

Planning: It Is Never Just About Taxes

- Legacy Planning
- Estate Equalization
- Business Succession
- Charitable Planning
- Retirement Distribution Planning

Planning: It Is Never Just About Taxes

- Creditor Protection
- Changes in Health
- Changes in Family
- Beneficiary Control
- Special Needs

The Only Constant Is Change

There will always be change just around the corner, but there won't be a better time to plan for the future than right now.

Life Insurance

- Simple and Effective
- Risk management tool— No different than liability insurance or hazard insurance
- Liquidity Hedge
- Eliminates timing or liquidity risk— Funds are available when they're needed
- ONLY asset that offers maximum income tax advantages: tax-deferred growth, tax free access and tax free death benefit

Life Insurance

- “Bond Alternative” Death Benefit product
- The Tax-favored Cash Accumulation product
- Can be non-correlated to the stock market and the bond market — with little or no volatility risk.
- Enjoy bond-like risk with equity returns to life expectancy and beyond.
- IRR can be guaranteed (dependent only death) with a “zero coupon” mortality bond (unknown but highly predictable duration).
- The certainty and predictability of life insurance death benefit allows families to “up-allocate” to other (riskier) investments in other places of their portfolio.

Life Insurance vs. Self-Insuring

- Most clients would not ignore:
 - The income needs of a spouse and young children
 - The need to pay off debt so that a spouse and children can maintain their standard of living
 - The costs of college education for children (or grandchildren)
 - The needs of a special needs child or parent who is dependent on them for care
 - The need to preserve and protect a family homestead, treasured vacation home or land for future generations

Life Insurance vs. Self-Insuring

- Most clients would not ignore:
 - The costs associated with the loss of a key person, partner or business associate
 - The need to retain, recruit and reward talented employees and possible successors
 - The need to avoid a fire sale of a business, real estate or other illiquid assets
 - The need to properly effect a buy/sell or business succession plan
 - The desire to treat children fairly in the context of a family business or mixed family

Life Insurance vs. Self-Insuring

Why would anyone think it advisable to self-insure – or, worse, not insure – what they hold dearest:

The future well-being of their families, the business they built from the ground up or their charitable legacy

The Estate Plan: Health Care Planning

- Disability Planning
- Long Term Care Planning (LTC)
- Health Care Proxy
- Health Care Memorandum— Dying with Dignity
- HIPAA Authorization— Allows doctors to talk to health care agent and attorney in fact
- DNR
- Custody and Disposition of Body
- Medicaid Planning

The Estate Plan: Financial Planning

- Prenuptial Agreements (Parents, Children, First or Second Marriages)
- Postnuptial Agreements (Parents, Children, First or Second Marriages)
- Beneficiary Designations
- Proper Asset Titling
- Durable Power of Attorney

Legacy Planning

- Beneficiary Designations
- Proper Asset Titling
- Pour Over Will
- Revocable Trusts (Marital and Credit Shelter (Family) Trust Planning
- Irrevocable Trust Planning

The Modern Family

- Divorce
 - Support and Alimony Obligations
 - Keeping family wealth in the family line.
 - Protecting family wealth from divorces and other vagaries of life
- Remarriage
 - “Yours, Mine and Ours” situations with children
 - State Law considerations (e.g., Florida Homestead)
 - Spouse use of property (maintenance, capital improvements, waste)
 - Significantly Younger Spouse/Delayed Inheritance
- Whose interests are paramount
- Priorities

Irrevocable Trust Planning

- *Crummey* Annual Exclusions (\$18,000/\$36,000)
- Lifetime Exemption Gifts
- Spousal Access Provisions (SLATs)
- Special Needs Trust Planning
- Beneficiary Control
- Family Control of Assets

