Estate Planning Fundamentals

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ESTATE AND TAX ATTORNEYS

I. THE IMPORTANCE OF ESTATE PLANNING

The ultimate goal of estate planning is to provide for the management and transfer of your property in the event of your death or incapacity, at the smallest financial and emotional cost to your family. A properly structured estate plan allows you to choose your beneficiaries, provide for the management of your assets and eliminate or reduce taxes. Without careful planning, your property may pass to unintended beneficiaries, may be reduced in value by unnecessary taxes or unsound investments, may lack adequate investment oversight, or may be unavailable to you and your family in the event of your illness and incapacity. All of these potential problems may cause financial and emotional insecurity during your lifetime or after death.

II. PROVIDING FOR THE MANAGEMENT OF YOUR PROPERTY IN THE EVENT OF ILLNESS OR INCAPACITY

A. Revocable Trust.

If you desire assistance in managing your assets, wish to avoid probate or are concerned with the management of your financial affairs in the event of your illness or incapacity, you should consider transferring your assets to a "Revocable Trust". A Revocable Trust is a flexible arrangement in which you transfer assets to yourself, another individual or a trust company, as "trustee." The trustee invests, manages and disposes of the assets for your benefit and, after your death, for the benefit of the beneficiaries you designate in the written trust agreement. You can retain complete control of your investments (by acting as your own trustee), completely delegate financial management to a family member, trusted friend or a professional trustee, or act jointly with any one of these. You can also change the trust agreement or terminate the trust at any time.

A Revocable Trust also provides an asset management team selected by you to handle your affairs in the event of your illness or incapacity. This can avoid the expense and delay of obtaining a court-appointed guardian to manage your assets. Furthermore, since the trust assets will not be subject to the probate process upon your death, your family will continue to be provided for without interruption during a time of great stress. See attached Exhibit A, Exhibit B, and Exhibit C with flowchart illustrations of Revocable Trust estate plans.

B. Durable Powers of Attorney.

In certain cases, you may adequately provide for asset management in the event of temporary illness or incapacity through the use of a Durable Power of Attorney. This document enables a designated individual to manage your assets and/or make health care decisions for you in the event you are no longer capable of doing so.

III. PROVIDING FOR THE TRANSFER OF YOUR PROPERTY AT DEATH

At your death, your property will be transferred in one of two ways. Certain assets, sometimes referred to as non-probate assets, will be distributed without reference to your Last Will and Testament and without supervision by the probate court. Non- probate assets include:

1. Assets owned jointly with right of survivorship which will pass to the surviving joint owner.

2. Assets held in trusts (like the Revocable Trust) which will pass according to the trust agreement.

3. Life insurance or annuity proceeds which will be paid to the beneficiaries you designate in the policy or beneficiary form.

4. Pension, profit-sharing, deferred compensation or other corporate death benefits, and individual retirement accounts, which will be paid to the beneficiaries you designate in the beneficiary form.

Your other assets will be distributed under the supervision of the probate court in accordance with your Last Will and Testament, or if you do not have a Will, as provided by Florida law.

IV. ESTATE TAXATION

The federal government imposes an estate tax on transfers at death based on the fair market value of your property at the time of your death. The property subject to taxation at death includes such assets as real estate, cash, securities, partnership interests, personal and group life insurance, individual retirement accounts, pension and profit- sharing plans, deferred compensation and stock options. The estate planning process focuses largely on reducing or eliminating these taxes. This may be accomplished by taking maximum advantage of deductions and credits which include: (1) the "estate tax exclusion amount" which exempts a specified amount of your estate from tax, and (2) the "unlimited marital deduction" available to U.S. citizens, which permits married couples to defer the tax until the survivor's death.

