



COVID-19 Estate Planning Opportunities

Subtitle



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TODAY'S PANELISTS



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The webinar will remain live for ten additional minutes after the conclusion of the presentation to provide the opportunity to submit follow up questions via the Q&A function. A summary of top questions may be provided to all attendees.

Additionally, all attendees will be emailed a link to a recording of the webinar, a pdf of the presentation, and speaker bios and contact information.

Today's presentation is not:

- Legal advice
- The final word on today's topics – updates will be continuously provided via herbein.com
- Qualified for continuing education credits (i.e. CPE)

Before taking any action, employers should review this material with internal and/or external counsel.

- Basic estate planning considerations and overview of estate planning documents
- Gifting strategies
 - Estate & gift tax exemption
 - Small gifts, charitable gifts, and large gifts
- Revisiting current trusts
- Estate administration during COVID-19
- Stimulus checks received for deceased individuals

Which documents do you currently have:

- Will
- Living will
- Gift plan
- Power of attorney
- All of the above
- None of the above

- You have spent your life accumulating assets
- Every person has a critical need for a comprehensive, thoughtful estate plan and to detail the management and distribution of assets after death
- Do you have any non-family members or charitable organizations to whom you wish to leave property?
- Who do you wish to care for any minor children if you were gone?
- If you do not have a plan, the Commonwealth has one for you

- **General obstacles**

- Facing one's mortality
- Do not know where to begin or with which professionals
- Belief that they are not wealthy enough to plan

- **Today's new obstacles**

- Is my attorney's office open?
- Can I still document my plans?

- Many people are thinking more seriously about their own mortality
- Others find they have time to check off 'to do' lists - which might include the creation of an estate plan
 - Does plan still track your wishes?
 - Are fiduciaries named still those you would want to act if needed?
- Give yourself peace of mind loved ones are taken care of
- Historically low interest rates

WHEN SHOULD AN INDIVIDUAL REVIEW THEIR WILL?

- If they experience a significant family change
 - Births, deaths, marriage, divorce
- Whenever their financial situation has appreciably changed
- Whenever they move from one state to another
- Whenever a will is over seven years old

- Will
- Financial power of attorney
- Health care power of attorney
- Living will/advanced healthcare directive

Wills

- What is a will?
- Why does everyone need a will?
- What property is controlled by the will?
 - Probate vs. non-probate property
 - Jointly held property

Powers of Attorney

- Types
- Duration and effect
- Requisites for execution
- Agents

Advance Healthcare Directives

- Living Wills
 - What is a living will?
 - When does it take effect?
 - Difference between living will and healthcare power of attorney.

Extremely high estate and gift tax exemption in place

- 2020 exclusion is \$11,580,000 (\$23,160,000 for married couples)
- Will sunset after year 2025 to \$6,520,000 per person

Which of the following best describes you:

- Looking for some small gifting strategies in 2020 and beyond
- Looking for some large gifting strategies in 2020 because you believe the estate exemption limits will likely change in 2021
- Looking for ideas across both categories to save estate taxes
- Not sure of any gifting plans

- Annual gift tax exclusion
 - \$15,000 per person, per year
 - Commonly made via cash at the end of the year
 - Consider making gifts now with securities that have lost value
 - Potential advantage to gifting to adult children:
 - Lower income tax brackets for dividend income (potentially)
 - Ability to sell and diversify at lower tax brackets
- Funding of 529 Plans
 - Take advantage of 5-year election

Charitable Contributions

- \$300 above the line deduction charitable deduction for non-itemizers
- Removal of adjusted gross income (AGI) limitations for 2020 cash gifting to certain charities
 - Individuals can completely reduce their 2020 income tax liability
 - For this provision, donor advised funds, supporting orgs, and private foundations will not qualify

Qualified Charitable Distributions from IRAs

- 2020 Required Minimum Distributions (RMDs) from qualified plans waived
- If you are subject to a RMD for 2020, you can still make a Qualified Charitable Distribution (QCD) from IRA
 - Example – Your RMD is \$250,000, but it is waived for 2020. You always take advantage of making a \$100,000 QCD to your favorite charity. You can still take advantage of taking that \$100,000 from the IRA and having it donated directly to charity by the administrator of the plan assets. You would not have to take the remainder \$150,000 of your RMD for 2020.