**IRREVOCABLE DOES NOT MEAN INFLEXIBLE!
IT'S ALL IN THE DRAFTING!**

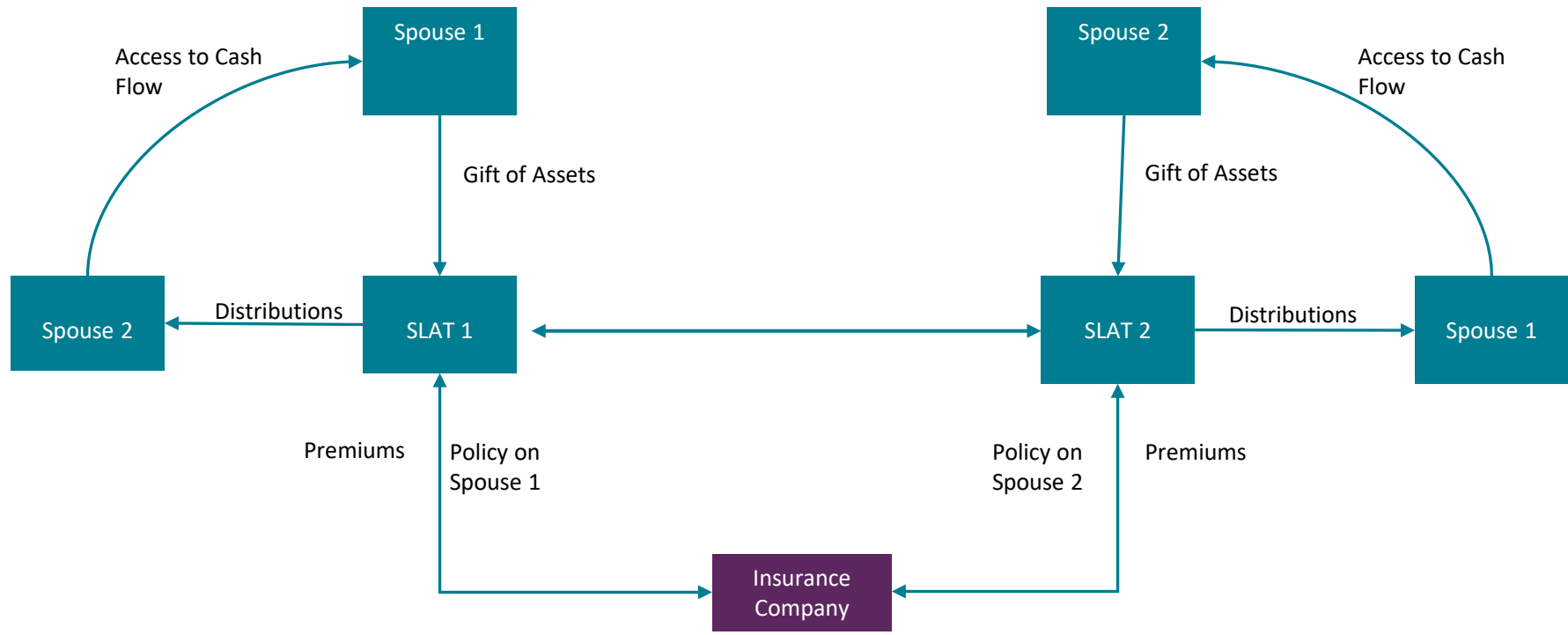
SLAT Planning

- Donor spouse creates irrevocable trust to hold life insurance
- Life insurance on the donor spouse
- Non-donor spouse is a beneficiary
- Non-donor spouse can be trustee if HEMS standard is used (health, education, support and maintenance)
- Non-donor spouse has access to death benefit on death of donor spouse
- Marital Unit has access to policy cash values during life via distributions to non-donor spouse
- Can hold other assets
- Each spouse uses their lifetime exemption
- Can receive Crummey gifts (gift splitting special rule allows 2X Crummey gifts even though non-donor spouse is a beneficiary)