V. TAX PLANNING FOR MARRIED COUPLES

A. The Benefit of a Tax Efficient Estate Plan.

If you leave all your assets to your spouse either outright or in a qualifying "marital trust," the marital deduction may permit all federal estate tax to be postponed until your spouse's death assuming the surviving spouse is a U.S. Citizen. Any assets remaining at your spouse's death will be taxed as part of his or her estate, however, since the marital deduction defers rather than eliminates the federal tax.

Under the Tax Cuts and Jobs Act ("the Act") of 2017, the estate tax basic exclusion amount and generation-skipping transfer ("GST") tax exemption were significantly increased. The exemptions currently stand at $12,920,000 per individual for 2023. Provided certain conditions are met, the deceased spouse's unused estate tax exclusion amount may be combined with the surviving spouse's estate tax basic exclusion amount.

Therefore, if the combined estates of you and your spouse exceed the amount exempt from estate tax, the use of a simple estate plan leaving everything to your spouse may cause unnecessary taxes to be paid, reducing the eventual inheritance of your children. Those taxes can be minimized or possibly eliminated completely by using an estate plan that takes advantage of both of your estate tax exclusion amounts. This is accomplished at the first spouse's death by leaving the amount exempt from estate tax in an "estate tax- sheltered trust" for the surviving spouse.

B. Designing the Estate Tax-Sheltered Trust.

The estate tax-sheltered trust can be designed with a great deal of flexibility. Your spouse can be given the entire net income of the trust and any principal needed to support his or her lifestyle, as well as a right to withdraw 5 percent of the trust principal every year without regard to need. Your spouse also may be given limited rights to determine who will receive the trust funds at his or her death.

Depending on the terms of the trust, it is possible for your spouse to be the sole trustee. Otherwise, a co-trustee can be named in your Revocable Trust or selected by your spouse after your death to assist with the management of the trust funds. Your family can also be given the right to replace the co-trustee at any time. In addition, the co-trustee may be permitted to pay any income not needed by your spouse directly to or for the benefit of your children or grandchildren.

C. Disclaimer Trust to Preserve Options.

If at the time you sign your estate planning documents, you are uncertain whether the potential tax savings will justify the creation of an estate tax-sheltered trust, or if you would prefer to let your spouse make that decision after your death, complete flexibility can be accomplished through the use of a

"Disclaimer Trust." This is a trust created by your Will or Revocable Trust similar to an estate tax-sheltered trust. However, you do not direct that any part of your estate be placed in this trust. Instead, you leave your entire estate to your spouse, but allow your spouse to decide whether a portion of your estate should be added to the Disclaimer Trust. This voluntary decision to put property into the Disclaimer Trust can be made within nine (9) months of your death.

D. Is there a Need for a Marital Trust?

In order to postpone all U.S. estate tax until your spouse's death, the balance of your estate in excess of the amount exempt from estate tax (the "marital share") must be left either outright to your spouse or in a qualifying marital trust. Although there is no federal estate tax reason to leave the marital share in trust, you may prefer a trust (1) to assist your spouse with the management of the trust assets, (2) to make certain that the property passes to your children at your spouse's death, or (3) provide some wealth protection of the trust assets. The latter reason may be particularly important if you have children by a prior marriage. If the marital share is left in trust, your spouse must receive all the net income, and may have access to as much principal as you specify.

E. Estate Equalization – "Portability".

If your assets exceed the estate tax exclusion amount, but your spouse's assets do not, and your spouse predeceases you, under the new tax law enacted in January 2013, a surviving spouse may be permitted to also utilize the deceased spouse's unused basic exclusion amount, but only if an election was made on a timely filed estate tax return for the deceased spouse and only if the surviving spouse does not remarry. Even if a surviving spouse successfully ports the deceased spouse's unused basic exclusion amount, the GST tax exemption of a deceased spouse cannot be used by the survivor. Because of the restrictive nature of these rules, you may wish to transfer some of your assets into your spouse's name or purchase future investments in his or her name, so that each of your estates equals or exceeds the estate tax exclusion amount and GST tax exemption.