Consider making “large” gifts before 1/1/2026 exemption reversion

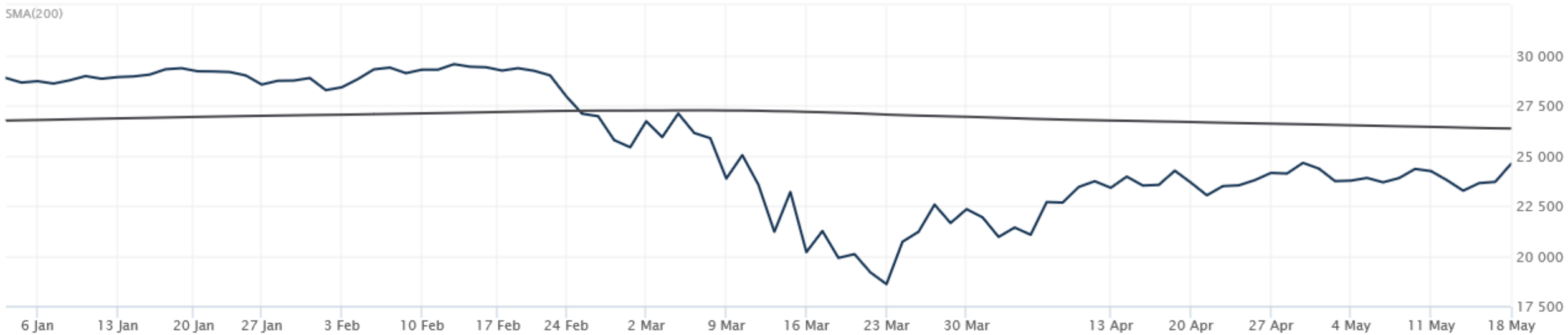
Illustration of the impact of gifting followed by appreciation:

		No Gifting	Gifting
Year 0	Value of Estate	\$25M	\$25M
	Gift Amount	\$0M	\$11M
	Taxable Estate	\$25M	\$14M
Year 7	Value of Estate*	\$50M	\$28M
	Less: Exemption*	\$44M	\$28M
	Tax Due:	\$17.6M	\$11.2M

