Advanced Estate Planning

Many clients can benefit from more complex estate planning strategies. There are a number of trusts that you can use to help you achieve your wealth transfer goals. Below is a basic description of some commonly utilized strategies.

Revocable Living Trust

A living trust is created during the grantor's life. The trust defines the grantor's goals and provides the ultimate flexibility during life and at death. The grantor is typically the trustee and has all rights and powers to amend and revoke the trust. Benefits of a living trust include:

- **Planning for Incapacity** — If the grantor becomes incapacitated, the co-trustee(s) or successor trustee(s) continue to manage trust assets and make financial decisions.
- **Valid in All States** — Many financial institutions will not accept a durable power of attorney unless you have signed one of the institution's proprietary forms. However, all institutions must accept instructions from the trustee of a living trust.
- **Probate Avoidance** — Trust property does not pass through probate at the grantor's death. Therefore, the assets transfer to the designated heirs with minimal publicity, expense and delay. A funded trust will also avoid ancillary probate if assets are owned in more than one state.
- **Ease of Distribution** — The successor trustee(s) manage the assets and make distributions in accordance to the terms of the trust document.
- **Asset Protection for Heirs** — Distributions made outright to heirs have no protection from the heir's creditors or a future divorce. Assets kept in trust for the benefit of the heirs will provide this protection and can also ensure ongoing support for heirs with special needs.

A living trust will only accomplish these objectives if it is properly funded. Assets must be re-titled and re-deeded in the name of the trust. All income and capital gains from trust assets will be taxed to the grantor.

Bypass Trust

A bypass trust is often created through a provision of the living trust. The goal of the bypass trust is to utilize the grantor's full estate exemption at death. A portion of the grantor's assets (usually an amount equal to the federal estate exemption) are placed into the bypass trust at the grantor's death.

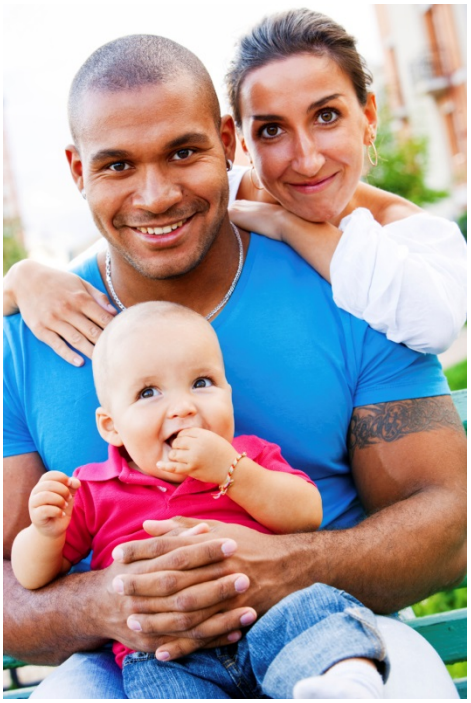
A surviving spouse receives income from the trust and can invade the principal if necessary. The balance remaining at the second spouse's death passes to the designated heirs free of estate tax.

- **Removed from the Spouse's Gross Estate** — The bypass trust is not included in the spouse's gross estate, even if the trust increases in value during the spouse's lifetime. Placing appreciating assets in the bypass trust can allow you to ultimately transfer a larger amount of wealth to your heirs tax free.
- **Taxation** — The bypass trust will be a separate entity. All income and capital gains are taxed to the trust and not to the surviving spouse.

Many states (including Oregon) also impose an estate or inheritance tax. The use of a bypass trust can help minimize state taxes regardless of whether or not your estate is taxable at the federal level.

Qualified Terminable Interest Trust

A qualified terminable interest trust (QTIP) is often utilized when the grantor wants to ensure specific heirs receive trust assets after the surviving spouse's death. Income from the trust is paid to the surviving spouse and any value remaining at death is included in the spouse's gross estate.



- **Blended Families** — Often a grantor's goals include providing for a current spouse, but also protecting the inheritance of his/her children from a previous marriage. The QTIP trust creates this flexibility by providing the spouse with income, but allowing the grantor to control the beneficiary designation.
- **Reverse QTIP Election** — If the grantor wishes for the remainder beneficiaries to be grandchildren, the generation skipping transfer tax (GSTT) would usually apply. However, if the grantor's personal representative makes a reverse QTIP election on the estate tax return, the trust can take advantage of the grantor's GSTT exemption at the spouse's death. Assets valued at or below the exemption amount can be transferred to the skip generation free of GSTT.

Irrevocable Trust

Often a client wants to utilize their lifetime gift exclusion, but do not want their children or grandchildren to receive the gifted assets outright. In order to restrict the timing of asset distributions, an irrevocable trust can be created with the children and/or grandchildren as the beneficiaries.

- **Completed Gift** — When the trust is funded, a completed gift is made (it is irrevocable). The designated trustee manages the trust assets and makes distributions to the beneficiaries according to the terms of the trust.
- **Growth** — The trust asset can increase in value above the initial gift amount and there is no additional gift tax due from the grantor. The trust is taxed as a separate entity for income and capital gains.