F. Irrevocable Life Insurance Trust ("ILIT")

In determining your estate net worth for estate tax planning purposes, you must include the value of any life insurance policies on your own life. These values oftentimes lead an otherwise non-taxable estate to become taxable. This problem can be avoided through the use of an irrevocable life insurance trust. If structured properly, the life insurance trust will be the owner of the life insurance policy, thereby removing the proceeds from your taxable estate and exempting it from estate tax. See Exhibit D for a flowchart illustration of an Irrevocable Life Insurance Trust.

VI. PLANNING FOR YOUR CHILDREN'S INHERITANCE

If you leave property to your children or grandchildren, and do not arrange for the property to be held in a trust or by a custodian under the Florida Uniform Transfers to Minors Act, each child who has attained age eighteen will be entitled to receive his or her inheritance outright. If the child is under eighteen, a guardian will be appointed to manage the child's property until that time. The guardian will be entitled to reasonable compensation and will be required to account to the court at least annually for approval of his or her actions.

To avoid the necessity and cost of a court-appointed guardian, you should provide for the child's inheritance to be held in trust. A trust will ensure that your child will not receive a substantial inheritance outright at an early age when he or she may not be ready to manage the funds or spend them wisely. A trustee can be named to manage the trust funds and distribute them to the child as needed, until the child reaches the age selected by you for outright receipt of his or her inheritance.

VII. GENERATION-SKIPPING TAX PLANNING

If you leave your estate to your children, it could be subject to estate tax at your death and, to the extent it is not consumed during their lifetime, to a possible second estate tax at their deaths. Many people have tried to avoid this second estate tax by leaving all or a portion of their estates directly to their grandchildren or in trust for the lifetime of their children. Unfortunately, such transfers may be subject to an additional generation-skipping transfer (GST) tax. For instance, if you leave your entire estate directly to your grandchildren, it may be subject to both estate tax and generation- skipping transfer tax at your death. These tax rates are basically the same as the estate tax rates. However, there are important credits to take advantage of in this planning. Careful planning can minimize the burden of this "additional taxation" as well as provide enhanced protection for your beneficiaries. If the GST exemption is allocated to create a fully GST exempt trust, no distributions (including final distributions) from that trust will be subject to the generation-skipping transfer tax.

VIII. LIFETIME GIFTS

If there is a possibility that your estate will be subject to federal estate tax even after you adopt an estate plan that takes full advantage of the available credits and deductions, the tax may be substantially reduced through lifetime giving. The most attractive gifts are assets that have a low current value, but are likely to appreciate in value or generate substantial income during your lifetime. A gift of such assets will avoid estate tax on both the appreciation in value and future income.

Lifetime gifts are subject to a federal "gift tax" which is imposed at the same basic tax rate as the estate tax. However, you are currently entitled to give up to $17,000 annually to as many persons as you like without paying gift tax or having to file a gift tax return. If you are married, you can double the amount but you need to file a gift tax return. A program designed to take advantage of this "annual exclusion" from gift tax can be very effective. For instance, if you are married and have two children and four grandchildren, you and your spouse together can give $34,000 annually to each of the six family members, or a total of $204,000 annually. Even if your gifts exceed the available annual exclusions, no tax must be paid until your cumulative lifetime gifts exceed your lifetime gift tax credit (currently $12,920,000 or $25,840,000 for a married couple). Such gifts will, however, reduce the amount that can be transferred tax-free at your death since they will use up the estate tax credit that would otherwise be available to your estate.

IX. SELECTION OF PERSONAL REPRESENTATIVES, TRUSTEES AND GUARDIANS

While the need for a professional personal representative (the Florida term for "executor") or trustee will depend in large part on the complexity of your personal and financial circumstances, it is important to realize that the benefits of a well-structured estate plan can easily be jeopardized unless your personal representatives and trustees not only have good judgment in nonfinancial and family matters, but also have the training and experience to make complex economic and tax decisions. Your personal representative collects and invests your assets during the period that your estate is being administered, makes distributions to your family as needed, files the required tax returns, and makes the appropriate tax elections and decisions. Since there are many options available to reduce taxes, the period during which the estate is being administered provides a unique opportunity to achieve substantial tax savings for the estate and its beneficiaries. The personal representative should either have the professional expertise to make the right decisions, or the wisdom to retain and follow the advice of a tax attorney who specializes in estate administration.

