



Tax Planning: Charitable Deductions, Trusts, Exemptions, & Powers of Appointment

STEVEN B. GORIN, CPA, JD, CGMA
THOMPSON COBURN LLP

sgorin@thompsoncoburn.com

314-552-6151

200248934





Overview

- Business Charitable Deductions
- Business Entity or Trust
- Basis Step-Up & Powers of Appointment



Review of Materials

- Slides
- [Newsletter articles](#), which link to page on big PDF supporting the article
- Several thousand-page PDF, which can be downloaded from the link in the yellow box in the middle of the newsletter



Navigate between Slides and Big PDF

- Open both documents
- Highlight cross-reference in slides
- CTRL-C to copy
- Go to FULL TABLE OF CONTENTS in big PDF
- CTRL-F to find
- CTRL-V to paste
- Click ENTER to execute search (might need to specify “exact” or “whole word” search)
- Warning: search works only for to the fifth level of the heading, not the sixth, which ends in parentheses. For the latter, use the fifth level of the heading and scroll down just a little.



Charitable Deductions for Businesses

- How businesses can try to get full charitable deductions after July 4, 2025 law changes - business can structure donation as business expense and might create affiliated organization to receive contributions
- Charitable deductions by trusts that own pass-through entities





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

- Deductions for charitable contributions made by C corporations are limited to 10% of their taxable income but are reduced by 1% of their taxable income
- Contributions made by S corporations and partnerships are deducted at owner level, subject to various limitations





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Limitations imposed on individuals and trusts on K-1s from partnerships or S corporations:

- Basis
- Percentage (20%-60%) of modified adjusted gross income if taxpayer is individual or if taxpayer is fiduciary with unrelated business taxable income
- 2/37 reduction of itemized deductions (individuals and trusts/estates only)





Polling Question 1

Percentage limitations apply to contributions by:

1. Individuals
2. C corporations
3. S corporations
4. All of the above





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Limitations imposed on individuals and trusts on K-1s from partnerships or S corporations:

- Basis
- Percentage (20%-60%) of modified adjusted gross income if taxpayer is individual or if taxpayer is fiduciary with unrelated business taxable income
- 2/37 reduction of itemized deductions (individuals and trusts/estates only)





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

- Code § 642(c)(1), (2), include “without limitation”
- *United States v. Benedict*, 338 U.S. 692 (1950), interpreted Code § 642(c)’s predecessor in the 1939 code, § 162, “Net income”
- In *Benedict*, a 50% exclusion applied to capital gain
- Taxpayer wanted to include the excluded capital gain in gross income calculation used to limit charitable income tax deduction





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

Benedict.

- “We treat that percentage of capital gains which expressly is not to be taken into account in computing taxable net income as also excluded from statutory gross income.”
- “When the words “without limitation,” in § 162 (a), are read in connection with § 23(o), ... their effect is only to make inapplicable the limitation of 15%, under § 23(o), and any other statutory limitation which otherwise might apply to charitable contributions made out of the gross income of an estate or trust.”





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

- *Green v. United States*, 880 F.3d 519 (2018), interpreted Code § 642(c)
- In *Green*, trust deducted FMV of appreciated property donated to charity
- IRS said deduction limited to basis
- Court held that requirement to pay from gross income meant that deduction limited to basis





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

Green:

In *United States v. Benedict*, 338 U.S. 692, 697 n.8 (1950), the Supreme Court held that the phrase “without limitation,” as used in the predecessor statute to § 642(c)(1), was intended only to make clear that the percentage limits outlined in § 170 that apply to charitable deductions made by individuals and corporations do not apply to charitable deductions made by estates and trusts. Presumably, the same holds true for § 642(c)(1). Thus, contrary to the conclusion reached by the district court, § 642(c)(1)'s use of the phrase “without limitation” cannot be construed as a signal by Congress to authorize the extent of the deduction sought by the Trust in this case.