Irrevocable Life Insurance Trust

An irrevocable life insurance trust (ILIT) is used to remove life insurance proceeds from the value of your estate. Any policy that you have an incidence of ownership in (or have owned within the prior 3 years) will be included in the value of your gross estate. For clients with taxable estates, it is advantageous to move that outside of the estate. The life insurance proceeds are received by the beneficiaries tax free and can be used to pay estate tax liabilities without other estate assets being sold.

- **New Policies** — If a new policy is being purchased, cash would be gifted to the ILIT and the trust would purchase the policy. The beneficiaries (usually your children) are given Crummy Powers annually that allow them to remove a certain amount from the trust each year. Beneficiaries usually choose not to exercise the power and the cash is then used to purchase the insurance policy.
- **Existing Policies** — Existing life insurance policies can also be gifted to the ILIT. The value of the gift for tax purposes is the cash surrender value at the time of transfer. The insured must also live at least three years after transferring a policy to the trust.

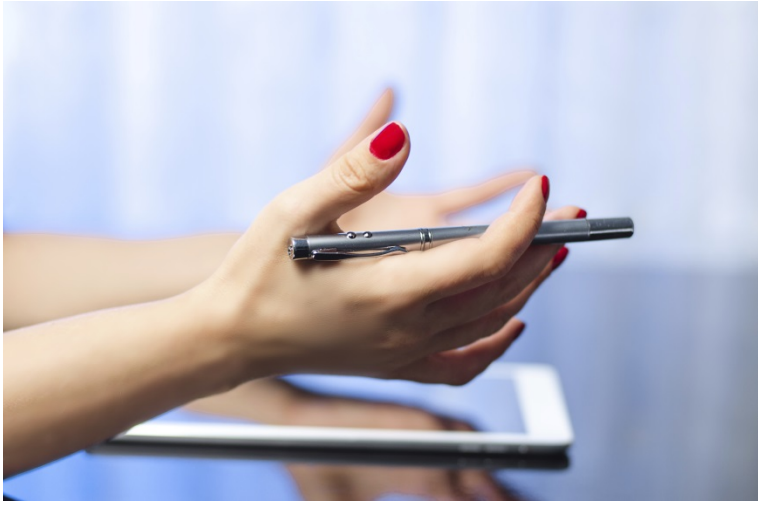
Charitable Remainder Trust

A charitable remainder trust is established by clients who wish to leave a portion of their assets to a qualified charity. This is an irrevocable trust; once funded the grantor cannot revoke the trust. The grantor will receive an income stream annually from the trust and the remainder beneficiary is the charity.

- **Customized Income Stream** — The income stream can be customized in amount and term. Income can be provided for a certain number of years, for life of the grantor or for the life of multiple recipients.
- **Tax Deduction** — At the time the trust is funded, the grantor will receive a charitable tax deduction for the present value of the remainder interest.

Grantor RetainedTrust

With a grantor retained trust, the grantor transfers property to a trust but retains certain rights to the property (usually an income stream). After the income period is over, trust assets are distributed to the designated beneficiaries.



- **Taxable Gift** — The present value of the remainder interest is considered a taxable gift in the year the trust is funded. This reduces the grantor's lifetime gift exclusion amount.
- **Trust Variations** — There are many variations of grantor retained trusts. Grantor retained annuity trusts (GRAT), grantor retained unitrusts (GRUT), grantor retained interest trusts (GRIT) and qualified personal residence trusts (QPRT) are all examples of grantor trusts. A discussion of your goals and objectives will help us determine which type of grantor trust might be suitable for you.

Family Limited Partnership

A family limited partnership (FLP) is a partnership with a general partner and at least one limited partner. Typically, the general partner is the senior family member who transfers business ownership or investment assets to the partnership. The general partner remains in control of the business or investment assets. The FLP provides creditor protection for the limited partner(s) but not for the general partner.

- **Gifting Interest** — The general partner is able to make substantial gifts of limited partnership interests while still maintaining control of the partnership assets.
- **Discounts** — When limited partnership interests are gifted, a discount is usually applied due to the lack of control and lack of marketability of the limited interest. This allows the general partner to leverage the size of the gift, which reduces the transferor's gift and estate tax liability.
- **Tax Considerations** — The FLP is a pass-through entity. This allows the shifting of business income and future appreciation of the assets to other members of the family who may be in a lower tax bracket.

Planning

Many of these strategies can result in the reduction of transfer taxes while also achieving complex wealth transfer goals. We can help you determine the best combination of strategies for you and your family. We will also partner with your estate planning attorney to help you implement your estate plan. Additional strategies are also available and will be discussed if applicable to your specific situation.

This is an informational fact sheet and is not intended to be a specific recommendation. If you are interested in exploring these strategies to see if they are applicable to your specific situation, please contact us. The information contained in this fact sheet is accurate to the best of our knowledge.