NAPIER'S NOTES

All It Takes is a Couple of Minutes

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TO CPT OR NOT TO CPT

-THAT IS THE QUESTION-

Florida has enacted a law of great significance. This new law will allow a married couple to own appreciated assets in a special trust, called a Florida Community Property Trust, or CPT. After the death of the first spouse, all unrealized capital gains in the trust's portfolio are eliminated. Many couples are considering using this new tax-saving tool. Here's a lighthearted fictional discussion of the pros and cons of a CPT.

Flush with cash from his success as a playwright, William Shakespeare impulsively bought a bauble for his beloved wife: a condo in Florida. They both became citizens of the U.S. domiciled in Florida.

The Bard was no financial rube, though. He'd heard about the Florida Community Property Trust law, and he was intrigued.

Still, puzzling over the literature on the CPT, Shakespeare grew confused. Thinking himself alone on his beachfront balcony, he lamented loudly, "To CPT, or not to CPT, that is the question."

Sitting on his balcony nearby, Blaise Pascal, his neighbor, the brilliant 17th century French philosopher and mathematician, overheard the Bard.

Pascal paused his philosophical ponderings. "Will," he volunteered, "did I just overhear you musing about a CPT?"

Will sheepishly admitted he was talking to himself. "Yes, my confusion is as boundless as the sea," he confided. Will had large unrealized capital gains in his real estate portfolio, which included a fully depreciated apartment building occupied by actors. He despised depreciation recapture taxes, and he disliked paying the 3.8% net investment tax on gains. Most of all, he abhorred paying capital gains taxes.

Pascal listened carefully. Shakespeare's dilemma was an intriguing opportunity to implement his famous philosophical argument dubbed Pascal's Wager. "Will," he said, "there are four outcomes to consider." He patiently explained:

1. Will employs a CPT, and the strategy succeeds yielding generous savings. The tax basis in the stock portfolio he shares with his wife, their depreciated real estate and even the appreciation in their home, would step-up to full fair market value. Significant taxes would be avoided.

2. Will employs a CPT, and the strategy fails. His losses are minor transaction costs to set up the CPT.

3. Will decides against a CPT, only to learn too late that the strategy would have succeeded. His losses would be substantial. To quote *King Lear*, "Nothing will come of nothing." At this news, Shakespeare playfully feigned a dagger to the heart as his own words are thrust upon him.

4. Will decides against a CPT and learns later the strategy would have failed. There's no cost and no benefit.

Thus, Pascal concluded, Shakespeare should make the wager. "At the risk of being overly dramatic, sir, my risk and reward analysis suggests a compelling reason to opt for a CPT. Q.E.D."

Delighted at the clarification, Shakespeare raised his quill to his neighbor. "Wise Pascal, I realize now our doubts are traitors, and make us lose the good we oft might win, by fearing to attempt." And quietly, to himself, the Bard thought, "Don't kill all the lawyers yet—until I have my CPT."

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