

LIFE INSURANCE TRUSTS

What they are

A life insurance trust is a trust created with the proceeds of a life insurance policy, the terms of which are established either in a Will or in a separate trust deed.

Advantages

The funds are immediately accessible to the beneficiary or his or her trustee upon the death of the owner of the policy. This is contrary to designating the estate the beneficiary in which case the funds are trapped in the estate during the administration period. Further, since the life insurance proceeds do not form part of the estate, they are protected from the creditors of the deceased. Additionally, the value of the proceeds are not included in the calculation of estate administration tax (probate fees), which on large policies can be significant tax savings.

When are they useful

Below are some examples of when these trusts are most effective:

- For minor beneficiaries – The owner of the policy can designate when the minor beneficiaries are to receive the funds and can specify how the funds are to be handled until the age of distribution. The proceeds will bypass the estate, thereby taking advantage of the benefits listed above.
- For adult beneficiaries who wish to income split – Trusts of this nature are entitled to the same marginal tax rates as individuals and therefore income generated in the trust from the insurance proceeds may be subject to a lower tax rate than if the same income from the insurance proceeds was taxed directly in the hands of the beneficiary.
- To satisfy child support obligations.

CHOOSING THE RIGHT ESTATE TRUSTEE

One of the biggest challenges in estate planning is choosing the right individual or individuals to act as one's estate trustee. An estate trustee has a number of duties and responsibilities ranging from preparing an inventory of all of the assets of the deceased, gathering those assets, settling all debts, preparing the required income tax returns at the appropriate times, distributing the assets to the beneficiaries and administering any trusts set out in the Will. The estate trustee can hire professionals to assist with the process.

It is important to select an individual who is capable to perform these duties and knows when to turn to professionals for assistance. Further, the individual should be reliable, trustworthy and financially responsible. He or she may have to make a number of financial decisions with regard to investments, real estate and other financial holdings. An estate trustee is entitled to compensation, the amount of which is governed by case law and legislation.

An alternative to selecting a friend or family member is to select a trust company to act as an estate trustee. Using a trust company is useful if the estate will be very complex or if there is likely to be dissention between beneficiaries. However, it is important to note that using a trust company will often cost the estate more than using a friend or family member and trust companies will often only take on estates that reach a certain minimum value. Please contact us if you would like to discuss these options with us further.

CHARITABLE GIVING ON DEATH—DONOR ADVISED FUNDS

There are many options to philanthropy on death aside from leaving a charitable gift in one's Will. One of those options is establishing a donor advised fund. These funds are useful for individuals who like the idea of creating a private foundation which will continue after the donor's death but do not want the administrative hassle of establishing and maintaining one.

These donor advised funds are established and administered through a financial institution. The initial contribution to the fund is subject to a minimum threshold which varies depending on the financial institution selected. The donor receives a charitable tax credit for the initial contribution and all subsequent contributions made to the fund. Further, the donor retains the right to allocate the fund's income on a yearly basis to the charities of his or her choice. Upon death, the donor can designate a family member or friend who will continue to make the decision as to the allocation of funds on a yearly basis. This type of charitable giving can either be established during the lifetime of the donor or through his or her Will.

Raymond Stancer

Eric Gossin

Mitchell Rose