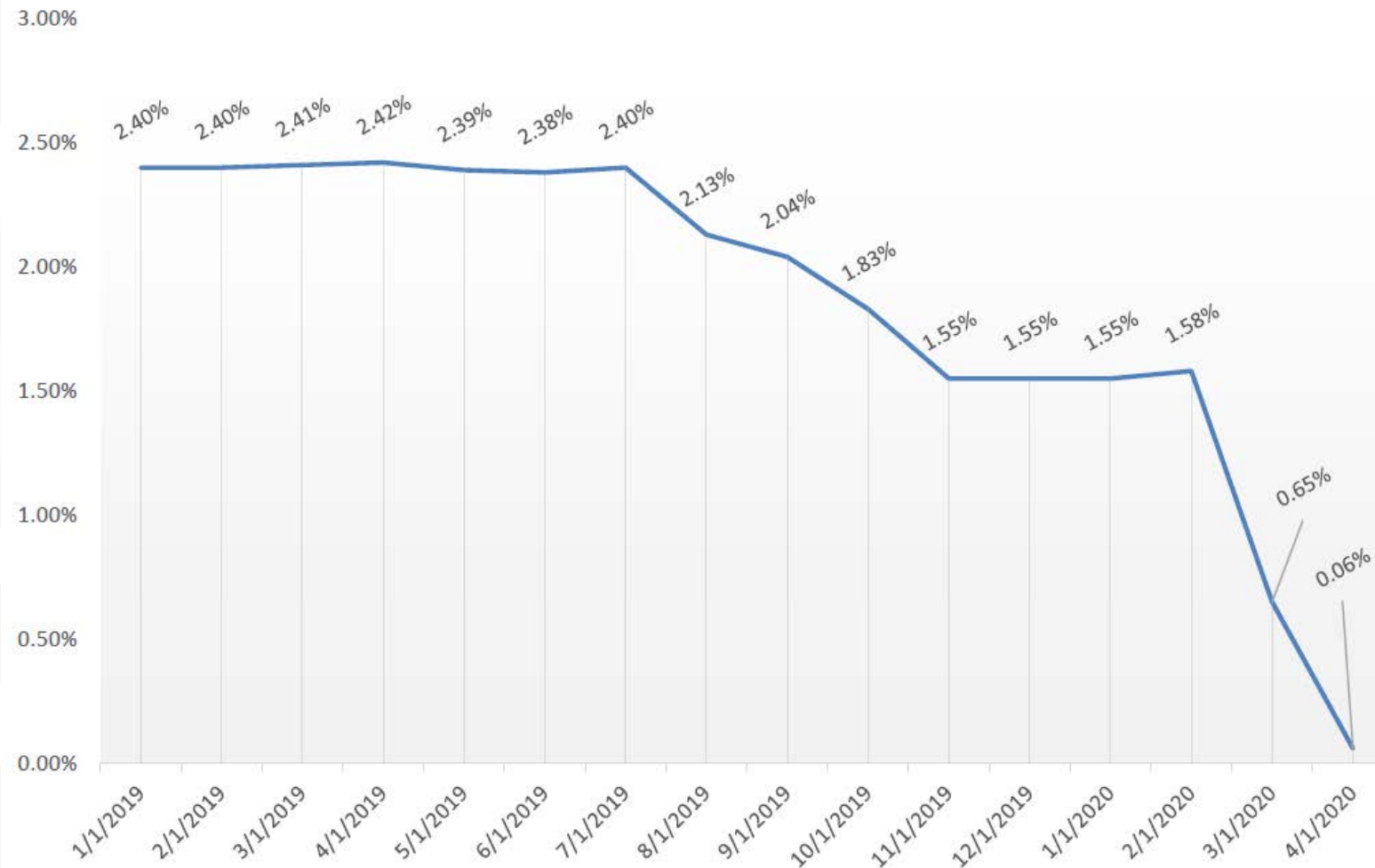
*Assumes value of assets doubles in seven years, donor dies, and exemption reverts to \$6 million

What's happening to create estate planning opportunities?

2020 DJIA Closing Points Year to Date



Effective Federal Funds Rate (January 1, 2019 - April 1, 2020)



Source: <https://fred.stlouisfed.org/series/FEDFUNDS>

Leveraging of LOW interest rates

- Grantor Retained Annuity Trusts (GRATs)
- Sales to Intentionally Defective Grantor Trusts (IDGTs)
- Intra-Family Loans