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

- Should language interpreting “without limitation” in *Benedict* and *Green* apply outside of the issues they were addressing?
- *Benedict* – capital gain exclusion not gross income
- *Green* – unrealized appreciation not gross income





2/37 Reduction of Itemized Deductions for Trusts/Estates (II.J.4.c.i.(a))

Options for 2026:

- Apply 2/37 limitation
- Apply 2/37 limitation but file refund claim
- Don't apply 2/37 limitation and *do* file Form 8275
- Make contributions from your business





Polling Question 2

What would you do?

1. Apply 2/37 limitations always
2. Discuss with client and file Form 8275 if client wants
3. Discuss with client and file refund claim if client wants
4. Never apply 2/37 limitations to 642(c) deduction





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a), “Payments and transfers to entities described in section 170(c)”:

A payment or transfer to or for the use of an entity described in section 170(c) that bears a direct relationship to the taxpayer's trade or business and that is made with a reasonable expectation of financial return commensurate with the amount of the payment or transfer may constitute an allowable deduction as a trade or business expense rather than a charitable contribution deduction under section 170. For payments or transfers in excess of the amount deductible under section 162(a), see § 1.170A-1(h).





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a)(2), Example (1):

A, an individual, is a sole proprietor who manufactures musical instruments and sells them through a website. A makes a \$1,000 payment to a local church (which is a charitable organization described in section 170(c)) for a half-page advertisement in the church's program for a concert....





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a)(2), Example (1):

.... In the program, the church thanks its concert supporters, including A. A's advertisement includes the URL for the website through which A sells its instruments. A reasonably expects that the advertisement will attract new customers to A's website and will help A to sell more musical instruments. A may treat the \$1,000 payment as an expense of carrying on a trade or business under section 162.





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Although Example (1) is helpful, taxpayers need to distinguish between:

- Mere public acknowledgement, which is a Code § 170 deduction, and
- Advertising, which is a Code § 162 deduction





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a)(2), Example (2):

P, a partnership, operates a chain of supermarkets, some of which are in State N. P operates a promotional program in which it sets aside the proceeds from one percent of its sales each year, which it pays to one or more charities described in section 170(c)....





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a)(2), Example (2):

.... The funds are earmarked for use in projects that improve conditions in State N. P makes the final determination on which charities receive payments. P advertises the program. P reasonably believes the program will generate a significant degree of name recognition and goodwill in the communities where it operates and thereby increase its revenue....





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Reg. § 1.162-15(a)(2), Example (2):

.... As part of the program, P makes a \$1,000 payment to a charity described in section 170(c). P may treat the \$1,000 payment as an expense of carrying on a trade or business under section 162. This result is unchanged if, under State N's tax credit program, P expects to receive a \$1,000 income tax credit on account of P's payment, and under State N law, the credit can be passed through to P's partners.





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Example (2) is very attractive:

- Rather than percentage of sales annually, business might do more time-limited promotion to see how much is raised
- Given that businesses commonly run limited-time “sales,” time-limited promotion would not be unusual





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

Restaurants often engage in promotions similar to Example (2). For example:

- They will advertise that 10% of all sales on traditionally slow night (perhaps Tuesdays) will be donated to a particular local charity
- The charity would publicize the promotion





Polling Question 3

When charitable payment is business expense:

1. Benefit commensurate to payment
2. Advertise
3. Run a sale
4. All of above





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

- A business entity might start a charity or perhaps a social welfare organization (II.Q.6.g), either of which might bear its name in some manner, which many businesses have done
- It has been suggested to consider whether self-dealing prohibitions may apply with that affiliated organization





Charitable Deductions for Businesses

(II.G.4.g.i.(a).)

- If a business entity merely accrues obligation, deduction might be deferred under Code § 461(h), all-events test, or some other deferral rule
- For an introduction to such issues, see part II.Q.1.e. *Trying to Avoid Possible Ordinary Income on the Sale of a Partnership or S Corporation*





K-1 Charitable Pass-Through to Trust/Estate (II.G.4.g.i.(a).)

- Generally, under Code § 642(c) estate or nongrantor trust may deduct up to 100% of gross income distributed to charity (which includes only the basis of any appreciated assets) (II.J.4.c.i.(a))
- 2/37 itemized deduction disallowance for individuals may apply to trust/estate charitable deductions (II.G.4.n.i.(b))





K-1 Charitable Pass-Through to Trust/Estate

(II.G.4.g.i.(a).)