SLAT Planning— Caveats

- Reciprocal Trust Doctrine
 - May need to have a community property agreement or move assets to “poorer” spouse
 - May need to let get old and cold
- Single Life Insurance
 - Hedge against premature death
 - Hedge for estate taxes
 - Spouse can be trustee with HEMS standard
 - Consider independent trustee with absolute discretion to pay income and principal
- Survivorship Life Insurance
 - Need Independent Trustee to avoid incidents of ownership
 - No limited power of appointment in spouse
 - Avoid spousal Crummey powers

SLAT Planning—



EACH SPOUSE CAN SET UP A SLAT FOR THE OTHER
Need to avoid reciprocal trust doctrine
(attorney will handle this issue)

Business Succession Planning

- What are the risks of no planning?
 - Future viability of the business
 - Future welfare of owner's family
 - Future retirement security

Business Succession Planning

Future Viability of the Company—Pressures from	Future Welfare of Owner's Family	Future Retirement Security	Proper Planning
Creditors	Income security for spouse	Has the owner created a really good job or a viable business?	Succession Plan <ul style="list-style-type: none"> • Family • One way • Existing Shareholders • Third Party
Franchisors	Income and career security for children	Liquidity to enjoy life <ul style="list-style-type: none"> • Monetize and extract value from the business 	Management Plan <ul style="list-style-type: none"> • Smooth Transition • 3 Rs
Competitors	Other extended family members	Peace of mind	Liquidity Plan
Customers		Pride	
Key Employees			
Partners			
Estate Taxes			

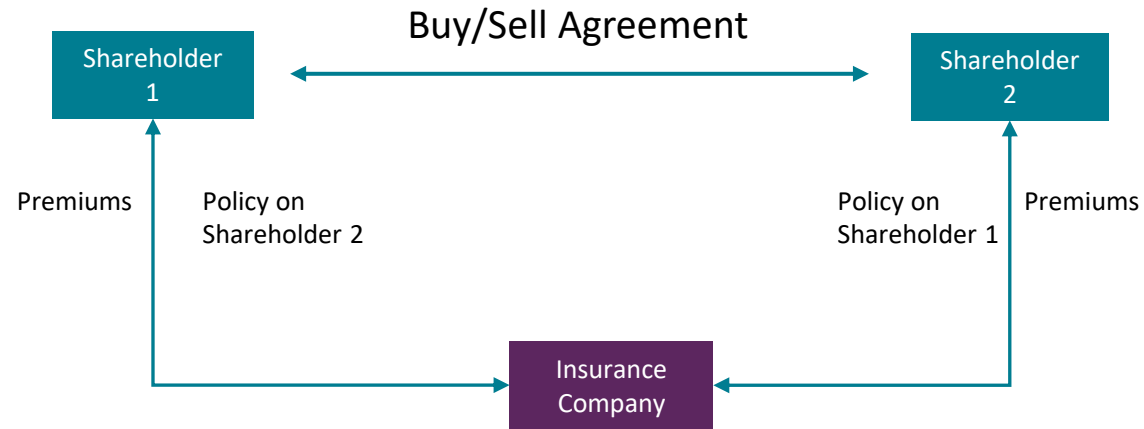
Buy/Selling Planning— Strategies

- Sale or Gift to Children (Leave it the Family)
 - Spouse
 - Sibling Rivalry
 - Fair vs. Equal
- One Way Buy-Sell (Key Person or Key Group)
 - Funding issues
 - “I am buying business from myself”
- Redemption Agreement
- Cross Purchase Agreement
- Wait-and-See Agreement
- Insurance LLC
- Cross Endorsement Buy/Sell Agreement (CEBS)

Connelly vs. U.S. (S.Ct. 2024)

