

Estate Planning With Trusts

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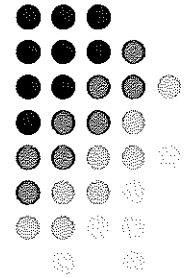
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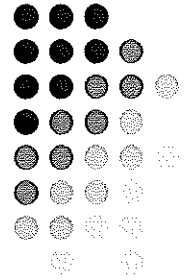
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Circular 230



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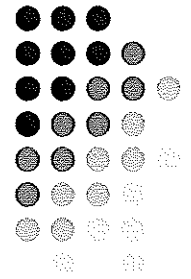
Estate Planning with Trusts



Introduction/Overview

- Characteristics of a Trust
- Some reasons to set up a Trust
- Federal estate and gift taxes and exclusion amounts
- Transfers of property and income taxes
- Types of trusts and how they operate
- Setting up a Trust to meet estate planning objectives

Characteristics of a Trust



A Trust can be created during life or upon death under a Will

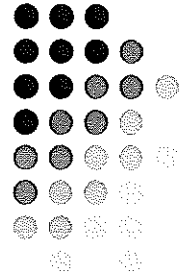
If Created During Life:

- Written Agreement between “Grantor/Settlor” and Trustee(s)
- Grantor/Settlor transfers property to the Trust
 - Trustee(s) can be individuals or financial institutions
 - Almost any type of property can be transferred to the Trust
- Trustee(s) hold property, invest it and make distributions following the Trust Agreement
- Beneficiaries of Trust are generally family members, but also charities

If Created Upon Death:

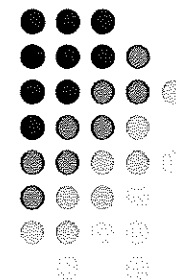
- Provisions of the Trust included in the Will
- Property passes into the Trust from the decedent’s estate

Some Reasons to Set Up a Trust



- Provide management of property in event of incapacity of Grantor/Settlor
- Protect property for young or improvident beneficiaries
- Obtain professional advice and management for Trust property
- Minimize transfer taxes on property passing to Trust beneficiaries
- Assist children in protecting property from a divorcing spouse
- Maintain control over property in Trust and financial resources

Transfers of Property and Income Taxes

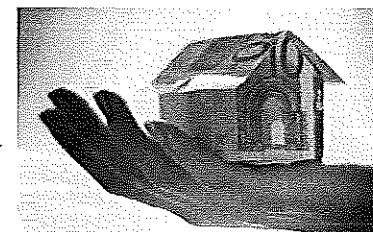


Lifetime Gifts

- Recipient of gift ("Donee") takes property with same income tax basis of Donor

Example:

Parent paid:	\$ 50,000
Value at time of gift:	\$150,000
Child sells for:	\$150,000
Capital gain to Child:	\$100,000



Gift at Death

- Property inherited at death has an income tax basis "stepped up" to its fair market value at the date of death

Example:

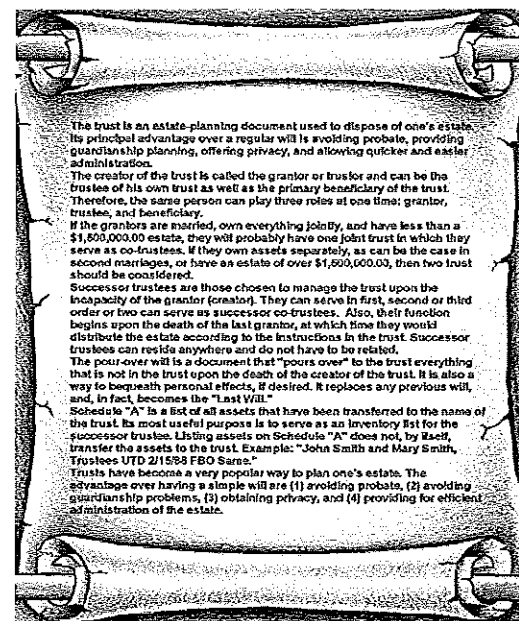
Parent paid:	\$ 50,000
Value when inherit:	\$150,000
Child sells for:	\$150,000
Capital gain to Child:	\$ - 0 -

Change in 2010

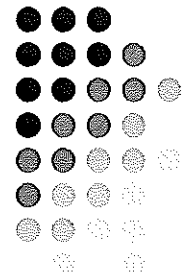
- In 2010, property received by inheritance at death has same income tax basis as the decedent had before death
 - Partial Step-Up
 - \$3,000,000 basis increase for assets passing to surviving spouse
 - \$1,300,000 basis increase for assets passing to other beneficiaries

Some Types of Trusts

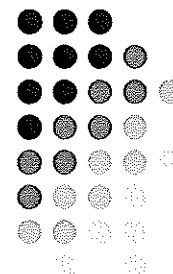
- Revocable Trusts (Will substitute)
- Irrevocable Trusts
 - Trusts for children and grandchildren
 - Marital Trusts
 - Family Trusts
 - Life Insurance Trusts (ILIT)
 - Qualified Personal Residence Trusts (QPRT)
 - Grantor Retained Annuity Trusts (GRAT)
 - Dynasty/Multi-Generation Trusts



Revocable Trusts (a/k/a Living Trusts)



- Provides property management during lifetime
- Avoids court proceedings for appointing a conservator of property upon incapacity
- Grantor/Settlor can be Trustee during lifetime, while not incapacitated
- Grantor/Settlor can change or revoke at any time while has capacity
- Specifies beneficiaries who receive Trust property at Grantor's/Settlor's death
- Contains estate tax planning provisions in Trust Agreement

