increase in value after the exchange may detract from any income tax benefits from the stepped-up basis.

### 9. Transfers to Spouse

If the client owns depreciated assets (the FMV of the asset is less than its basis) at his death, then the built-in loss will vanish because the basis of the assets will be stepped down to its FMV. However, the client could transfer depreciated assets to the client's spouse to avoid a step-down in basis and preserve the capital loss for the surviving spouse to use. Gifts to a spouse aren't subject to Internal Revenue Code Section 1015, which would eliminate the loss on a gift to a donee other than a spouse.<sup>13</sup> Gifts to a spouse also aren't subject to gift tax, unless the spouse isn't a U.S. citizen (in which case, the spouse has an increased annual exclusion).<sup>14</sup>

### 10. Gifts From Spouse and Others

To realize a step-up in basis, the client's family members may gift appreciated assets to the client so that such



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family members will have no gift or estate tax consequences because of the size of their estates. If the client's spouse gifts appreciated assets to the client, there will be no gift or estate tax by virtue of the unlimited marital deduction (unless the client isn't a U.S. citizen).

At the client's death, the basis of the asset is stepped-up to its date-of-death value if the client survives for at least a year after the date of the gift.<sup>15</sup> If the client doesn't survive for a year after the transfer, the property will be returned to the donor with its original basis. Note that if the donor gifts assets to the dying client and, in turn, the client bequeaths other assets to the donor at the client's death, then this 1-year limitation won't apply. The 1-year

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limitation only applies if the donor inherits the same property that he gifted to the client.

**Example:** The client's healthy spouse and others gift appreciated assets to the client, and the client makes general bequests to each of them in amounts equal to their gifts. If the client dies within one year of the gifts, each donor receives assets other than the ones he gave, and the gifted assets will receive a step-up in basis.

Conversely, the client's spouse or other family members could gift appreciated assets to the client and receive the same gifted assets back from the client at his death with a stepped-up basis, provided the client is likely to live beyond a year from the date of the gift.<sup>16</sup>

### 11. Consolidate Instruments

The client may create a new will or restate his revocable trust if he's previously executed several codicils or

amendments. By consolidating codicils and amendments into a new will or restated revocable trust, an executor or trustee may consult a single instrument to understand the client's wishes instead of piecing them together by cross-referencing a number of separate documents. Consolidation of the instruments also presents a good opportunity to clean up the documents and make sure the codicils and amendments are up to date, consistent and work together. If the client is incapacitated but has previously executed a durable POA, the client's agent may be authorized to amend or restate the client's revocable trust on behalf of the client.

### 12. Grant or Eliminate GPA

Tax basis may be managed by forcing or preventing estate tax inclusion by granting or eliminating a general power of appointment (GPA) to the client over trusts created for his benefit. A GPA allows the client to appoint trust assets to the client's estate or creditors. By granting a GPA to the client who has an estate less than the available estate tax exemption, the trust assets will get a stepped-up basis without triggering any estate tax.

**Example:** Andrew, who's terminally ill, has a \$3 million estate, lives in a jurisdiction that doesn't impose a state estate tax and is the beneficiary of a trust created by his parent that holds \$2 million in appreciated real estate. Assume that such trust gives the trustee the discretion to grant a GPA over the trust assets to Andrew at his death. If the trustee elects to grant a GPA to Andrew over the trust's assets, then the trust's assets will be included in Andrew's estate (even if Andrew never exercises the GPA), and the appreciated real estate will receive a stepped-up basis in Andrew's estate and will pass free of estate tax.

Alternatively, if the client has a large estate exceeding his available exemption, eliminating a GPA held by the client will prevent inclusion of those trust assets in the client's estate and avoid triggering additional estate tax. When making this determination, consider the amount of unrealized gains in the trust, the size of the client's estate and the availability of the client's GST and estate tax exemptions (both federal and state).

However, note that a gift will occur if the client

releases a GPA. Ideally, the trustee of the trust or another fiduciary (for example, a trust protector) has the power under the trust agreement to eliminate the client's GPA.

### 13. Exercise LPA

If the client holds one or more LPAs over trusts, the client may exercise such powers in favor of other trusts to consolidate trusts and simplify trust administration. Otherwise, the client's survivors may become beneficiaries of several different trusts with similar or identical provisions. Without the governing instrument permitting merger of trusts or private decanting, the trustees will have to rely on state law (if available) to combine trusts.

### 14. Revisit Designated Fiduciaries

The client should revisit all fiduciary appointments under his will and revocable trust. For example, named executors and trustees may have died, moved across or out of the country or fallen out of touch with the client and his family. Administrative problems will arise if the will or revocable trust fails to identify an individual or entity to act as trustee or executor (or fails to create a process to designate them). If this failure occurs, the estate will have to undertake a lengthy and costly process of asking the court to appoint a trustee or executor. The client should confirm that all individuals or entities named as executors, trustees or guardians are appropriate, given the passage of time and changes in circumstances.