- Code § 681(a) takes away the Code § 642(c) deduction from trusts to extent that they have unrelated business income, determined as if trust were Code § 501(c)(3) charity (II.Q.7.c.i.(b))
- Instead apply individual percentage limitations (II.J.4.c.ii.)





K-1 Charitable Pass-Through to Trust/Estate

(II.G.4.g.i.(a).)

- Partnership income is unrelated business income only to the extent it fits within the usual unrelated business income (UBI) categories (II.Q.6.d)
- S corporation K-1 income is automatically unrelated business income, no matter the source (II.Q.6.d.ii)





K-1 Charitable Pass-Through to Trust/Estate (II.G.4.g.i.(a).)

- Advantage of reverting to individual limitations - ability to deduct unrealized gain in gifts of appreciated assets to public charities
- Disadvantage is various cutbacks that apply to individual charitable contributions





K-1 Charitable Pass-Through to Trust/Estate

(II.G.4.g.i.(a).)

- If the trust has substantially appreciated securities, making charitable contribution more desirable, the trust could consider forming S corporation and making ESBT election
- However, that strategy involves various complexities, which we will address next quarter (III.A.3.e.vi.(b), II.J.4.g., II.J.4.h.i.)





Polling Question 4

Trust charitable contribution when
UBTI:

1. Apply individual percentage limitations
2. Fair market value deduction
3. Both of above
4. 100% of gross income





Business Entity or Trust? (II.D.1.)

- A trust can sometimes be taxed as business entity
- A trust can be a “holding company” under banking law
- Effect of opting out of annual partnership income tax reporting



Business Entity or Trust? (II.D.1.)

Reg. § 301.7701-4(a), “Ordinary trusts,” provides:

In general, the term “trust” as used in the Internal Revenue Code refers to an arrangement created either by a will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts....





Business Entity or Trust? (II.D.1.)

Reg. § 301.7701-4(a), “Ordinary trusts,” provides (highlighting added):

.... Usually the beneficiaries of such a trust do no more than accept the benefits thereof and are not the voluntary planners or creators of the trust arrangement....





Business Entity or Trust? (II.D.1.)

Reg. § 301.7701-4(a), “Ordinary trusts,” provides:

.... However, the beneficiaries of such a trust may be the persons who create it and it will be recognized as a trust under the Internal Revenue Code if it was created for the purpose of protecting or conserving the trust property for beneficiaries who stand in the same relation to the trust as they would if the trust had been created by others for them....





Business Entity or Trust? (II.D.1.)

Reg. § 301.7701-4(a), “Ordinary trusts,” provides (highlighting added):

.... Generally speaking, an arrangement will be treated as a trust under the Internal Revenue Code if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.





Polling Question 5

Would you like to receive quarterly a link to the then-most recent version of the several thousand page PDF that is included with the course materials, through Steve's free newsletter, Gorin's Business Succession Solutions?

1. Yes
2. No
3. Already subscribe

Please be sure to download most recent version of PDF each quarter or otherwise click on it, to avoid being dropped for lack of engagement



Business Entity or Trust? (II.D.1.)

Estate of Bedell v. Commissioner, 86 T.C. 1207 (1986), *acq.* 1987-2 C.B. 1:

- The trust ran real estate businesses and provided mandatory income interests as separate shares for descendants
- Held that the trust may be recharacterized as business entity only if it includes “associates” and “an objective to carry on business and divide the gains therefrom”





Business Entity or Trust? (II.D.1.)

Bedell held:

We conclude that the beneficiaries, who neither created nor contributed to the trust, whose interests in the trust are not transferable, and only a few of whom participate in the trust affairs, are not associates and their trust is not an association.



Business Entity or Trust? (II.D.1.)

Bedell further commented:

We understand that the Government regarded this case as a test case in respect of testamentary trusts and trusts engaged in the conduct of a business, and that high levels in the IRS were active in pressing the matter. It is difficult to imagine a more unsuitable vehicle than this case for any such purpose, and we think it regrettable that extensive misguided efforts were exerted to such a fruitless end in this litigation.