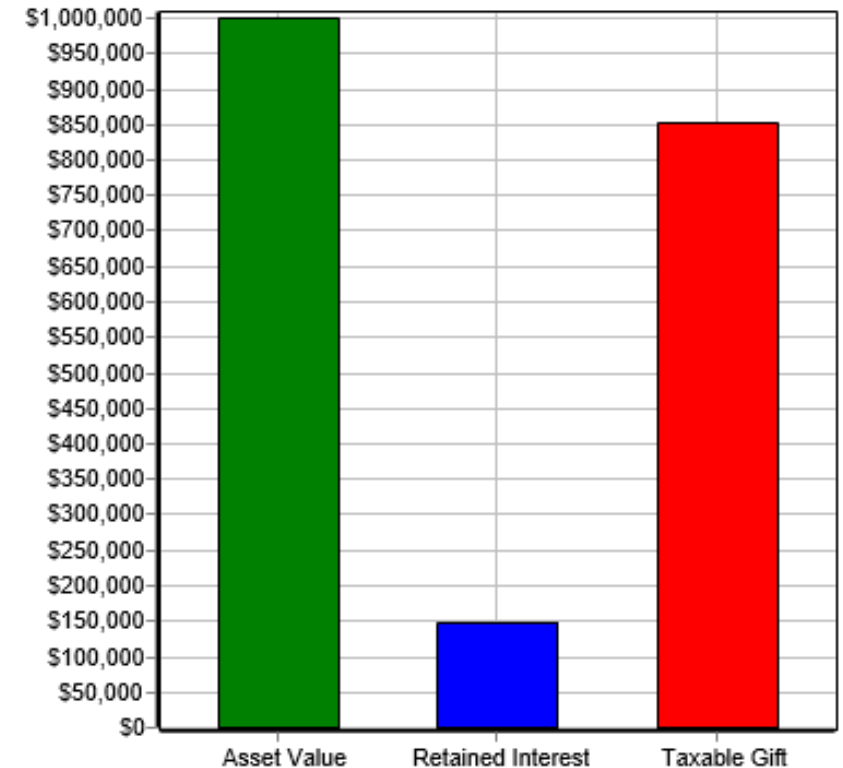
GRATs

- Transfer of property to a trust
 - Examples of assets to transfer – closely held business interests or portfolio assets
- Grantor receives an annuity for a fixed period
 - Value of annuity is not taxable
- Uses Section 7520 rate
- Value of remainder interest is a gift
- At the end of the term, any assets that remain in trust transfer to beneficiary(ies) gift and estate tax free

Simple GRAT Illustration

Year	Economic Schedule					
	Beginning Principal	7.00% Growth	0.00% Annual Income	Required Payments	Distributed Discount	Remainder
1	\$1,000,000.00	\$70,000.00	\$0.00	\$50,000.00	\$0.00	\$1,020,000.00
2	\$1,020,000.00	\$71,400.00	\$0.00	\$50,000.00	\$0.00	\$1,041,400.00
3	\$1,041,400.00	\$72,898.00	\$0.00	\$50,000.00	\$0.00	\$1,064,298.00
Summary	\$1,000,000.00	\$214,298.00	\$0.00	\$150,000.00	\$0.00	\$1,064,298.00

