Tax Strategy:

Private Annuity Funded Private Placement Life Insurance Policy

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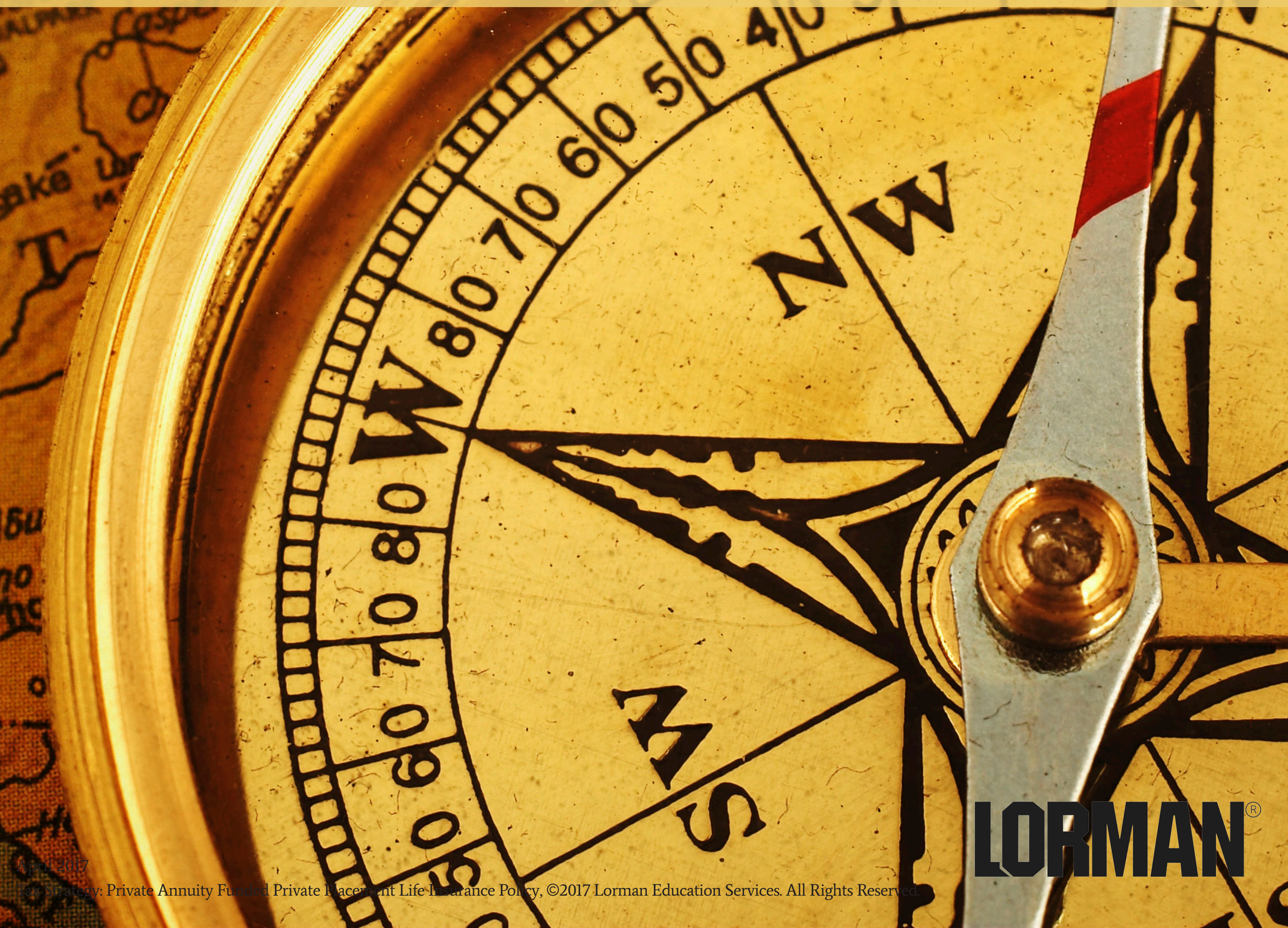

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The “mechanics” are as follows:

1) For clients with over $3m (investable) have them consider funding a PA (Nassau, governed under Puerto Rico law) for asset protection, investment diversity (including closely held companies) and confidentiality. The PA funds a non-mec PPLI over 5 separate years so then policy withdrawals are either tax-free (return of basis) or tax-free loan proceeds (i.e. earnings over basis are borrowed out and repaid from policy death benefit on a leveraged basis i.e. policy premiums which pay for the death benefit are on a leveraged basis)
2) Tax and other advantages include: under the PA, tax deferred compounded earnings (not subject to tax until withdrawn as annuity payments, the annuity policy is collapsed, or the annuity is used for a loan to the annuitant). Under the PPLI, tax-exempt earnings withdrawn as either basis recovery or received as a tax-free loan.
3) Under either the PA and/or PPLI no annual reporting for earnings to the IRS (which minimizes audit risk);
4) Under either the PA and/or PPLI no 3rd party creditor attachments (absent a fraudulent conveyance) since under the governing law (Puerto Rico) annuities and life insurance are exempt from creditor attachment.
5) Complete confidentiality (very important for asset protection) since in Nassau disclosure of financial information is a crime subject to jail.

In addition, the funds may be held in the US, in an account with a major company, under the direction and control of the designated investment advisor and invested accordingly (included selecting a Depository US bank, and Custodian).

For tax compliance purposes, a Puerto Rico annuity or life insurance policy is not considered a foreign jurisdiction for FBAR reporting (i.e. foreign accounts over $10k re: FinCEN Form 114). Since the annuity and life insurance policies are not owned by an individual (they are owned by a California Limited Liability Company, one-member disregarded entity, which is wholly owned by a California trust; CA has very favorable asset protection laws for Trusts and LLCs) there is no requirement to file Form 8938: FATCA annual filing (attached to Form 1040 Individual Tax Return) for annual disclosure of foreign financial assets over $50,000 (see IRS instructions to Form 8938 which confirms the filing is only due for an individual not a limited liability company or other entity).

For estate and gift tax savings:

1) If the California trust is irrevocable, the assets contributed up to $10.98m (2017) husband and wife are exempt from gift tax and if the trust has additional beneficiaries under the withdrawal provisions (known as “Crummey” withdrawal rights, under the federal case of the same name) each beneficiary listed will increase the withdrawal rights by $28k per done (“gift splitting” husband and wife”). So if there are 5 beneficiaries of the trust, an additional $140k per year may be contributed estate and gift

tax-free.

2) The estate and gift tax advantages of funding the trust (irrevocable) with the maximum $10.98m (2017) is that the future appreciation (after asset contribution) is excluded from 40% federal estate and gift tax upon death of trust settlors. For example, if $11.38m is contributed in 2017 (e.g. trust with 5 beneficiaries) and the trust is worth $21.38m at death the $10m in appreciation escapes 40% estate tax (i.e. a $4m estate tax savings.
3) In addition, estates over $10m have a nearly 100% audit tax rate. While gift tax returns have a 1.42% current audit tax rate for Form 709 Gift tax returns.

In the IRS 2012 Data Fact Book, reported during fiscal year 2012 (through 9/30/12), latest publicly available report, Estates between $5m and $10m audited nearly 60% rate, estates over $10m, 100% audit rate compared to Form 709 gift tax returns 1.42% audit rate i.e. of 223,090 tax returns filed, 3,164 audited).

The estate and gift tax planning are for the maximum allowable estate and gift tax free contribution of $10.98m (plus annual donee gifts). For assets over $10.98m they may be sold tax free to the trust under the grantor trust rules.

The trust is an intentionally defective grantor trust (i.e. the income is taxed to the Settlor/Grantor and does not require a separate annual Form 1041/541 Fiduciary Income Tax Return filing, rather than income may be reported on Schedule E attached to the Settlor’s Form 1040). The tax status as a grantor trust means there is a tax bifurcation: the income is annually reported and subject to income tax by the grantor. The assets in the trust are exempt from estate and gift tax on the grantor's death (saving a 40% estate and gift tax on the Settlors' death on the value in excess of $10.98m (2017).

Grantor trust status is secured by including prohibited administrative powers in the trust: unsecured loans, power to substitute assets). Any assets over $10.98m may be contributed by a sale i.e. assets are "sold to the trust" under a Promissory Note. Since the trust is a grantor trust, there is no capital gain tax (due to the Seller/Grantor) by the sale of assets to the trust. The "interest" paid to the grantor, for sale of the assets, from the trust is also not a taxable transaction and does not have to be reported to the IRS on the Grantor's Form 1040 annual income tax returns.