

Planning Strategies Every Business Owner Should Consider

Bernstein’s history, experience, and capabilities uniquely position us to support owners of closely held businesses across different stages of their company’s lifecycle. Today, amid unprecedented M&A activity, many of our clients are experiencing life-changing liquidity events or exits. One of the key questions that we help them address is how to take advantage of strategies that maximize value.

As trusted confidants to some of the most astute entrepreneurs, we draw on decades of experience in pre- and post-transaction planning—along with expert guidance on tax, wealth transfer, and charitable techniques—to execute such strategies. Here we’ve compiled a list of some of the more frequent tax planning strategies we find business owners benefit from before, during, and after a deal.

Strategy	Description	Optimal Implementation Timing	Tax Benefit	Other Considerations
Qualified Small Business Stock (QSBS) Gain Exclusion under IRC Section 1202	Allows eligible shareholders of QSBS to exclude up to \$10 million of realized capital gains upon the sale of the stock.	Before Sale	Income and Estate Tax	Given the requirements and associated ramifications, individual circumstances should be discussed with a tax professional. A shareholder may be able to multiply their \$10 million exclusion by transferring shares to a non-grantor trust.
Irrevocable Grantor Trust (IGT)	Typically, a trust outside the grantor’s (or trust creator’s) estate. The grantor is still treated as the owner of the trust assets for federal income tax purposes. Beneficiaries typically include the grantor’s children and other family members.	Before or After Sale	Estate Tax	Giving shares of a company to a grantor trust pre-sale allows future appreciation to occur outside the estate. The grantor can enhance trust assets without using additional lifetime exemption by paying the trust’s income tax bill from the sale.
Spousal Lifetime Access Trust (SLAT)	An irrevocable grantor trust established for the benefit of the grantor’s spouse and other family members.	Before or After Sale	Estate Tax	Optimally, funding a SLAT before a sale uses less lifetime exemption and allows the business’ growth to accumulate outside the owner’s estate. Some owners may fund two non-reciprocal SLATs, so both spouses have access to a trust.

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Grantor Retained Annuity Trust (GRAT)	An irrevocable trust that can be funded with business interests or marketable securities that are expected to significantly appreciate. The grantor retains an annuity interest in the trust, which provides payments over a term of at least two years. At the end of the term, any remaining assets (after all annuity payments have been made) are transferred to the remainder beneficiary free of estate and gift tax.	Before or After Sale	Estate Tax	This strategy works best with marketable securities but can be used with illiquid shares of a business. Today's low interest rate environment makes the opportunity to transfer wealth very attractive.
Installment Sale	Designed to freeze the value of the assets transferred for estate and gift tax purposes. To accomplish this, the grantor sells shares of the business to an irrevocable grantor trust in exchange for a promissory note with a specified term (typically nine years or less). Over the life of the note, the trust makes interest only, non-taxable payments to the grantor. If the business experiences a subsequent liquidity event during the note term, the trust receives proceeds proportionate to the shares owned. With the cash from the sale, the trustee repays the note, leaving all the appreciation from the initial value out of the grantor's estate.	Before Sale	Estate Tax	Today's low prevailing interest rates render interest payments from the trust quite modest, while making the opportunity to transfer wealth very attractive.
"Incomplete" Non-Grantor (ING) Trust	An irrevocable trust established in a tax-favored state—like Delaware, Nevada, or Wyoming—by a grantor who lives in a high tax state to avoid state income taxes.	Before Sale	Income and Estate Tax	The "ING" strategy only provides an estate tax benefit if the grantor makes this a "completed" gift.
Private Foundation	A freestanding, tax-exempt entity that a donor establishes and controls to facilitate philanthropic grants.	Before or After Sale	Income Tax	Consider this option if funding with cash proceeds from a business sale or appreciated publicly traded stock after the transaction (but in the same taxable year). Note that a gift of business interests to a private "nonoperating" foundation is generally inadvisable.