The personal representative should also have access to the investment expertise needed to take your place as the "manager" of the family's resources during the period that the estate is in administration.

The trustee takes over from your personal representative after your estate is settled. The trustee's job is to manage any portion of your estate left in trust. This includes investment of the trust assets to meet the family's needs and objectives, as well as financial and tax planning.

If you have minor children, your Will should name guardians for your children in case both you and your spouse die while your children are minors. While the trustee will manage your children's inheritance and provide funds for their expenses, it will be the guardians who fulfill your role as parents and make personal decisions concerning the development and welfare of your children. Often it is advisable to separate these two roles.

X. EMPLOYEE BENEFITS AS PART OF YOUR ESTATE PLAN

Your employee benefits will be paid at your death to the beneficiaries specified by the plan or named by you. In light of recent changes in the tax laws, it is very important to coordinate payment of these benefits with your overall estate plan. In certain cases, these benefits should go to the surviving spouse directly. In other cases, it may be preferable to direct that these benefits be paid to your estate, where they can be used to fund an estate tax-sheltered trust. With proper planning, it is even possible to keep both of these options open.

XI. CHARITABLE GIFTS

If you make substantial gifts to charity each year or intend to do so at your death, you may be interested in establishing a charitable trust, private foundation or other vehicle for charitable giving. Such a step can increase or accelerate the income and estate tax deductions available to you.

JOHN DOE
Revocable Trust – Single Person Plan
2023

EXHIBIT A

JOHN'S WILL

Transfers balance of John's assets to Revocable Trust at his death

JOHN'S REVOCABLE TRUST

Trustees

Initial: John
Successors: Janie, then Jeffrey

Tangible personal property is distributed via separate writing; otherwise, in equal shares to Janie and Johnnie (collectively "John's children").

Less Estate Tax due on portion of estate that exceeds remaining **estate tax basic exclusion amount** (see definition below[*]) not used during lifetime

All remaining assets distributed equally to the separate Trusts for Descendants for John's children (or that child's descendants if a child is not then living)

The share of each beneficiary's separate trust covered by John's remaining **GST tax exemption** (currently $12,920,000[*]) is added to that beneficiary's GST Exempt share
and the balance, if any, is added to that beneficiary's GST Nonexempt share

TRUSTS FOR DESCENDANTS (GST Nonexempt)

–GST nonexempt portion subject to estate tax and a general power to appoint any nonexempt share to the creditors of the beneficiary's estate at each beneficiary's death; otherwise identical terms as the GST exempt portion.

TRUSTS FOR DESCENDANTS (GST Exempt)

–GST exempt portion not subject to estate tax at each beneficiary's death.
–Each of John's children serves as sole trustee of his or her own trusts. When a grandchild or more remote descendant attains age 35, he or she may serve as co-trustee of his or her own trusts, together with the trustee then serving. When such descendant attains age 40, he or she may serve as sole trustee of his or her trusts and remove and appoint an independent trustee or co-trustee, if desirable.
–Income and principal from each beneficiary's share may be distributed to the beneficiary in the trustees' discretion for the beneficiary's health, education, support and maintenance.
–Each beneficiary may appoint the trust assets remaining in his or her separate trusts at his or her death among John's other descendants. To the extent the remaining assets are not appointed by a beneficiary (or if a child does not survive John), his or her trust is divided into shares for his or her children, or if none, then for John's other descendants, and held in further trust for multiple generations under the terms of this trust.
–If none of John's descendants are living, the remaining assets are distributed to John's intestate heirs.