If serving alone as trustee of his revocable trust, the client should consider appointing a co-trustee. If the client is currently serving as a trustee of any other trusts, the client should consider resigning as trustee and obtaining releases if appropriate. This will ensure a smooth transition in trusteeship if a successor trustee or co-trustee can be appointed and brought up to speed before the client's death. Also, if the client is serving as trustee of any trust at the time of his death that wasn't created by him, then the executor of the client's estate must disclose such trust on, and attach a copy of the trust instrument to, the client's estate tax return.<sup>17</sup> In addition to attracting scrutiny from the Internal Revenue Service, this may cause the client's executor to expend time and effort tracking down trust instruments that are difficult to identify and obtain.

### 15. Review Life Insurance

The client should review all of his life insurance policies and confirm all premium payments are current and no policies will lapse or have lapsed. If an insurance policy has inadvertently lapsed (generally, due to failure to pay premiums), the client (or trustee of an insurance trust) should immediately contact the insurance agent or provider to determine if it can be reinstated. The client should examine all beneficiary designations to ensure a beneficiary is indeed designated. If the client owns the insurance policy, he may sell the policy to an irrevocable life insurance trust to avoid estate tax on the policy proceeds.<sup>18</sup>

Terminating old partnerships will eliminate unneeded entities and help organize the estate.

Additionally, the client may be able to stop or reduce premium payments. For example, if the client has held a policy for several years, the policy's cash value may be able to completely cover, or significantly reduce, premium payments.

### 16. Transfer Partnership Interests

The client may transfer his general partnership interest in a family limited partnership (FLP) to avoid having all of the property he contributed to the partnership included in his estate (as a result of the client's discretion over distributions) or at least to avoid litigating with the IRS over the issue.<sup>19</sup> The same should be considered with respect to voting units in a family LLC. If the client is currently serving as manager of a family LLC, the client should resign as manager and have a new manager appointed.

### 17. Terminate Old FLPs and Trusts

The client should consider terminating old FLPs (and LLCs) or trusts if the entity holds little or no assets and/or the objectives of the entity have been fulfilled.

Terminating old partnerships will eliminate unneeded entities and help organize the estate. Further, a



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partnership that wasn't administered correctly may spark potential estate inclusion arguments from the IRS.<sup>20</sup> However, consider the income tax consequences of terminating a partnership or LLC.

The client must carefully weigh the decision to terminate a trust. On one hand, any trusts created by the client must be disclosed on the client's estate tax return, which may cast a spotlight on assets and transactions that invite an IRS audit. On the other hand, terminating a trust forfeits its benefits, such as creditor protection and control. It also results in the loss of allocated GST tax exemption.

The client should take steps to avoid IRD, which will result in such IRD being taxed to the client's beneficiaries and in the client's estate.

### 18. Terminate Leases

The client should consider terminating any leases between himself and any trusts or other entities he created during his lifetime. Otherwise, the IRS may challenge the leases by arguing FMV rent wasn't paid, which may result in gift tax issues or estate inclusion.

### 19. Pay Off Promissory Notes

If the client has sold assets to his grantor trust in exchange for a promissory note, the client should pay off the note before his death. Paying off the note may avoid arguments by the IRS that the loan transaction constituted a transfer with a retained income interest. If the IRS successfully makes this argument, then all of the property in the grantor trust would be included in the client's estate under IRC Sections 2036 and 2702.<sup>21</sup>

Alternatively, the IRS could argue a deemed sale occurred immediately before the grantor's death, which would have the client recognizing gain to the extent

the balance of the promissory note exceeds the client's basis in the assets sold to his grantor trust.<sup>22</sup> The deemed sale would result in the trust's assets receiving an adjustment in basis equal to the amount of gain recognized.<sup>23</sup> To prevent or weaken these arguments, the client's grantor trusts should pay off all promissory notes during his lifetime.

### 20. Accelerate IRD


The client should take steps to avoid income in respect of a decedent (IRD), which will result in such IRD being taxed to the client's beneficiaries and in the client's estate. Examples of IRD items include: salary or wages, post-death bonuses, retirement plan assets and individual retirement account distributions. While the IRC or the regulations don't define IRD, Treasury Regulations Section 1.691(a)-1(b) provides guidance on its meaning:

In general, the term 'income in respect of decedent' refers to those amounts to which a decedent was entitled as gross income but which were not properly includible in computing his taxable income for the taxable year ending with the date of his death or for a previous taxable year under the method of accounting employed by the decedent.

For income tax purposes, the actual recipient of IRD (for example, the estate or beneficiary) must include the amount as income.<sup>24</sup> For estate tax purposes, the decedent's gross estate must include the value of IRD as property in which the decedent had an interest.<sup>25</sup> This inclusion causes the decedent's IRD items to be subject to both estate tax and income tax when distributions are paid to the estate or the beneficiaries.

