CUMMINGS & LOCKWOOD LLC

WHAT ARE THE BASICS OF AN INSTALLMENT SALE TO A GRANTOR TRUST?

The grantor sells assets to the Trustee of an irrevocable trust. The Trustee will pay for the interest by issuing a promissory note for the purchase price. The Trustee often does not make any down payment for the sale. Prior to the sale, the trust should either have its own assets or be “seeded” to provide enough trust assets to equal at least 10% of the property being purchased. If the assets in the trust are not sufficient for the transaction to be considered an arm’s-length sale, the Internal Revenue Service (“IRS”) could argue that the sale is really a contribution to the trust with a retained income interest, which could cause the entire value of the trust assets to be includible in the seller’s estate for estate tax purposes. In exchange for the interests, the Trustee would give the seller/grantor a promissory note for the value of the interests it receives.