[*]The **estate tax basic exclusion amount** and the **GST tax exemption** are indexed annually for inflation. For calendar year 2023, these amounts are set at $12,920,000 each.

estate tax free
subject to estate tax

EXHIBIT B

JOHN DOE and JANE DOE
Revocable Trust – 2 Trust Plan
2023

Presumes John predeceases Jane
(Plan would be substantially reciprocal if Jane predeceases John)

JOHN'S REVOCABLE TRUST

For tax purposes, property should be divided during lifetime so that neither trust has assets in excess of combined estate tax basic exclusion amount and GST Tax exemption amount* without the other having at least that amount of assets

JANE'S REVOCABLE TRUST

JOINT PROPERTY

AT FIRST DEATH (John):

Passes to surviving spouse by operation of law

NO ESTATE TAX

John's remaining estate tax basic exclusion amount* less any exclusion amount used during lifetime

Amount in excess of John's remaining basic exclusion amount

CREDIT SHELTER TRUST

–Trustee is Jane. If Jane fails or ceases to serve, Jane's brother Jeffrey, then ABC Bank, in that order, will serve as successor trustees. If they all fail or cease to serve, then a corporate trustee will be appointed.
–Trust continues for the benefit of Jane and your children with distributions of income or principal during Jane's lifetime in the trustees' discretion for health, education, support and maintenance, taking into consideration Jane's primary needs. If an independent trustee is serving, distributions may be made to Jane and your children for any reason in the independent trustee's sole and absolute discretion. Distributions to your children must be made equally (e.g., if a distribution were made to a child, equal distributions must be made to your other two children).
–Upon Jane's death, subject to her special power to appoint assets among your descendants, the GST exempt share continues for your descendants for multiple generations under the terms of the Trusts for Descendants.

MARITAL TRUST**

–Trustee is Jane. If Jane fails or ceases to serve, Jane's brother Jeffrey, then ABC Bank, in that order, will serve as successor trustees. If they all fail or cease to serve, then a corporate trustee will be appointed.
–Trust continues for Jane's lifetime with mandatory distributions of income and principal in the trustees' discretion for Jane's health, education, support, and maintenance. If an independent trustee is serving, distributions may be made to Jane for any reason in the independent trustee's sole and absolute discretion.
–Upon Jane's death, subject to her special power to appoint assets among your descendants, the remaining trust assets are added to and distributed in accordance with the terms of the Credit Shelter Trust.

** A Marital Trust will be created only on the death of the first spouse. The value of the Marital Trust will be included in the gross estate of the surviving spouse at their death.

AT SECOND DEATH (Jane):

Tax on the value of assets in excess of estate tax applicable exclusion amount***; remainder held for descendants under Trusts for Descendants

Portion covered by both spouses' remaining GST exemptions*
added to GST Exempt share
and balance added to GST Nonexempt share

TRUSTS FOR DESCENDANTS (GST NON-EXEMPT)

–GST nonexempt portion subject to estate tax and a general power to appoint any nonexempt share to the creditors of the beneficiary's estate at each beneficiary's death; otherwise identical terms as the GST exempt portion.

TRUSTS FOR DESCENDANTS (GST EXEMPT)

–GST exempt portion not subject to estate tax at each beneficiary's death.
–Divided into equal shares for your children, with a deceased child's share further divided among his or her descendants.
–Trustee is Jane's brother Jeffrey. If Jeffrey fails or ceases to serve, ABC Bank will serve as successor trustee. If they both fail or cease to serve, then an independent trustee will be appointed. When a descendant attains age 35, he or she may serve as co-trustee of his or her own trusts, together with the then serving trustee. When a descendant attains age 40, he or she may serve as sole trustee of his or her trusts and remove and appoint an independent trustee or co-trustee, if desirable.
–Income and principal from each beneficiary's share may be distributed to such beneficiary in the trustees' discretion for the beneficiary's health, education, support and maintenance. If an independent trustee is serving, distributions may be made to such beneficiary for any reason in the independent trustee's sole and absolute discretion.
–Upon a beneficiary's death, subject to his or her special power to appoint assets among your other descendants, his or her trust is divided into shares for his or her descendants for multiple generations under the terms of this trust. If none of your descendants are living, the remaining trust assets are distributed in equal shares to John's siblings and Jane's siblings.