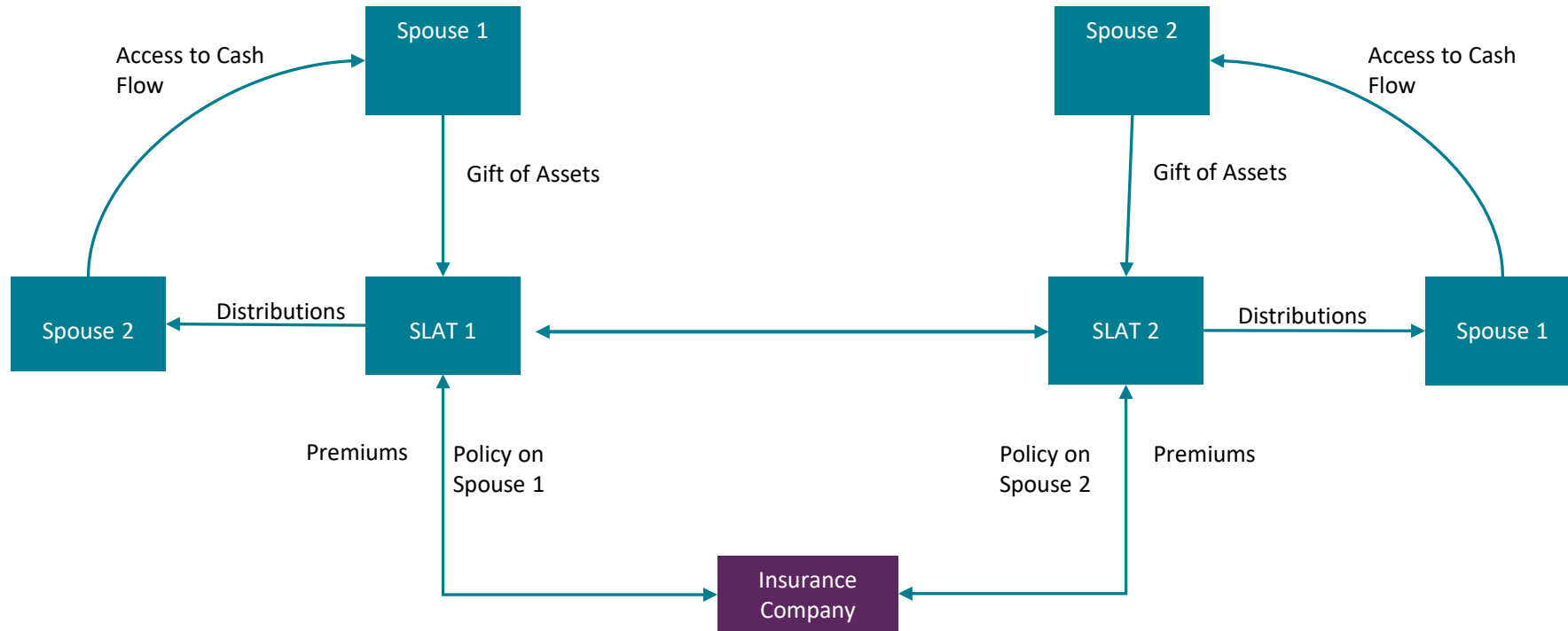
- Unanimous decision upholding the 8th Circuit Court of Appeal's opinion
- 8th Circuit had previously held life insurance proceeds includible in value of company for estate tax purposes
- No offset for redemption obligation
- Contrary to Estate of Blount v. Comm'r (2005), which held that life insurance proceeds used for redemption purposes are offset dollar-for-dollar by a legally enforceable contractual redemption obligation
- As a result of Connelly, a redemption agreement funded with life insurance owned by a closely held entity may no longer be a viable planning option

