
Trusts From A to Z:

A Primer on Trusts

(ABC to CRT)

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ABC, DING, NING, QPRT, GRAT, GRIT, GRUT, CRAT, CRUT, CRT, CLAT, CLT, NIMCRUT, DGT, IDGT, QSST, ESBT, APT, FAPT, ILIT, SNT GST, HEET

I. Revocable Trusts.

A. Living Trust – Variations (married couple)

1. Outright to spouse
2. Outright to spouse with disclaimer to Bypass
3. Bypass / Marital (ABC)
4. Marital

B. Fictitious Name Trust

1. Title Holding
2. Third Party Trustee
3. Pour over to Living Trust

II. Irrevocable Trusts.

A. Completed Gift - No Retained Interest

1. Grantor Trusts (DGT)

a) General Rules

- (1) The grantor retains a reversionary interest in the trust.
- (2) The grantor or a nonadverse party holds certain powers over the beneficial interests under the trust.
- (3) Any person holds a power of administration that is exercisable in a nonfiduciary capacity without the approval or consent of any person in a fiduciary capacity and under which the grantor can or does benefit, including the power to reacquire trust corpus by substituting property of an equivalent value.
- (4) The grantor or a nonadverse party has the power to revoke the trust or revert in the grantor any portion of the trust corpus.

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- (5) The grantor or nonadverse party has the power to distribute trust income to or for the benefit of the grantor or his or her spouse (includes payment of insurance premiums for policies on the life of the grantor).
 - b) Tax reimbursement
 - 2. Insurance Trusts
 - 3. Non grantor Trusts
 - a) California taxation
 - b) Directed Trusts
 - c) Termination of grantor trust status
 - (1) Voluntary
 - (2) Death of grantor
 - (3) Incapacity (?)
 - 4. Charitable Trusts
 - 5. Incomplete Gift Non-Grantor (DING / NING)
 - a) Incomplete gift - Powers of Appointment (lifetime and testamentary)
 - b) Nongrantor status - require adverse party approval for distributions to grantor.
 - 6. Generation Skipping Trusts
- B. Completed Gift - Retained Interests
 - 1. QPRTs
 - a) Grantor trust
 - b) Basis issues
 - c) Treatment after retained interest
 - d) Tax treatment upon death

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- e) Property tax reassessment
- 2. GRATs and GRUTs
 - a) Typical uses
 - b) Value property for annuity payment
 - c) Estate tax inclusion
 - d) Generation skipping taxes
 - e) Comparison to DGTs
- 3. Charitable Remainder Trusts (CRATs and CRUTs)
 - a) Income tax and charitable tax equal to the present value of remainder interest - must exceed 10%
 - b) No gain on sale of property by CRT of appreciated assets
 - c) Taxation of CRT distributions
 - (1) Ordinary income
 - (2) Capital gains
 - (3) Tax exempt income
 - (4) Return of basis
 - d) Assignment of Income
 - e) NIMCRUTs
 - (1) Distribution of the lesser of a unitrust amount or the net income.
 - (2) Various techniques to control net income.
 - (3) Build up value of trust assets for distributions in later years.
 - (4) Valuation issues to determine whether the trust meets the 10% test.

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4. Charitable Lead Trusts
 - a) For Grantor trusts, there is an income tax deduction for the present value of the future income stream
 - b) For Nongrantor trusts, income is taxed to the trusts subject to the trusts' charitable deduction

III. Special Purpose Trusts.

A. Subchapter S Trusts

1. QSST
 - a) One income beneficiary
 - b) All accounting income required to be distributed annually
 - c) Principal distributions permitted only to income beneficiary
 - d) Current income beneficiary's interest terminates on death or distribution of principal to the income beneficiary
 - e) Spouses treated as a single beneficiary
 - f) Current income beneficiary must make the election
 - g) Problems in a low interest rate environment
2. ESBT
 - a) Multiple beneficiaries permitted
 - b) Income can be accumulated and distributed among beneficiaries at trustee's discretion
 - c) Subject to the highest tax rate
 - d) Trustee must elect with two months and 16 days from receipt of S Corp stock

B. Asset Protection Trusts

1. Domestic

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2. Foreign
- C. Special Needs Trusts
- D. HEETs
1. Rarely used
 2. When a charitable beneficiary is included, there is never a taxable termination on the death of the last child