

60 TRUSTS IN 60 MINUTES

Revocable Trusts

1. Revocable Trust

Description: Generally, trust created by Settlor with Settlor retaining the right to revoke. Typically, used as a device to transfer property at Settlor's death without the probate administration. Also used to maintain the confidentiality of the disposition of the trust's assets.

2. Joint Revocable Trust

Description: A revocable trust created by husband and wife to own both spouse's property and used to avoid probate. Typically used in community property states. In common law states, Trust used to attempt to obtain a step up in basis on the surviving spouse's property held in the trust upon the first spouse to die.

3. Community Property Trust

Description: Used to isolate community property assets by holding in trust particularly in circumstances where spouses move to common law state from a community property state.

4. Land Trust (a/k/a "Illinois Land Trust")

Description: Holds title to real estate

Split Interest Trusts

5. Grantor Retained Annuity Trust ("GRAT")

Description: Makes payments of a predetermined amount to Settlor for at least 2 years. Assets remaining in trust after term ends pass to children.

6. Rolling GRATs

Description: Serial short-term GRATs. Most often used with highly concentrated stock holdings.

7. Grantor Retained Unitrust ("GRUT")

Description: Similar to a GRAT expect that annual payments are a percentage of the corpus determined as of the beginning of each year.

8. Grantor Retained Income Trust ("GRIT")

Description: Pays income to Grantor for term of years. Assets remaining in trust after term end pass to beneficiaries (not children or grandchildren)

9. Qualified Personal Residence Trust ("QPRT")

Description: Owns a residence and allows Settlor to live in residence for a term of years. Assets remaining in trust after term ends pass to children.

10. Personal Residence Trust

Description: Similar to QPRT except residence cannot be sold during term.

11. Joint Purchase Trust

Description: Parent(s) and children contribute \$ to the trust that purchases a residence to be used by parent for lifetime. House belongs to children after parent(s) die.

Charitable Trusts

12. Charitable Remainder Unitrust ("CRUT")

Description: Trust pays income beneficiary(ies) a percentage of the fair market value of assets at least annually. At end of trust term, remaining trust assets distributed to charity(ies).

13. NICRUT

Description: Net income CRUT. Only annual net income (not to exceed unitrust amount) is paid to the income beneficiary.

14. NIMCRUT

Description: Net income make up CRUT. Only net income (not to exceed unitrust amount) is paid. To the extent net income is less than unitrust amount for any year the deficiency is can be made up with any income in excess of the unitrust amount in future years.

15. FLIPCRUT

Description: It is a NICRUT or NIMCRUT and upon a triggering event the trust flips to payment of a unitrust amount.

16. Charitable Remainder Annuity Trust ("CRAT")

Description: Fixed amount is paid at least annually to beneficiary(ies) and at end of trust term remaining trust assets are paid to charity(ies)

17. Charitable Lead Unitrust ("CLUT")

Description: Trust pays income to charity(ies) a percentage of the fair market value of assets at least annually. At end of trust term, remaining trust assets distributed to individual beneficiary(ies) or trusts.

18. Charitable Lead Annuity Trust ("CLAT")

Description: Fixed amount is paid at least annually to charity(ies) and at end of trust term remaining trust assets are paid to beneficiary(ies)

19. Sharkfin CLAT

Description: CLAT structured so that a nominal annual payment is made to charity(ies) for the charitable trust term but the last payment to the charity is a large payment (i.e., the charitable payment is back-end loaded). This allows trust estate to grow over the years which can benefit remainder taxable beneficiaries.

20. Pooled Income Trust

Description: Charity establishes fund similar to common trust fund. Donor makes irrevocable transfer to fund and either Donor or beneficiary retains an income interest for life.

21. Private Foundation

Description: Trust containing requisite provisions to qualify as a section 501(c)(3) tax exempt organization, i.e., a charity. Trust used in lieu of a nonprofit corporation.

Marital Trusts

22. Credit Shelter Trust (a/k/a Bypass Trust)

Description: Established upon death by a Will or Revocable Trust. Funded with Tennessee inheritance tax exemption (currently \$1 million) or perhaps the federal estate tax exemption (currently \$3.5 million)

23. Spousal Lifetime Access Trust ("SLAT")

Description: One spouse makes gifts to a trust with the other spouse and the children as beneficiaries. Donee spouse can receive distributions during his or her lifetime.

24. Testamentary QTIP Trust

Description: Established upon death by Will or Revocable Trust. Qualifies for marital deduction for federal estate and TN inheritance tax purposes.

25. Intervivos QTIP Trust

Description: Established during lifetime. Qualifies for marital deduction for federal and TN gift tax purposes.

26. Double QTIP Trust

Description: Intervivos QTIP which become a QTIP Trust for the Settlor after Donee spouse's death. QTIP elections are made by the Settlor for gift tax purposes and by the Donee spouse's executor for estate and inheritance tax purposes

27. Testamentary Tennessee QTIP Trust

Description: Trust created upon death funded with estate assets equal to the difference between the decedents remaining federal exemption equivalent (up to \$3,500,000) and the Tennessee inheritance exemption (\$1,000,000) (i.e., \$2,500,000). Trust qualified only for Tennessee marital deduction.

28. Inter Vivos Tennessee QTIP Trust

Description: Trust created solely for the Settlor's spouse. Spouse entitled to all income. Trust is qualified solely for the Tennessee marital deduction. The purpose is to use part or all of Settlor's federal lifetime exemption equivalent while avoiding Tennessee gift tax.

29. Power of Appointment Marital Trust

Description: Trust solely for spouse with spouse having a power to appoint trust assets to spouse, spouse's creditors, spouse's estate or creditor's of spouse's estate (i.e., general power of appointment). Qualifies for marital deduction.