Business Entity or Trust? (II.D.1.)

- *Rost v. U.S.*, 130 A.F.T.R.2d 2022-5462 (5th Cir. 8/11/2022), and *Fairbank v. Commissioner*, T.C. Memo. 2023-19, both classified entities as trusts
- *Rost* held that a *Stiftung* (foundation or endowment) under the laws of Liechtenstein was taxed as a trust because it functioned as a trust





Business Entity or Trust? (II.D.1.)

Fairbank stated that following are the “four elements of a trust for federal tax purposes”:

- A grantor;
- A trustee that takes title to property for the purpose of protecting or conserving it;
- Property; and
- Designated beneficiaries





Business Entity or Trust? (II.D.1.)

Fairbank:

- “It is widely accepted under the laws of all 50 states of this country, and in many other countries, that a trust consists of these four elements.”
- The arrangement “closely resembles a typical trust whereby a settlor ... establishes a trust for the benefit of specified beneficiaries ..., contributes property to the trust ..., and designates a trustee ... to hold the property for the beneficiaries and act in their best interest.”





Polling Question 6

Trust that runs business is taxed as:

1. Trust if grantor funded to conserve assets for beneficiaries
2. Business entity if nongrantor beneficiary is trustee
3. Business if trustee participates in running it
4. Golden goose if successful





Business Entity or Trust? (II.D.1.)

Contrast to Reg. § 301.7701-4(b), “Business trusts”:

There are other arrangements which are known as trusts because the legal title to property is conveyed to trustees for the benefit of beneficiaries, but which are not classified as trusts for purposes of the Internal Revenue Code because they are not simply arrangements to protect or conserve the property for the beneficiaries....



Business Entity or Trust? (II.D.1.)

Contrast to Reg. § 301.7701-4(b), “Business trusts”:

.... These trusts, which are often known as business or commercial trusts, generally are created by the beneficiaries simply as a device to carry on a profit-making business which normally would have been carried on through business organizations that are classified as corporations or partnerships under the Internal Revenue Code....





Business Entity or Trust? (II.D.1.)

Contrast to Reg. § 301.7701-4(b), “Business trusts”:
.... However, the fact that the corpus of the trust is not supplied by the beneficiaries is not sufficient reason in itself for classifying the arrangement as an ordinary trust rather than as an association or partnership. The fact that any organization is technically cast in the trust form, by conveying title to property to trustees for the benefit of persons designated as beneficiaries, will not change the real character of the organization if the organization is more properly classified as a business entity under § 301.7701-2.





Business Entity or Trust? (II.D.1.)

Multiple owner trusts disregarded for income tax purposes:

- Unit investment trusts, which limit the trustee's role to a relatively passive one (II.D.4.a.)
- Liquidating Trusts (II.D.4.b.)
- Environmental Remediation Trusts (II.D.4.c.)





Business Entity or Trust? (II.D.1.)

Unit investment trusts, which limit trustee's role to relatively passive (II.D.4.a.):

- Voting trusts
- Rev. Rul. 2004-86: Delaware statutory trust owned by multiple investors who invested to make profit was unit investment trust that was disregarded entity rather than partnership





Whether Tenancy-in-Common or Other Arrangement Constitutes Partnership (II.C.10.)

- When arrangement not formally an entity nevertheless is taxable as partnership: when “the participants carry on a trade, business, financial operation, or venture and divide the profits therefrom”
- Not just tax result – under state law, it often constitutes general partnership





General partnership:

- Generally, allows co-owners to require other co-owners to buy them out
- Provides joint and several liability, which liability can be ameliorated:

Limited Liability Partnership

Registration for General Partners in

General or Limited Partnerships (II.C.13.)





Whether Tenancy-in-Common or Other Arrangement Constitutes Partnership (II.C.10.)

