CPA
Practice Advisor

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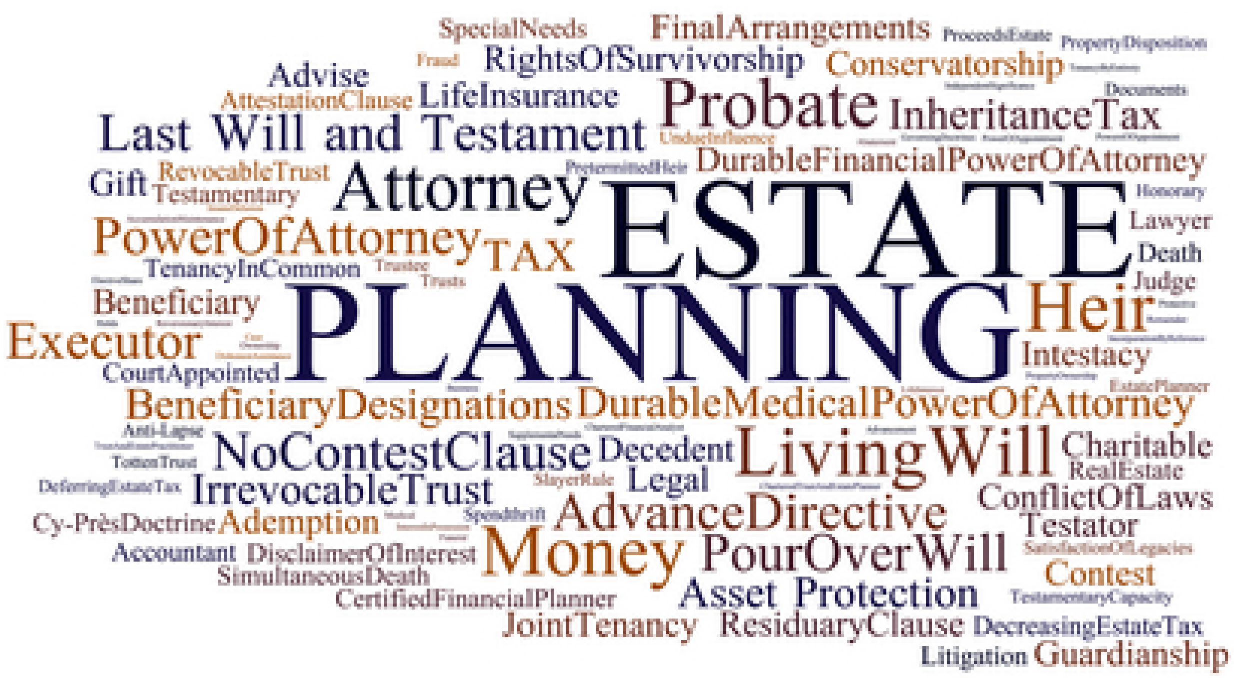

There is a major disconnect between tax accountants and trusts. Some people think that it is the best taxable situation for a client, and others think that all trusts protect assets, which couldn't be further from the truth. The information that I am going to give is general in nature. You may want to check with your particular state.

There are various trusts, but I will start with the basic Revocable Living Trust (RLT). A RLT is Grantor Trust. With any trust you have three parties, the Grantor or Trustmaker, this is the person creating the trust. The Trustee, this is the person that controls the assets, and the beneficiaries. These are the people that inherit the assets.

When a RLT is formed, all assets need to be retitled to the Trust, in order for them to

Employer Identification Number. If the assets earn any money, the beneficiaries are given a K-1 Form from the trust.

The reason for a RLT is to avoid probate. A RLT cannot be contested, however, it is common to place all of the big assets in the RLT, and have a pour-over will for any other asset that was missed.

In most states, probate is a process where the proceedings are made public. Creditors and anyone that feels that they have a claim to the decedent's assets can make a claim against the estate if there was only a will. A RLT avoids that entire process.

An Irrevocable Trust, on the other hand, is a trust that removes an asset from the Grantor of the trust. This action, for the most part protects the asset from most legal actions. It moves the asset from the grantor or grantor. Irrevocable means that it cant be changed and it's a taxable entity. However, Irrevocable trusts are usually used to remove assets from a taxable estate. Irrevocable Life Insurance Trusts (ILIT), are very popular.

There are also grantor defective trusts, that are usually used to move a business from one generation to another. Another way to accomplish the same thing is through a Grantor Retained Annuity Trust (GRAT). This trust effectively sells the business to the next generation. The owner retains control until the end of the trust, and is paid an annuity for the life of the trust.

It is important to point out that not all taxable trusts are flow through entities. Complex trusts are allowed to accumulate income on their corpus[1]. This sets up a taxable event for the trust and the rates are less than favorable.

If the Taxable Income is	The Tax is

Not over $2500	10% of taxable income

As you can see it isn't the best situation to set up a complex trust.

There is a movement when people are faced with a potential lawsuit, to move their assets into am Irrevocable trust. However, that asset will not be protected, because moving an asset because of an actual or potential lawsuit is fraudulent conveyance.

Trusts can be helpful tools to avoid assets, or even to remove assets from a taxable estate. They can also be moved to protect the asset from creditors, provided the Grantor had no reason to believe that a lawsuit was pending or one could potentially happen.

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[1] The initial assets of the trust