Cross Purchase Arrangement

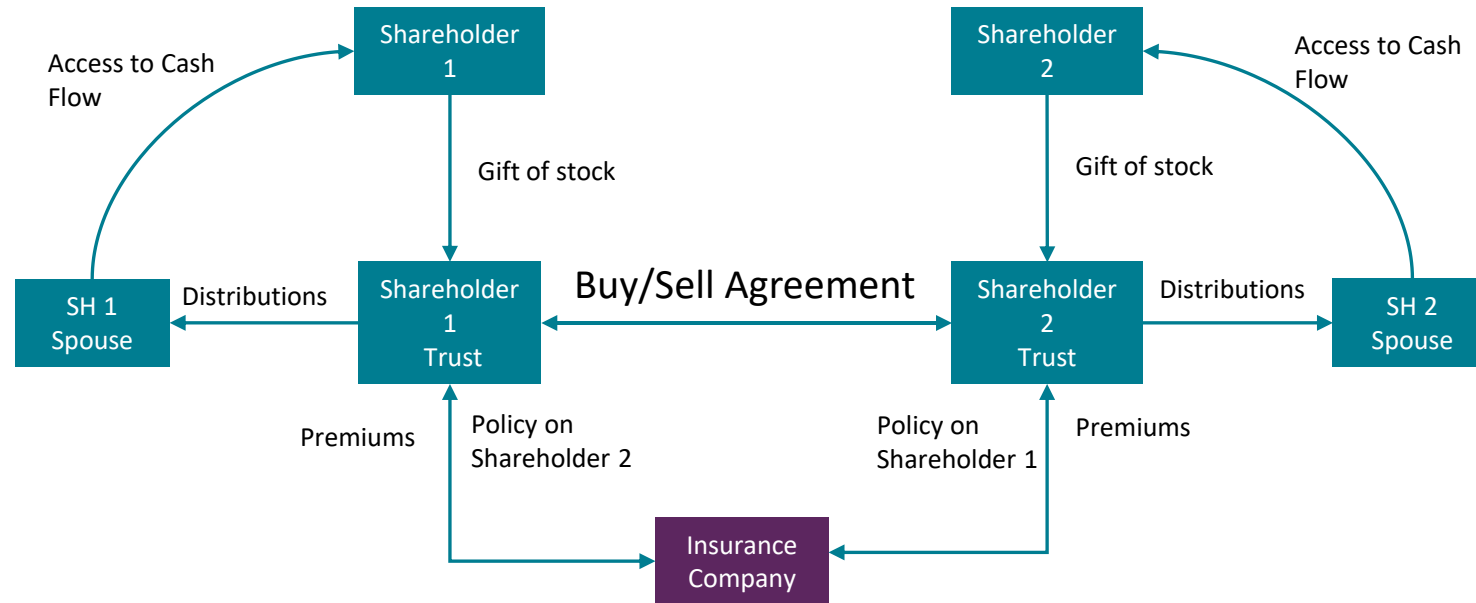


1. Simple to administer.
2. On first death, survivor uses life insurance proceeds to purchase deceased shareholder's stock.
3. If Company is sold, agreement is terminated. Shareholders exchange policies. **If policies are in a gain position, shareholders will pay ordinary income tax on gain. Use of insurance LLC may avoid income tax issue.**
4. Insurance policies are included in the shareholders' taxable estates.
5. No estate planning benefits.
6. Gift valuation issues to remove policy from estate.