- Tenants in common whose arrangement satisfies certain regulatory requirements can opt out of filing partnership income tax returns, but arrangement may be treated as partnership for other tax purposes
- Multiple tenancy in common statements not as easy as dealing with one K-1
- But ability to do like-kind exchange separately is helpful if not partnership





Polling Question 7

Tenancy in common is partnership
when owners:

1. Eat lunch together every day
2. Sign co-tenancy agreement
3. Set up one LLC per owner to own the property
4. Collaborate to generate profits





Limited Liability Company (LLC) (II.B.)

- IRS position: members of LLC cannot opt out of partnership treatment, except for certain statutory arrangements, such as 2024 regulations to facilitate certain renewable energy credits or similar credits
- Otherwise, married couple owning LLC cannot opt out of partnership treatment unless live in community property state



Trust as Holding Company for Banking Law Purposes (II.D.8.)

- A trust may be treated as holding company for purposes of banking laws
- Perpetual trusts generally are forbidden





Penalty for Failure to File a Partnership Return (II.C.14.)

- Statutory penalties: \$125 times the number of partners or shareholders for each month (or fraction of a month) that the failure continues, up to a maximum of 12 months
- Rev. Proc. 84-35 relief: failure to file penalty N/A if ten or fewer owners are involved and each owner fully reports share of partnership's income, deductions, and credits
- IRS: this penalty relief not exemption from the requirement to file, and partnership not qualify for relief if opts into BBA Centralized Partnership Audit Regime (II.G.19.c.)





Free basis step-up – discuss estate tax vs. income tax then some approaches:

- Marital estate trusts
- Community property trusts
- Deathbed transfers
- Controversy regarding contingent general powers of appointment when grantor is living





Example:

- \$1 million value
- \$300K basis
- Growing 10% per year
- Donee 25% combined federal and state capital gain rate
- 40% estate/gift tax rate





Donor dies 1 year later:

- \$1.1 million value
- $\$100\text{K} * 40\% = \40K estate tax saving
- $\$1.1\text{M value} - \$300\text{K basis} = \$800\text{K}$ lost basis step-up
- $\$800\text{K} * 25\% = \200K increased capital gain tax
- $\$200\text{K capital gain tax} > \$40\text{K estate tax saving}$





Gift can:

- Save estate tax on growth
- Increase income tax due to lack of basis step-up
- Cause major tax issues when liabilities exceed basis

See formula in materials that applies to marketable securities





Marital Estate Trust (II.H.2.b.ii.)

Common law state:

- H creates a trust for W, with discretionary distributions to W in H's sole and absolute discretion
- On W's death, the trust passes to W's estate
- If H terminates the trust before W's death, the trust goes outright to W





Marital Estate Trust (II.H.2.b.ii.)

- The trust qualifies for marital deduction because cannot pass to anyone other than W
- Gift is completed because beneficiary is known with certainty
- Trust is includible in H's estate under Code § 2038 and in W's estate as probate asset





Marital Estate Trust (II.H.2.b.ii.)

- All assets should be held in manager-managed LLC(s) so that managed without probate delays
- Disadvantage – cannot make reverse-QTIP election (Code § 2652(a)(3)) if H dies first; 1st quarter 2025 webinar [QTIP Planning; Partnership Reporting Update; Deducting Losses](#)
- *Estate of Griffin v. Commissioner*, T.C. Memo. 2025-47 approved *testamentary* marital estate trust (irrelevant to today's discussion)





Community Property (II.H.2.b.i.)

- Each spouse owns $\frac{1}{2}$, but all assets receive new basis
- Caution – need to avoid fractional interest discount of *Propstra v. U.S.*, 680 F.2d 1248 (9th Cir. 1982) (15% discount; valuing separately was the issue – amount of discount was not challenged)
- Common law state – consider directed trust in community property state, with any real estate in LLC(s); allows reverse QTIP planning





Polling Question 8

Basis adjustment at first and second death:

1. Marital estate trust
2. Community property
3. Both of above
4. Only when using LLC



Code § 1014(e) Disallowance within One Year of Certain Transfers (II.H.2.I.)

No new basis if:

- (A) appreciated property was acquired by the decedent by gift during the 1-year period ending on the date of the decedent's death, and
- (B) such property is acquired from the decedent by (or passes from the decedent to) the donor of such property (or the spouse of such donor)





Code § 1014(e) Disallowance within One Year of Certain Transfers (II.H.2.I.)