Estate Tax-Free (green)
Estate Taxable (red)

*The estate tax basic exclusion amount and the GST tax exemption are indexed annually for inflation. For calendar year 2023, these amounts are set at $12,920,000 each.
*** Provided certain conditions are satisfied, the surviving spouse's "estate tax applicable exclusion amount" is the sum of his or her basic exclusion amount, plus any unused portion of the first spouse's basic exclusion amount.

JOHN DOE and JANE DOE
Joint Revocable Trust
2023

EXHIBIT C

Presumes John predeceases Jane
(Plan would be reciprocal if Jane predeceased John)

JOHN'S WILL

Adds John's assets not titled in trust during lifetime to trust at death via probate process

DOE JOINT REVOCABLE TRUST

–Trust to own individual and joint property of John and Jane.
–John and Jane are co-trustees, together jointly or the survivor alone. If John and Jane cannot serve, Jane's brother Jeffrey will serve as successor sole Trustee. If Jeffrey fails or ceases to serve, then an independent trustee will serve as alternate successor trustee.
–John and Jane will receive income and principal during their lives as they direct; if incapacitated, the trustees will support them from the trust assets and may make gifts to their descendants for estate planning purposes.
–John and Jane may withdraw property from the trust, amend or revoke the trust, remove a trustee or appoint an additional trustee.

JOINT PROPERTY
(not titled in trust)
passes to surviving spouse
by operation of law.

NO ESTATE TAX at first spouse's death

AT FIRST DEATH
(John):

John's tangible personal property via John's separate writing, otherwise to Jane, otherwise, equally to your children.

–Trust continues for Jane (as described above) after payment of John's debts and expenses.
–Jane is the sole trustee. If Jane cannot serve, Jeffrey will serve as successor sole Trustee. If Jeffrey fails or ceases to serve, then an independent trustee will serve as alternate successor trustee.
–Jane may withdraw any property from the trust, amend or revoke the trust, remove a trustee, or appoint an additional trustee.
–Upon Jane's death, after payment of Jane's debts, expenses, and taxes (if any), and provided Jane has not amended or revoked the trust, the remaining trust estate continues in trust for their children for multiple generations under the terms of the Trusts for Descendants.

JANE'S WILL

AT SECOND DEATH
(Jane):

LESS ESTATE TAX to the extent the value of all remaining assets of both spouses exceeds the Estate Tax Applicable Exclusion amount of the surviving spouse (currently $12,920,000*)

Adds Jane's remaining assets, not titled in trust during Jane's lifetime, to the trust at her death via probate process, to be distributed under the terms of the trust.

Jane's tangible personal property via Jane's separate writing, otherwise, equally to your children.

*The estate tax basic exclusion amount and the GST exemption amount are indexed annually for inflation. For calendar year 2023, these amounts are set at $12,920,000 each. Provided certain conditions are satisfied, the surviving spouse's "estate tax applicable exclusion amount" is the sum of her $12,920,000 basic exclusion amount, plus any unused portion of the first spouse's $12,920,000 basic exclusion amount; however, this portability is not available for the GST exemption.

Portion covered by surviving spouse's remaining GST exemption (currently $12,920,000*) added to GST Exempt share and balance, if any, added to GST Nonexempt share

TRUSTS FOR DESCENDANTS (GST Nonexempt)

–GST nonexempt portion, if any, will be subject to estate tax and a general power to appoint any nonexempt share to the creditors of the beneficiary's estate at each beneficiary's death; otherwise identical terms as the GST exempt portion.