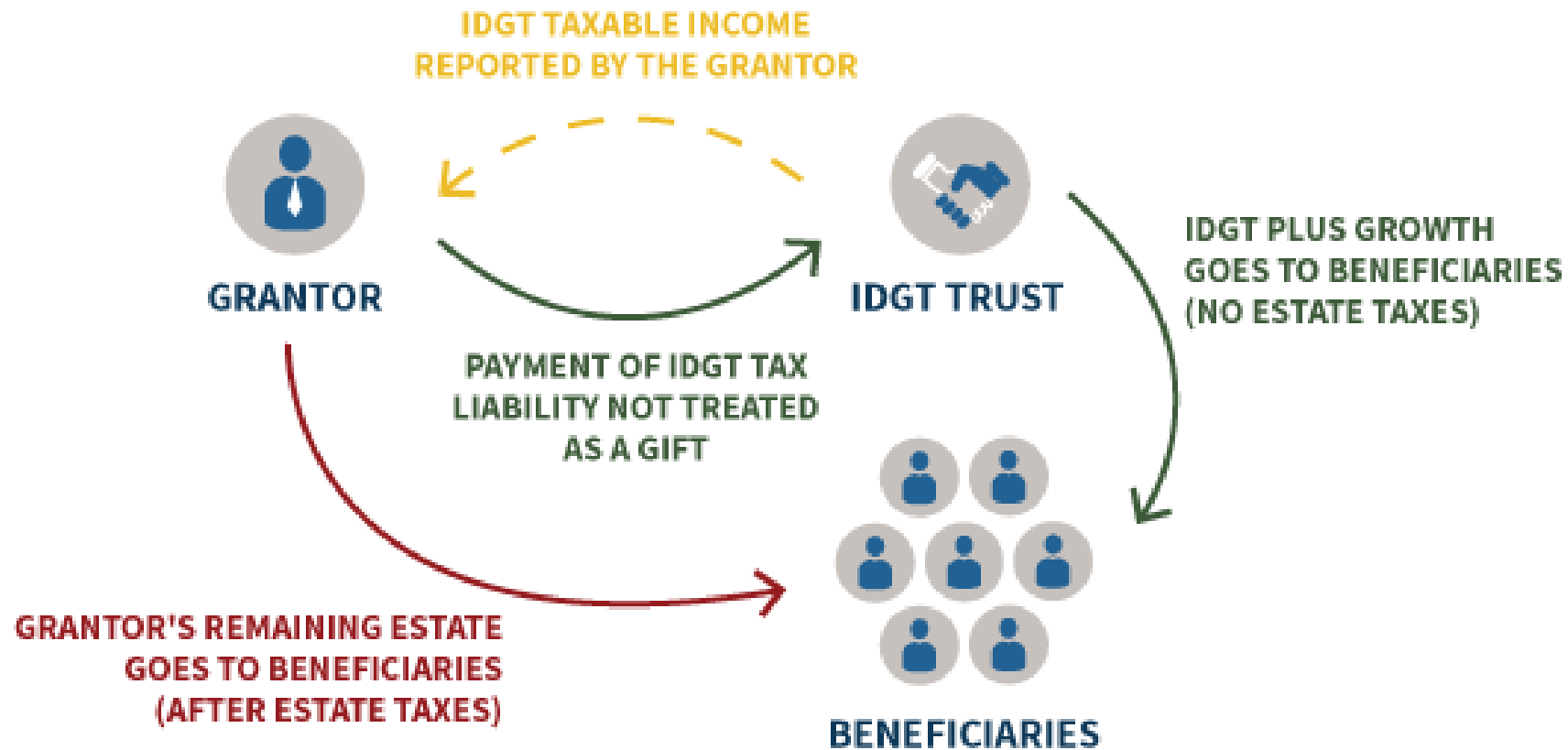
Grantor Retained Annuity Trust



Sales to Intentionally Defective Grantor Trusts (IDGTs)

- Similar to a Grantor Retained Annuity Trust (GRAT)
 - Transfer property to a trust
 - Seller receives a note back for a term of years
- Differences
 - Uses Applicable Federal Rate (AFR) based on the term of note
 - More flexible payment terms
 - Need to “seed” the trust
 - Not codified

INCOME AND ESTATE TAX MECHANICS OF IDGT TRUST



© Michael Kitces, www.kitces.com

Source:
<https://www.kitces.com/blog/idgt-installment-sale-to-intentionally-defective-grantor-trust-rules/>
From Michael Kitces at Nerd's Eye View".

Intra-Family Loans

- Consider making a loan for the first time
 - Follow formalities!
 - Note agreement, interest rate, collateral
- For existing intra-family debt, consider refinancing

What kind of trust do you have:

- Grantor
- Simple
- Complex
- Other
- None

Planning opportunity with revisiting current trusts

- Swap Powers
 - Many grantor trusts afford someone the power to substitute assets of equal value
 - Evaluate what assets are in trust, and what assets are owned individually to strategize what assets it might make sense to take advantage of the Swap Powers – assets that have the most growth potential you generally want inside that trust

Example of utilizing Swap Powers

Scenario 1 - No Swapping						
	December 31, 2019		March 31, 2020		March 31, 2022	
	Joe	Joe's Trust	Joe	Joe's Trust	Joe	Joe's Trust
Value of Business	\$20M	\$10M	\$10M	\$10M	\$20M	\$10M
Estate Tax (40%)	\$8M	-	\$4M	-	\$8M	-

Scenario 2 - Swapping on March 31, 2020						
	December 31, 2019		March 31, 2020		March 31, 2022	
	Joe	Joe's Trust	Joe	Joe's Trust	Joe	Joe's Trust
Value of Business	\$20M	\$10M	\$10M	\$10M	\$10M	\$20M
Estate Tax (40%)	\$8M	-	\$4M	-	\$4M	-

- Families may have a need to probate a will or continue estate administration matters during these times
 - Virtual Probates
- Pennsylvania has also provided guidance to county offices with respect to the filing of Pennsylvania Inheritance Tax Returns
 - County offices have been asked to mark the date received as March 12
 - Department of Revenue is making system modifications so that penalties will not be applied for late payments
 - Requirements vary by county

- Belong only to the living
 - Stimulus checks mailed to a deceased person must be returned
 - If direct deposited or check was cashed the payment should be returned by personal check or money order and made payable to the “U.S. Treasury”
 - Memo portion should include “2020EIP” and the decedent’s taxpayer identification number
 - Include a note indicating that the recipient died prior to receiving the check

- If payment was made by paper check and not cashed
 - It should be returned by writing “VOID” in the endorsement section
 - Include a note indicating that the recipient died prior to receiving the check

For Pennsylvania residents, returned checks should be mailed to:

Philadelphia Refund Inquiry Unit
2970 Market Street
DP 3-L08-151
Philadelphia, PA 19104



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Thank you for attending our webinar!

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