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The Silver Ranch: Smart Estate Planning

HOW A COLORADO COUPLE SAVED THEIR MAJESTIC RANCH FROM A FORCED SALE TO PAY THE FEDERAL ESTATE TAX AND CREATED A LEGACY FOR THEIR FAMILY

Clyde and Priscilla Silver* (name changed to protect client privacy) owned and operated the Silver Ranch in Colorado for decades. A true Colorado legacy, the ranch had been in Priscilla's family long before her mother passed it to her. Like many landowners, the couple had significant wealth tied up in the land, but not much "liquid" wealth. Their old wills left all of their respective property to each other, an estate "plan" that would have forced their children to sell off large parts of the ranch to pay the federal government more than \$4,000,000 in federal estate tax and approximately \$1,000,000 in capital gains tax.

Not content with that dire scenario, and with a desire to pass this majestic property intact to their three adult children and grandchildren, the Silvers consulted with wills and estate attorney Thomas Hall to design a new estate plan to protect the land and way of life that they cherished.



Changing seasons in Colorado

As part of a comprehensive estate planning process, and under the guidance of Hall, the couple discussed granting a conservation easement on their ranch. With Clyde and Priscilla's permission, Hall conferred with the extended family to help them all understand the implications of their new estate plan and what the conservation easement would mean for them.

With the family squarely on board, Hall entered negotiations with The Conservation Fund ("TCF"), a public charity qualified to receive donations of conservation easements, for a bargain-sale of the conservation easement in three phases over a three year period. TCF would pay the Silvers cash for a portion of the value of the conservation easement, and the Silvers would donate the remaining value of the conservation easement to TCF and receive an income tax deduction for this charitable contribution. Although a contract was negotiated to memorialize

**Some identifying information has been altered to protect landowner privacy.*

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this agreement, Clyde Silver died before he could sign it. Fortunately wife Priscilla, as Executor of his Estate under his new will, was able to proceed with the TCF transaction on behalf of the Estate.

As Clyde and Priscilla owned the ranch as tenants in common, Hall received permission from the probate court to partition a

portion of the ranch which represented Clyde's ownership interest and created a legally defined parcel. In the first phase of the conservation easement transaction, the Estate made a post-mortem grant of a conservation easement on this parcel.

defective election, the family may have been forced into an irrevocable strategy involving Special Use Valuation that could have forced the Estate to pay the federal government hundreds of thousands of dollars in recapture taxes.

ULTIMATELY, CLYDE AND PRISCILLA SAVED MILLIONS OF DOLLARS...AND THE HERITAGE OF THEIR BELOVED RANCH (IS) NOW ENTIRELY PROTECTED FOR THE SILVER FAMILY.

The fair market value of this parcel was reduced by 45% because of the conservation easement. Furthermore, the Estate also elected to take an additional \$500,000 reduction in the value of the parcel for federal estate tax purposes under IRC Sec. 2031(c). The Estate received some cash from the bargain-sale and also a charitable deduction under IRC Sec. 2055(f) for the donated portion of the conservation easement. The Estate sold the resulting Colorado Conservation Easement Tax Credit for more cash.

When the accountant, working with Hall, filed the federal estate tax return (Form 706), there was no federal estate tax owed because the estate plan created a family or bypass trust to hold most of Clyde's property. The parcel, now greatly reduced in value because of the conservation easement, passed entirely into the family trust together with some cash for the benefit of Priscilla and the children. Clyde's assets in the family trust would escape the federal estate tax in Priscilla's estate at her death. As the value of this parcel appreciates over time, all of that appreciation will pass to the next generation—free of federal estate tax.

Anticipating changes in the federal estate tax law, and in order to keep open additional options for the family, Hall filed an intentionally defective election for Special Use Valuation under IRC Sec. 2032A. This bought the family an additional two years to consider whether to proceed with Special Use Valuation, and thereby reduce the value of the Estate's parcel further so as to transfer more cash into the family trust. This option was important

While the probate process continued and the IRS examined the Form 706, Priscilla proceeded to grant the conservation easement on her portion of the ranch in two phases over a two year period. She received some cash for each phase, and donated a portion of the value of the conservation easement. Each year the resulting Colorado Conservation Easement Tax Credit was sold to generate additional cash. The conservation easement reduced the fair market value of her portion of the ranch by 50%, and she greatly reduced her exposure to the federal estate tax.

Ultimately, Clyde and Priscilla saved millions of dollars that they otherwise would have owed the federal government in estate and capital gain taxes, and created significant income tax benefits. They generated millions of dollars in cash from the bargain-sale of the conservation easement and the sale of the resulting Colorado tax credit. The cash will be used to pay future property taxes and expenses of the ranch operation, and will be eventually distributed to the children.

Thanks to smart estate planning, the mountain views, the meadows, the rivers, the forests, and the heritage of their beloved ranch are now entirely protected for the Silver family. Moreover, they can continue ranching operations, and further develop additional commercial outfitting and hunting activities on the property. Always thinking of the future, Priscilla reserved home sites for her children and grandchildren to build their own homes some day on this incomparable legacy she and Clyde nurtured and protected for generations to come.

ULTIMATELY, CLYDE AND PRISCILLA SAVED MILLIONS OF DOLLARS THAT THEY OTHERWISE WOULD HAVE OWED THE FEDERAL GOVERNMENT IN ESTATE AND CAPITAL GAIN TAXES, AND CREATED SIGNIFICANT INCOME TAX BENEFITS. THEY GENERATED MILLIONS OF DOLLARS IN CASH FROM THE BARGAIN-SALE OF THE CONSERVATION EASEMENT AND THE SALE OF THE RESULTING COLORADO TAX CREDIT. THE CASH WILL BE USED TO PAY FUTURE PROPERTY TAXES AND EXPENSES OF THE RANCH OPERATION, AND WILL BE EVENTUALLY DISTRIBUTED TO THE CHILDREN.

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