TRUSTS FOR DESCENDANTS (GST Exempt)

–GST exempt portion will not be subject to estate tax at each beneficiary's death.
–Trust will be divided into equal shares and will continue for your daughter Janie and your son Johnnie, if they are living, or if they are not then living, then their respective trusts will be divided into equal shares for each of their descendants, per stirpes.
–Janie will immediately serve as sole trustee of her trusts, and Jane's brother Jeffrey will serve as sole trustee of Johnnie's trusts. Johnnie will serve together jointly with Jeffrey as co-trustee of his trusts at age 35 and may become sole trustee of his trusts at age 40. Your grandchildren and future descendants will serve together jointly with the then-serving trustee as a co-trustee of his or her own trusts at age 35 and may become sole trustee at age 40.
–Income or principal from each beneficiary's share may be distributed to or for such beneficiary during their lifetime in the trustees' discretion for the beneficiary's health, education, support and maintenance.
–Upon a beneficiary's death, subject to their limited power to appoint assets among your descendants, their respective trusts are divided into shares for their descendants, or if none, for your other descendants, and held in further trust for multiple generations under the terms of this trust.
–If none of your descendants are living, the remaining trust estate will be distributed one-half to John's intestate heirs and one-half to Jane's intestate heirs.

JOHN DOE
Irrevocable Life Insurance Trust
2023

EXHIBIT D

DURING JOHN'S LIFETIME:

Lifetime gift(s) of cash to the trust for premiums on life insurance policies (funding techniques will be discussed)

JOHN DOE IRREVOCABLE LIFE INSURANCE TRUST

–Designed to hold insurance on John's life.
–John's sister, Jane, is the sole trustee. If Jane is unable to serve, John's brother, Jeffrey, then ABC Bank, in that order, will serve as successor trustees. If they all fail or cease to serve, then a corporate trustee will be appointed.
–Trustees may distribute income or principal in the trustees' discretion for the health, education, support and maintenance of John's descendants.
–Upon John's death, the remaining trust assets will be held under the Trusts for Descendants for John's children (discussed below).
–The assets of this trust will not be subject to estate tax at John's death if funded and administered properly during John's lifetime and John survives the transfer of any existing life insurance policies to the trust by at least three (3) years.

AFTER JOHN'S DEATH:

Portion covered by GST exemption allocated at the time of the lifetime gift is added to GST Exempt share and balance, if any, is added to GST Nonexempt share

TRUSTS FOR DESCENDANTS (GST Nonexempt)

–GST nonexempt portion, if any, will be subject to estate tax and a general power to appoint any nonexempt share to the creditors of the beneficiary's estate at each beneficiary's death; otherwise identical terms as the GST exempt portion.

TRUSTS FOR DESCENDANTS (GST Exempt)

–GST exempt portion will not be subject to estate tax at each beneficiary's death.
–Divided into equal shares for John's children, with a deceased child's share further divided among his or her descendants.
–Jane is the sole trustee. If Jane is unable to serve, Jeffrey, then ABC Bank, in that order, will serve as successor trustees, If they all fail or cease to serve, then a corporate trustee will be appointed.
–When a descendant attains age 35, he or she may serve as co-trustee of his or her own trusts, together with the trustee then serving. When such a descendant attains age 40, he or she may serve as sole trustee of his or her trusts and remove and appoint an independent trustee or co-trustee, if desirable.
–Income or principal from each beneficiary's share may be distributed to or for such beneficiary during their lifetime in the trustees' discretion for the beneficiary's health, education, support and maintenance.
–Upon a beneficiary's death, subject to their limited power to appoint assets among John's descendants, their respective trusts will be divided into equal shares for their descendants, per stirpes, or if none, for John's other descendants, and held in further trust for multiple generations under the terms of this trust. If none of John's descendants are living, the remaining trust estate will be distributed to John's intestate heirs.

Estate Taxable   Estate Tax-Free