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Donor-Advised Fund (DAF)	A separately identified fund or account that is maintained and operated by a sponsoring organization that is a public charity. The donor (or a designee) retains advisory privileges with respect to the distribution of funds and the investment of assets in the account.	Before or After Sale	Income Tax	Donating shares of a private company before a transaction may offer the donor a tax deduction based on the fair market value of the shares contributed, while avoiding gain on the shares when sold by the DAF. Generally, shares must be transferred before a transaction or sale becomes practically certain. Often, advisors recommend completing the transfer before a Letter of Intent "LOI" has been signed. When giving shares in a private company, the donor's tax deduction is generally limited to 30% of AGI. Depending on the type of company, the sale proceeds received by a DAF may be subject to Unrelated Business Taxable Income "UBTI."
Charitable Lead Annuity Trust (CLAT)	An irrevocable trust—typically funded with either securities or cash—that makes preset annual distributions to charity for the term of the trust. At the end of the term, whatever remains in the trust will be transferred to the non-charitable beneficiaries (which is typically Generation Two and sometimes Generation Three), free of estate and gift tax.	After Sale	Income Tax and Estate Tax	The trust can either be established as a "grantor" or "non-grantor" CLAT. If structured as a grantor CLAT, the donor receives a tax deduction based on the fair market value of contributed assets, while paying all income taxes associated with the trust's earnings. If structured as a non-grantor CLAT, then the donor does not receive a tax deduction and is not obligated to pay any income taxes associated with the trust. Today's low interest rate environment makes the opportunity to transfer wealth very attractive.
Charitable Remainder Trust (CRT)	Allows donors to pre-fund charitable gifts while retaining income for themselves (or another beneficiary) for life, or a term of up to 20 years.	Before Sale	Income Tax	Mainly applies to C-corporations if funding with business interests. Additional complexities arise with S-corporations. Works best when funding with highly appreciated assets. There may be an opportunity to transfer QSBS shares to a CRT to receive an additional \$10 million exclusion.
Direct Gift of Cash or Privately Owned Business to Charity	The donation of cash or securities to a qualified charity.	Before or After Sale	Income Tax	Gifts made in high tax years provide the best tax advantage.

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Qualified Opportunity Fund (QOF)	A fund that invests in Qualified Opportunity Zones (QOZs), which allows investors to defer capital gains from sale of assets.	After Sale (within 180 days)	Income Tax	Temporary deferral of federal income tax on deferred gains is permitted until December 31, 2026. The future appreciation of the QOF investment is not subject to federal income tax provided the investment is held longer than 10 years and other requirements are met. Not all states conform to federal QOZ rules. There are favorable rules for owners of partnerships and S-corporations. If a partnership or S-corporation realizes a capital gain but does not elect to fund a QOF, the partner or owner may still do so personally. The partner or owner can use (1) the partnership or S-corporation's 180-day period (from when the asset was sold within the entity), (2) 180 days from the end of the year, or (3) 180 days from the tax filing deadline.
Private Placement Life Insurance (PPLI) and Private Placement Variable Annuities (PPVA) ¹	An effective way to shield tax-inefficient investments such as hedge funds and alternative investments from taxation.	After Sale	Income Tax	Purchase of a policy or contract is generally limited to accredited investors (AIs) and qualified purchasers (QPs).
Premium After-Tax Harvesting (PaTH)	A Bernstein US Equity portfolio designed to offset an investor's current and future taxable gains by combining index-driven exposure and active tax management.	Before or After Sale	Income Tax	

¹ A Private Placement Variable Annuity (PPVA) Investment Account and a Private Placement Life Insurance (PPVLI) Investment Account are unregistered securities products and are not subject to the same regulatory requirements as registered products.

PPVA and PPLI Investment Accounts are long-term investments. The value of a PPVA or PPLI Investment Account will fluctuate and, when redeemed, may be worth more or less than the original deposit. Withdrawals or other distributions, including death benefit payments, may be subject to ordinary income tax. If withdrawals or other distributions are taken prior to age 59½, a 10% excise tax may apply to the gain element.

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Bernstein's Wealth Strategies Group Provides Planning Advice for Business Owners

The Wealth Strategies Group is a dedicated team focused solely on complex wealth planning. The team integrates Bernstein's extensive investment management experience with in-depth knowledge of trust, estate, and tax management issues. Best-in-class modeling capabilities allow our clients to pre-experience the impact of various income and estate planning strategies on their wealth, philanthropy, and multigenerational wealth transfer.

The group consists of former tax attorneys, trust and estate attorneys, and other experienced financial professionals who sit on the same side of the table as our clients and their advisors.

If you are interested in learning more about the benefits of using these and other strategies, please contact a Bernstein Financial Advisor.

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