
Controlling Your Trust Assets to the Grave and Beyond

By Richard F. Roth

Did you know you can be Trustee of your own irrevocable trust? For years, all of the pundits have been saying no, you cannot; however, times have changed. Yes, you can be the Trustee of your irrevocable trust. By serving as your own trustee, you can control the money you earned and saved all the way to the grave and thereafter.

Control gives you great flexibility.

Whether or not you use an irrevocable trust with yourself as Trustee depends on your goals. Most people would prefer to retain control of their Trust assets over their lifetime. *For illustrative purposes*, in a trust for the benefit of your children, you can control the timing and amounts of distributions to your child(ren). If you have more than one child or beneficiary, you need not treat them the same. You can delay a distribution to a child who is dependent on drugs or alcohol, or who has creditor issues or marital problems. You may not want to enable a child, if he or she fails to support himself or herself. As Trustee, you are not bound by predetermined language and, in fact, can decide how you want to act at any such time. You can control the Trust assets and their distribution.

With regard to an irrevocable life insurance trust, you can change the beneficiary or beneficiaries and cancel or modify the policy at any time. You will not have to send crummey letters to the beneficiaries.

Some people may want to use an irrevocable trust to protect their money from creditors. As long as you do not have the ability to take the trust assets out of the Trust for your own benefit, you can retain control of the Trust. Of course, there are exceptions to everything. *For example*, if you are committing a fraud on creditors, then the funds will not be protected from your creditors.

So, what's all the hubbub about?

If you retain control over the money or other assets held in the Trust, then the trust income is taxable to you and the assets in the Trust will be included in your estate for estate tax purposes. However, the current lifetime exemption for estate taxes is \$5,490,000 for an individual or, for a married couple, \$10,980,000. If your estate will not be subject to estate tax, then, other than paying income taxes, your ability to maintain control over the Trust assets has no downside.

In conclusion, I believe more people should serve as trustee of their irrevocable trusts and maintain control over the assets they worked so hard to accumulate. If you would like to further discuss establishing an irrevocable trust, in which you will serve as your own trustee, [please contact me](#).