To soften the blow of a double tax, the recipient of the income (the beneficiary or the estate) is allowed an income tax deduction for the federal (but not state) estate tax paid on the income.<sup>26</sup> However, this deduction is subject to the overall limitations on itemized deductions under IRC Section 68 (but this overall limitation of itemized deductions doesn't apply to an estate or trust under Section 68(e)).<sup>27</sup> As a result of these limitations, a greater overall tax will be imposed on an IRD item received by an individual.



Accelerating the client's income has additional benefits. A client's net operating loss carryover<sup>28</sup> or a carryover of an excess charitable contribution<sup>29</sup> that can't be used against the client's income in the final year will die with the client and be permanently lost. Assuming the client is a cash method taxpayer, accelerating the client's receipt of income may allow all or at least a portion of those carryovers to be used. 

### Endnotes

1. Currently \$14,000 per donee or \$28,000 per donee if the gift is split under Internal Revenue Code Section 2513.
2. IRC Section 2503.
3. *Rosano v. United States*, 67 F. Supp.2d 113, 123 (E.D.N.Y. 1999), *aff'd*, 245 F.3d 212 (2d Cir. 2001) (holding checks that weren't cleared by the bank until after the drawer's death weren't completed gifts and so the funds were included in the drawer's estate; the theory is that, under state law, the drawer could have stopped payment on the checks before they cleared); *Estate of Newman v. C.I.R.*, 111 T.C. 81, 82 (1998), *aff'd*, 203 F.3d 53 (D.C. Cir. 1999) (holding that checks payable to relatives in the annual exclusion amount, drawn by the donor's son acting as attorney-in-fact, were incomplete gifts when they weren't cashed until after the donor's death; according to the court, the donor had retained control over her checking account until death and therefore could have stopped payment on them, rejecting the argument that she wasn't competent to do so); *McCarthy v. United States*, 806 F.2d 129 (7th Cir. 1986) (holding that a gift by check to a donee that wasn't presented for payment and honored before the donor's death wasn't a completed inter vivos gift by the donor during life).
4. IRC Section 1015.
5. *Ibid.*; IRC Section 1014.
6. See David A. Handler, Deborah V. Dunn and Roy M. Adams, "The HEET Trust: A New Twist on Section 2503(e)," *Trusts & Estates* (July 2000), at p. 18.
7. IRC Section 170.
8. Treasury Regulations Section 20.2010-1(d)(5).
9. IRC Section 2035(a).
10. *Ibid.*; IRC Section 1015(d)(6).
11. *Ibid.*; Section 1015.
12. Revenue Ruling 85-13.
13. IRC Section 1015(e).
14. The gift tax annual exclusion for a non-citizen spouse is \$148,000 in 2016.
15. IRC Section 1014(e)(1).
16. *Ibid.*; Section 1014(e).
17. See Part 4, Question 13b of Federal Form 706.
18. IRC Section 2035 requires the transferor to outlive a gift (as opposed to a sale) of the policy for three years to avoid its value being included in the transferor's estate.
19. *Estate of Strangi v. Commissioner*, T.C.M. 2003-145.
20. *Ibid.*
21. IRC Section 2036 shouldn't apply to the extent that the grantor has sold (rather than gifted) an asset for full market value. The Internal Revenue Service has used IRC Section 2702 to argue that a sale to a grantor trust should be disregarded by treating the note as retained equity instead of a debt. See *Dallas v. Comm'r*, T.C.M. 2006-115.
22. *Madorin v. Comm'r*, 84 T.C. 667 (1985); Rev. Rul. 77-402.
23. *Ibid.*
24. IRC Section 691(c).
25. *Ibid.*; Section 2033.
26. *Ibid.*; Section 691(c).
27. As Section 691(c) provides a deduction rather than a credit, its value is limited to the highest marginal income tax bracket of the income in respect of a decedent (IRD) recipient. For example, if the recipient of the IRD is in the 35 percent tax bracket, the deduction will provide a net income tax savings of \$0.35 on the dollar for each dollar of estate tax paid. Consequently, although the Section 691(c) deduction is valuable, it can never provide complete relief against the double taxation of IRD. Robert E. Madden, *Tax Planning for Highly Compensated Individuals* (Thomson Reuters/WG&L, 4th ed. 2015, with updates through September 2015) (online version accessed on Checkpoint ([www.checkpoint.riag.com](http://www.checkpoint.riag.com))).
28. IRC Section 172.
29. *Ibid.*; Section 170(d)(1).



### SPOT LIGHT

#### On Holiday

"Plage a Deauville," by François Gall, sold for \$5,937 at Doyle's recent Impressionist & Modern Art auction in New York City on May 3, 2016. A grant from the Hungarian government allowed Gall to study at the École Nationale des Beaux-Arts in Paris. He had a penchant for painting young pretty Parisian girls, as he observed them during their busy day.