- If and to extent donor receives only partial interest after relevant death, Code § 1014(e) disqualifies only that partial interest
- Try to avoid decedent having any beneficial interest if die within one year
- Valuing beneficial interest decedent receives (III.B.1.b, III.B.7.d)





Code § 1014(e) Disallowance within One Year of Certain Transfers (II.H.2.I.)

- Whether outright sale from surviving spouse to the almost-deceased spouse works depends on whether the treatment of a sale between spouses as transfer by gift under Code § 1014 applies for purposes of Code § 1014(e)(1)(A)
- But sale to inter vivos QTIP trust deemed owned by grantor, who is soon-to-be surviving spouse, can convincingly prevent Code § 1014(e) from applying
- Note that trust can remain grantor trust after first death; consider decedent's will waiving estate tax recovery





Irrevocable Inter Vivos QTIP Trust

(III.B.6.c)

Why sale to inter vivos QTIP trust deemed owned by soon-to-be surviving spouse works:

- If Code § 1014(e)(1)(A) looks to transfers for income tax purposes, then disregarded transaction rather than transfer by gift
- If Code § 1014(e)(1)(A) looks to transfers for state law purposes, then QTIP trust acquires by sale, not gift





Contingent GPA - Estate Tax Inclusion Period (ETIP) (III.B.1.d.ii.)

- When donor creates irrevocable trust, beneficiary granted general power of appointment if grantor does not allocate GST exemption to trust
- Is donor's ability to terminate that general power of appointment by allocating GST exemption a prohibited retained interest that causes estate tax inclusion (III.C or III.D)?





Contingent GPA - Estate Tax Inclusion Period (ETIP) (III.B.1.d.ii.)

- If causes inclusion, estate tax inclusion period (ETIP) rules complicate allocating GST exemption
- Without addressing ETIP issues, Letter Ruling 200804013 inherently ruled that contingent general power of appointment did not create estate inclusion issues for donor





Contingent GPA - Estate Tax Inclusion Period (ETIP) (III.B.1.d.ii.)

- Letter Rulings 202507005, 202531004, and 202531005 explicitly expressed no opinion whether donor's ability to terminate that general power caused ETIP issues
- Several prominent GST experts are upset by IRS' apparent change in position
- Some argue that mere ability to make tax election should not generate gift/estate tax consequences to person with that ability





Contingent GPA - Estate Tax Inclusion Period (ETIP) (III.B.1.d.ii.)

Solution:

- Don't include contingent general power
- Authorize trust protector to add general power
- Most decanting statutes expressly authorize adding general power, whether the distribution standard is merely HEMS or is absolute discretion





Formula General Power of Appointment

(II.H.2.k.)

- Formula provides basis step-up, not basis step-down
- [Basis Step-Up by Trust Modification; BDOT by Trust Distribution; Preferred Partnerships Preferred to Fees](#) (1st Quarter 2022)
- [State Fiduciary Income Tax \(Kaestner\); S Corp. Ownership; Basis Step-Up Strategies](#) (2nd Quarter 2019)
- [Leveraging to Attain Basis Step-Up; Income Tax Benefits of Losing an FLP Case](#) (2nd Quarter 2017)





Tax Basis Issues When Using Irrevocable Grantor Trusts (III.B.2.a.)

- Most estate planning lawyers believe that death of grantor of irrevocable grantor trust not generate a basis step-up
- Rev. Rul. 2023-2 clarifies that answer is no
- However, in *Belmont Investments, LLC v. Commissioner*, petition filed October 3, 2025, asserts basis step-up
- Top estate planning tax litigators are representing petitioner





Conclusion

- [Gorin's Business Succession Solutions](#) (quarterly updates to several thousand pages of materials plus chance to subscribe to Heckerling newsletter - sample [here](#))
- CPA Academy [webinar page](#), including:
 - Fiduciary Income Tax Refresher and Update 2026
 - How to Shift Income to Beneficiaries
 - Grantor Trusts
 - Pass-through Entities Held By Trusts
- Other [free Thompson Coburn LLP resources](#)