Cross Purchase Arrangement— with SLATs

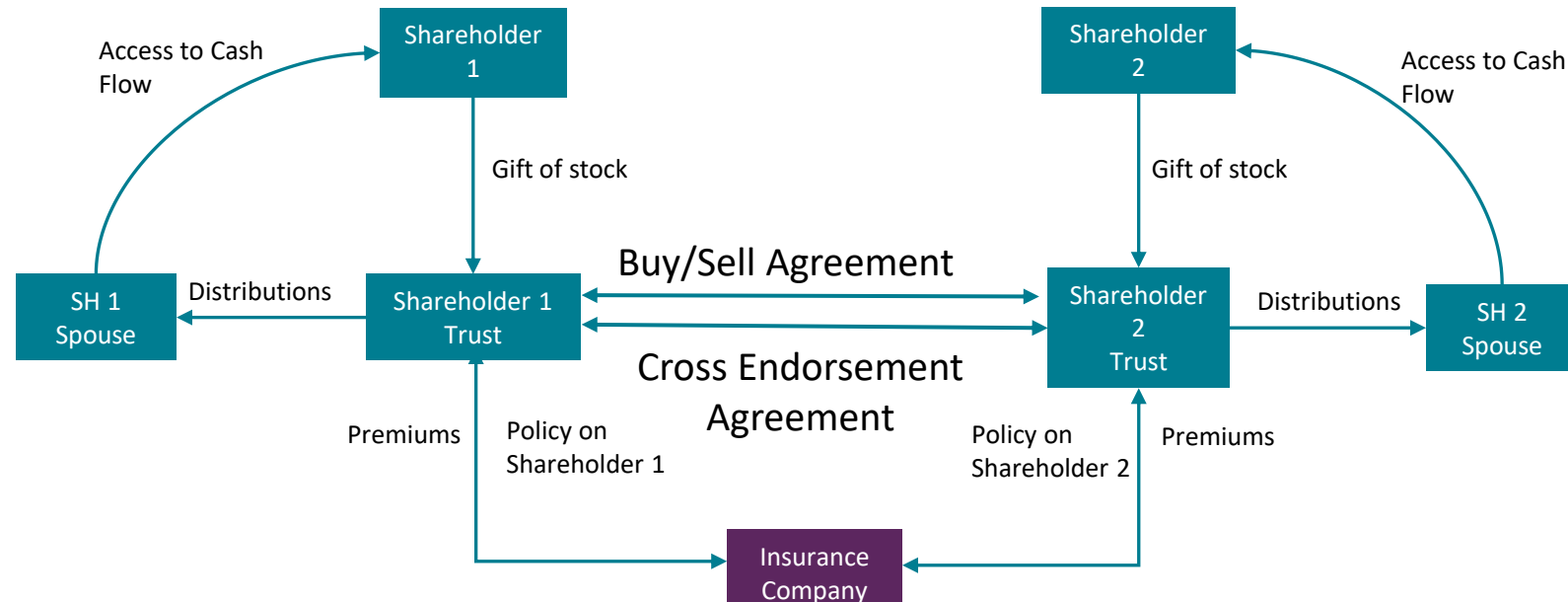


Cross Purchase Arrangement— between SLATs



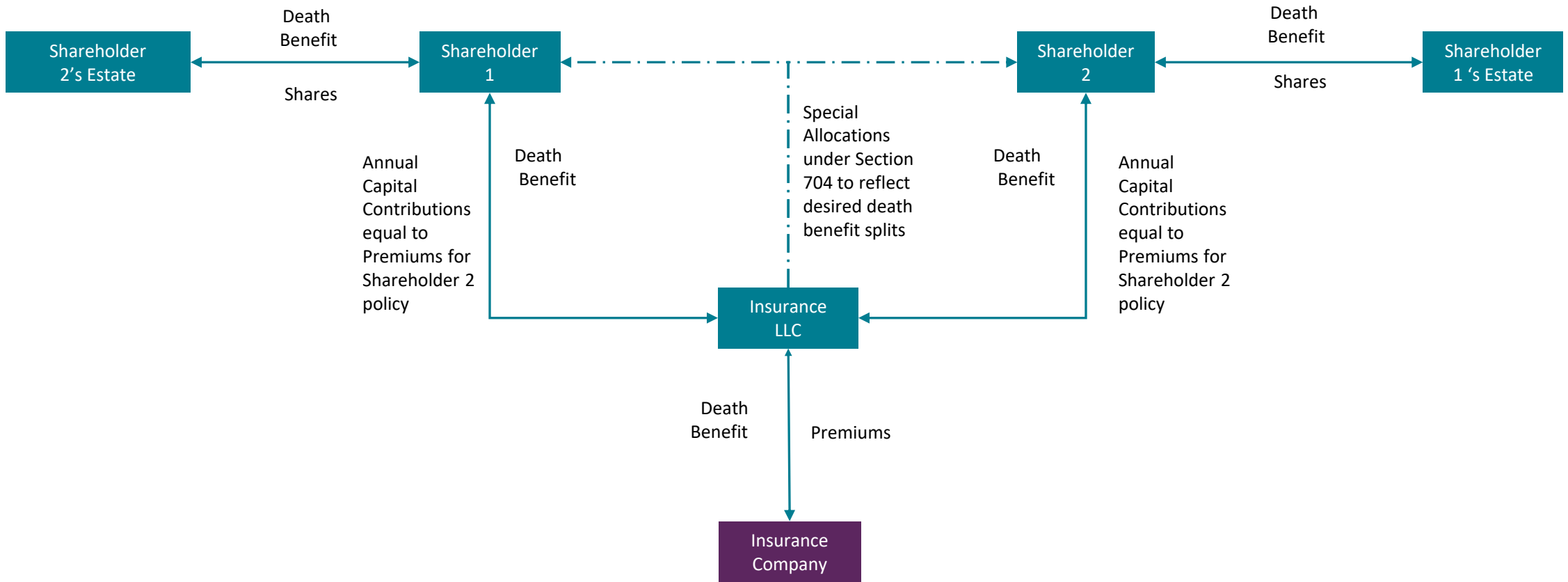
1. Each shareholder makes a gift of stock (voting and/or non-voting) to his respective trust for the benefit of his family.
2. Each shareholder trust purchases a policy on the other shareholder's life.
3. On the first death, the survivor's trust uses the life insurance proceeds to purchase the deceased shareholder's remaining stock and the stock in the deceased shareholder's trust. Note: if the Company has voting and non-voting stock, the surviving shareholder can purchase the deceased shareholder's voting stock to maintain control of the company.
4. Survivor's trust also purchases policy insuring survivor's life from the deceased shareholder's trust.
5. If the Company is sold, the buy-sell agreement is terminated. **If policies are in a gain position, shareholder's will pay ordinary income tax on gain. Use of insurance LLC may avoid income tax issue. Must be mindful of transfer for value issues. (Use partnership exception and/or grantor trusts.)**
6. Insurance policies are not included in shareholders' taxable estates.
7. Estate planning benefits from having trusts purchase shares.
8. Access to cash flow from trust shares if spouse is a beneficiary of shareholders' trusts.

Cross Purchase Arrangement— with CEBS



1. Each shareholder makes a gift of stock (voting and/or non-voting) to his respective trust for the benefit of his family.
