



Having faith in Trusts

The basics of Estate Trusts

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As our loyal readers know, we take great pride in writing our monthly newsletter; no outsourcing here – until this month. Yes, we realize where our boundaries of expertise extend and Law is our limitation. The March topic, Trusts, is an important area of Estate planning. Joe Bonahoom is this month's guest writer. Joe is an accomplished local attorney whose expertise encompasses Estate planning- including Trust consulting. His contact info is below.

What is a Trust? It is merely a legal relationship established when one party (Trust Maker) transfers property to a second party (Trustee) who must use those assets for the benefit of a third party (Beneficiary). Trusts, in their basic forms, are relatively simple. However, they can become complex depending on: trust terms, intended uses, the types of assets held, and how administered. Trusts can be either *testamentary* (created at the time of death) or *inter-vivos* (created while living). The following are some general Trust forms and uses.

Contingent Trusts for Minor Children. Typically, a Testamentary Trust created as part of a Will. Its common use is to create a mechanism to administer money/assets to provide for minor children in the event that both parents die. This Trust should be considered by anyone with minor children.

The Revocable Living Trust. This is one of the most popular Trusts, and often advertised (albeit incorrectly) as a means of saving taxes, and saving administrative costs by avoiding probate. The Revocable Living Trust is created during the person's lifetime and, if done correctly, will be funded with appropriate assets. Typically, the Trust Maker is also the Trustee and the beneficiary during his or her lifetime. If the Trust Maker becomes incapacitated, then a backup Trustee (named in the Trust) oversees the administration of Trust assets. While Revocable Living Trusts can be appropriate and helpful under the right circumstances, it is not a one size fits all Trust. Typically it is more expensive to set up and administer a Revocable Living Trust than it is to create a Will based estate plan. Before deciding to use a Revocable Living Trust, an individual should consult with an estate-planning attorney.

Credit Shelter Trusts. The Credit Shelter Trust can be either Testamentary or Inter-Vivos. This Trust can shelter certain assets from federal estate tax, and in some cases Indiana inheritance taxes. We don't use this Trust unless there is in excess of \$1,500,000 in assets transferable at death. While it is beyond the scope of this article, this trust can be a tremendous tax saving tool.

Charitable Remainder Trusts (CRT). The Charitable Remainder Trust can take a variety of forms. In essence, the Trust Maker funds a Trust that will ultimately benefit a charity. If done correctly, the Trust Maker can reduce current income taxes, reduce federal estate tax at the time of death, and provide an income stream or other lifetime benefit to themselves/others. With competent advice, the CRT can be a very tax efficient estate-planning device.

While Trusts can be very helpful in planning one's estate, reducing administration costs (in some cases), reducing taxes, providing for minor children, controlling asset distribution; they are not for everyone. There is no one size fits all formula and in any potential trust situation, the Trust Maker needs to be advised with respect to the costs, funding and administration of the Trust. If the Trust set up/administration costs outweighs the ultimate benefits to the Trust Maker and beneficiaries, then a Trust may not be the answer. Bottom line, arm yourself with enough information to find out what is the best and most cost effective plan for your particular situation. In many cases, this will include the use of Trusts.

Joe Bonahoom is a partner and co-founder of Bonahoom & Bonahoom, LLP. For further information concerning Trusts, Estate Planning, Elder Law, or General Business Transactions, Joe can be contacted at (260) 420-4055 or by email, joeb@bonahoom.com or on line at www.bonahoom.com.