Beneficiary Flexible Trusts

By William Sigler

Although the higher Federal estate tax exemption may have lessened the need for "family" or "bypass" trusts in traditional trust drafting, the number of different kinds of trusts and the uses for trust instruments seems to be proliferating.

Some of these kinds of trusts have familiar names, such as intentionally defective grantor trusts, qualified personal residence trusts, IRA conduit trusts, Miller trusts, and the like. Others are known by their acronyms, e.g., ILITs, QPRTs, GRATs, GRUTs, CRATs, CRUTs, CLUTs, etc. An increasing number seem to be products of Madison Avenue, including the "HEET" trust, the "Sharkfin CLAT," and the "Supercharged Credit Shelter Trust."

An emerging genre in the trust world is the "beneficiary flexible" trust. This kind of trust endeavors to give the beneficiary control over the investment and distribution of the trust assets, while still providing a modicum of protection against third party creditors or in a divorce. It can also be used to control whether a parent or child will be taxed on the trust income. In the April 2014 edition of Latches, William Sigler discusses beneficiary flexible trusts in greater detail.

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