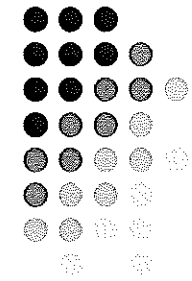


Irrevocable Trusts

Trusts for Children and Grandchildren

- Section 2503(c) Trust
 - Parent/Grandparent transfers property to Trust
 - At age 21, child or grandchild has right to terminate Trust and receive Trust Assets
- “Crummey” Trusts
 - Parent/Grandparent transfers property to Trust
 - Trust remains in existence beyond age 21
 - Child/grandchild has right to withdraw certain amount of contributions to Trust for limited period

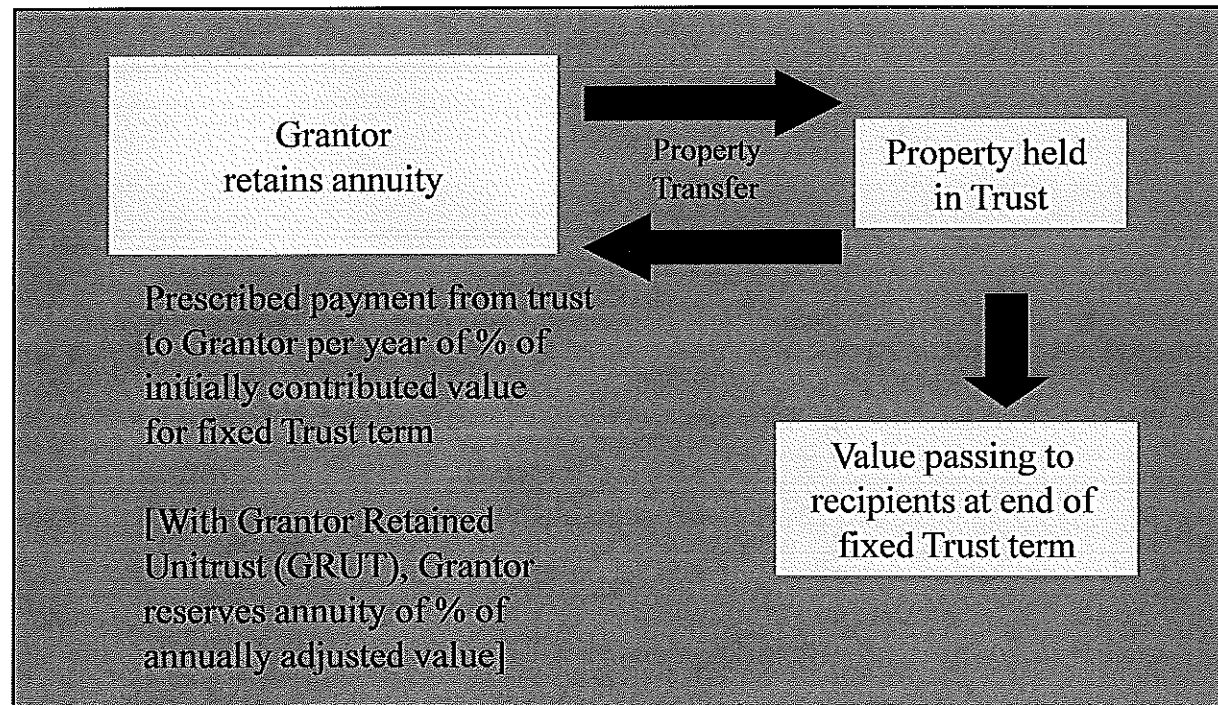
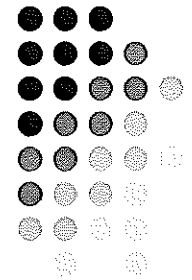




Life Insurance Trusts (ILIT)

- Trustee acquires policy of insurance on Grantor's/Settlor's life
- Grantor/Settlor makes annual contributions to ILIT to enable Trustee to pay premiums
 - Contributions to ILIT structured to minimize federal gift tax
- Grantor's/Settlor's spouse and children can be beneficiaries of ILIT (depends on type of insurance acquired)
- Death proceeds collected on Grantor's/Settlor's death
 - Objective is to remove death proceeds from federal estate tax base when Grantor/Settlor dies

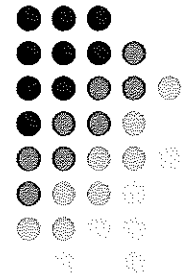
Grantor Retained Annuity Trusts (GRAT)*



- Grantor/Settlor can transfer business interests (stock, limited liability company interests, partnership interests) anticipated to appreciate at rate greater than IRS presumed rate at no or minimal gift tax cost
- Grantor/Settlor retains source of financial support
- If Grantor/Settlor survives fixed Trust term, business assets pass to beneficiaries without federal estate tax

*Must meet federal tax requirements

Setting Up a Trust to Meet Estate Planning Objectives



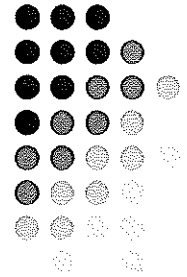
Trusts for Children and Grandchildren

- Provide education financing
- Multi-generation planning to minimize federal estate and gift taxes

Marital Trusts and Family Trusts

- Maximize use of each spouse's Applicable Exclusion amount to pass more property to family without federal estate taxes
- Second Marriage Situations – to ensure that children of first marriage receive inheritance

Setting Up a Trust to Meet Estate Planning Objectives



Life Insurance Trust

- Provide liquidity upon Grantor's/Settlor's death to support family members
- Avoid federal estate taxes on death benefits

Qualified Personal Residence Trust

- Pass appreciating residences to children with little or no federal gift tax
- Retain use of residence

Grantor Retained Annuity Trust

- Transfer business for succession