2. Each trust purchases a policy on its grantor/shareholder's life.
3. The trusts enter into a cross endorsement agreement under which each trust "rents" the death benefit to the other trust. **Must be mindful of transfer for value issues. (Use partnership exception and/or grantor trusts.)**
4. Economic benefit costs are subject to ordinary income tax.
5. On the first death, the survivor's trust uses the "rented" life insurance proceeds to purchase the deceased shareholder's remaining stock and the stock in the deceased shareholder's trust. Note: if the Company has voting and non-voting stock, the surviving shareholder can purchase the deceased shareholder's voting stock to maintain control of the company.
6. If the Company is sold, both agreements are terminated. The policy death benefits remain with the respective trust.
7. Avoids income tax gain issues upon termination of agreements.
8. Insurance policies are not included in shareholders' taxable estates.
9. Estate planning benefits from having trusts purchase shares.
10. Access to cash flow from trust shares if spouse is a beneficiary of shareholders' trusts.

Insurance LLC Arrangement



Planning for Key Persons

- Key Person
- 162 Bonus
- REBA
- Split Dollar
 - Endorsement
 - Collateral Assignment
 - Switch Dollar
 - Loan Regime

What is a REBA?

GOLDEN HANDCUFFS

RE|BA

Restricted
Endorsement

Restrictions on Policy
Access

Bonus
Arrangement

Vesting of Cash
Bonuses

Questions & Answers

Thank you for your time!



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