

A Trust Primer

Many people perceive trusts as a complex subject better left to their attorney. When stripped of all its “bells and whistles,” however, a trust can be viewed simply as a contract, wherein a **grantor** agrees to transfer assets to a **beneficiary**, or multiple beneficiaries, who then receives the assets as stipulated in the contract. A **trustee**, who may or may not be the grantor, manages the trust assets and ensures the stipulated terms of the trust are faithfully carried out.

With an understanding of these fundamental trust building blocks, you can begin to see that trusts are simply very powerful tools designed to help individuals handle a variety of family and tax-related issues. The following list will give you an idea of a few ways in which trusts can be put to work:

Revocable “Living” Trust: A revocable living trust is an estate planning trust that deeds property to heirs, but permits the grantor to retain control over the property during his or her lifetime. Upon the grantor’s death, the property passes to the beneficiaries, avoiding **probate**, which is the judicial process wherein a court appoints an executor to carry out the provisions of a will. Many people who have had firsthand experience with the expense, delay, and publicity of probate have sworn never to allow their estate to undergo that process. While the revocable living trust does not provide tax savings for the grantor during his lifetime, upon his or her death, the trust becomes “irrevocable,” and the beneficiaries are thus entitled to the tax advantages an irrevocable trust receives.

Credit Shelter Trust: A credit shelter trust, also referred to as a **bypass trust**, is a popular estate planning tool used to help protect assets from successive estate taxes. While current laws permit an unlimited amount of assets and property to pass to a surviving spouse tax free, transfers to children and other beneficiaries valued in excess of the **applicable exclusion amount** (\$2,000,000 in 2007) may be subject to federal estate taxes. A couple taking advantage of a credit shelter trust generally arranges for certain assets to pass into a *trust* for the benefit of a surviving spouse, rather than passing all assets *directly* to the spouse. This trust, which would not be considered part of the surviving spouse’s estate, may pay the surviving spouse income for life, and then upon his or her death may pass to a beneficiary, such as a child, free of estate taxes if under the applicable exclusion amount. In addition, the gross estate of the surviving spouse, upon his or her death, could also pass to the same beneficiary, and up to \$2,000,000 (in 2007) would be free of estate taxes.

Irrevocable Living Trust: An irrevocable living trust is an estate planning trust, wherein the grantor does not retain control of assets or property; but, through the transfer of assets or property into the trust, the grantor may be eligible for certain tax savings. An irrevocable living trust may also be used to avoid probate.

Irrevocable Life Insurance Trust (ILIT): An irrevocable life insurance trust is a trust that seeks tax savings through the ownership of a life insurance policy. Assets in the trust are generally not considered part of the grantor’s estate. ILITs may be either funded or unfunded. With a *funded* ILIT, income-generating assets are transferred into the trust, and the generated income is then used to pay the premiums on a life insurance policy. With an *unfunded* ILIT, the grantor makes yearly gifts to the trust, and this money is then used to pay the premiums on a life insurance policy.

Charitable Remainder Trust (CRT): A charitable remainder trust can be a highly effective financial and estate planning tool. It can allow the grantor to avoid capital gains taxes on highly appreciated assets; receive an income stream based on the full, fair market value (FMV) of those assets; receive an immediate charitable deduction; and, ultimately, benefit the charity(ies) of his or her choice.

Dynasty Trust: This trust is often used by high net-worth individuals who want to pass their wealth to their grandchildren *free* of one of the most costly taxes in existence—the **generation-skipping transfer tax**.

Using a trust can be an excellent method of accomplishing your long-term estate planning goals. As these trusts involve, in some cases, complicated tax laws, you should consult with your tax and legal professionals concerning your particular situation. The proper legal guidance can help you share your financial successes with family, friends, and charities, according to your wishes.