30. Estate Trust

Description: Trust qualifies for marital deduction. Trust holds assets during life of spouse and upon death of spouse paid to spouse's estate. Trust can accumulate or pay income to spouse.

31. Qualifying Domestic Trust ("QDOT")

Description: Transfers to non citizen spouses do not qualify for the marital deduction unless transfer is to a QDOT. Trust created during life or at death for benefit of spouse. At least one trustee is U.S. citizen. Distributions of income are not subject to estate tax but principal distributions are.

Asset Protection Trusts

32. Domestic Asset Protection Trust ("DAPT")

Description: Established to benefit Settlor in one of the 12 states that allows such a trust to protect trust assets from claims of the Settlor's creditors.

33. Foreign Asset Protection Trust

Description: Similar to DAPT except that it is established in one of several foreign jurisdictions that provide asset protection for these types of trusts.

34. Jaguar Trust

Description: Established by young adult to hold assets gifted to or inherited by the young adult.

35. DING Trust

Description: A DAPT established by a nonresident Settlor that allows the Settlor to avoid state income taxes.

36. Spendthrift Trust

Description: Protects trust assets from creditors of the trust beneficiaries.

Gifts Trusts

37. Life Insurance Trust

Description: Trust to own life insurance on a person (typically Settlor) who is not a beneficiary and does not have the power directly or indirectly to exercise incidents of ownership over the policy. Trust used to cause the insurance to be excluded from the insured's gross estate for federal estate tax purposes.

38. Crummey Trust

Description: Used to qualify gifts to a trust as a present interest for gift tax purposes in order to qualify for the \$13,000 gift tax exclusion. The name "Crummey" is from a Tax Court case. The trust contains a provision that allows the beneficiary a limited time to withdraw the gift made to the trust.

39. Cristofani Trust

Description: A form of a Crummey trust in which there are multi-generational beneficiaries. The trustee should have the discretion to distribute trust income and/or principal to the beneficiaries who have the power to withdraw.

40. 2503(c) Trust

Description: Trust for the benefit for a person under the age of 21 years and the person is the sole beneficiary. Gifts made to the trust qualify for the annual exclusion provided remaining trust assets pass to beneficiary upon attaining the age of 21 years and if die

before then, trust assets must be subject to either general power of appointment or paid to beneficiary's estate.

41. Opportunity Trust

Description: Settlor sets up trust for children and provides seed gift. Trust invests in new business opportunity presented to Settlor. Strategy is to cause the trust to receive the benefits of the successful business investment.

42. Education Trust

Description: Trust which requires income and/or principal to be used for beneficiary's education.

Generation-Skipping Transfer Tax ("GST") Trusts

43. Grandfathered Trust

Description: Not subject to GST due to becoming irrevocable prior to September 25, 1985.

44. Exempt Trust

Description: Exempt from GST due to allocation of GST exemption.

45. Non-Exempt Trust

Description: Will be subject to GST after children die and assets pass to grandchildren.

46. 2642(c) Trust

Description: Trust for grandchild that is not subject to GST because grandchild and grandchild's estate are the only beneficiaries.

47. Dynasty Trust

Description: Exempt Trust that will continue for several generations of beneficiaries.

48. Health & Education Exclusion Trust ("HEET")

Description: A non-exempt trust that avoids GST by including a non-skip beneficiary (typically a charity) and limiting distributions to tuition and healthcare expenses of grandchildren.

49. Reverse QTIP Trust

Description: A marital trust that will not be subject to GST when the property passes to grandchildren after the death of the surviving spouse or the subsequent death of the children.

Business Trusts

50. Liquidating Trust

Description: Simplifies liquidation of a corporation or LLC.

51. Massachusetts Business Trust (a/k/a Statutory Trust)

Description: Typically used in financial transactions.

52. Rabbi Trust

Description: Typically used for nonqualified employee benefits. Trust that receives contributions from employer for benefit of employee. Trust assets must be subject to the employer's creditor's claims. Trust defers the employee's tax on the contribution until distributed to employee.

Miscellaneous Trusts

53. Beneficiary Controlled Trust

Description: Beneficiary serves as Trustee and can make distributions to himself/herself for health, education, maintenance and support. Beneficiary has testamentary limited power of appointment.

54. Trusteed IRA

Description: IRA held by trustee.

55. Stand-Alone IRA Receptacle Trust

Description: Trust to receive distributions from IRA.

56. Beneficiary Defective Trust (a/k/a 678 Trust)

Description: Beneficiary is taxable on all trust income whether or not the beneficiary receives the income.

57. Supplemental Needs Trust

Description: Trust for the benefit of a disabled beneficiary in which the trust assets are not included in the beneficiary's asset or income base for purposes of government benefits.

58. Qualified Income Trust (a/k/a "Miller Trust")

Description: Income is assigned to trust to allow Medicaid qualification.

59. Grantor Trust

Description: Trust income is taxable to the Settlor.

60. Non Grantor Trust

Description: Trust income is taxable to the trust or beneficiaries (other than the Settlor).

61. QSST Trust

Description: Trust to hold stock of Subchapter S corporation without jeopardizing S status. Requires all income to be distributed.

62. Electing Small Business Trust

Description: Trust to hold stock of Subchapter S corporation without jeopardizing S status. Trust pays tax.

63. Blind Trust

Description: Used by politicians to minimize conflicts of interest.

64. Pet Trust

Description: Trust for the benefit of your favorite animal.

65. Cemetery Trust

Description: Trust to maintain and support family cemetery.