

The “Daily Plan-It™”

SHUMATE BROKERAGE CORP.

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TRUSTS MADE SIMPLE

Part Two

In the first part of this series, we provided some simple explanations for the complex concept of trusts, and the roles of the people involved in them.

We also offered the explanation that trusts come in different makes and models. With the help of trusted legal and financial advisors, clients can choose the right model for their needs.

A Trusted Variety

First, your client will need to choose between a revocable or irrevocable trust. This refers to the ability of the Trustmaker to undo the trust. A revocable trust can be undone, that is, revoked. An irrevocable trust cannot be undone, and generally, the Trustmaker cannot change the terms of the trust once it's established.

Another choice is between living trusts and testamentary trusts. Living trusts, also known as intervivos trusts, are established during the lifetime of the Trustmaker. Testamentary trusts are established after the death of the Trustmaker. A good way to remember this term is that testamentary trusts are part of the Trustmaker's legacy, or testament.

Some Taxation Terms

Accountants will often ask whether a trust is simple or complex. This question isn't asking how easy the trust is to understand or administer. It's basically asking about distribution of the trust income. Simple trusts mandate payment of the trust's income to the beneficiaries, while complex trusts do not mandate such payment.

Grantor Trusts

Since we're talking about taxation of trusts, we need to consider the term "grantor trust." With this

type of trust, the income the trust earns is taxed to the Trustmaker. Almost all revocable living trusts are grantor trusts, but some irrevocable trusts can be grantor trusts, as well, if the trust contains certain provisions.

If a trust is not a grantor trust, then the trust itself is considered a separate taxpayer, and is responsible for paying the taxes on its income. In other words, if it isn't a grantor trust, the bucket must pay the taxes from the assets in the bucket.

The Most Common Combination

The most common type of trust planning we do is revocable living trusts that are taxed as grantor trusts. These are trusts established during the Trustmaker's lifetime, which he can undo if he so chooses. You can also help clients understand that the income from these trusts is taxed directly to them, just as if they owned the assets outright.

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