Halliday Private Trust
Integrated Trust Solutions for Clients

Trust Connection

A Monthly Report of Trust News and Information

March 2020

Welcome to *Trust Connection,* our monthly newsletter highlighting Trust news and information. Each month we will feature timely articles of interest.

About Us

At Halliday Private Trust, it is our mission to assist our clients in the process of providing solutions, specifically through a wide range of financial advice.

Since 1982, we have utilized a full spectrum of financial services to help our clients navigate every major hurdle in their financial lives. Because we are an independent financial services firm, we utilize an open architecture approach to locating the most suitable investment options for our clients.

Our role is to help clients make smart decisions about their money. We understand that each client has unique needs and requires personalized solutions based on their goals, objectives and concerns.

How to Effectively Position Life Insurance

As a result of the Tax Cuts and Jobs Act passed in 2017, the estate tax exemption more than doubled from $5.49 million per individual in 2017 to $11.58 million in 2020. For many people, the primary reason to establish an irrevocable life insurance trust (ILIT) was to make sure the proceeds of their life insurance policies would not be subjected to estate tax. Upon the grantor's death, his or her loved ones would receive the insurance proceeds, undiminished by estate taxes. Alternatively, the proceeds could be used to take care of liquidity needs of their estates. With the dramatic increase in the estate tax exemption, many people may assume that they no longer need to maintain their ILIT, as their estate will not be subject to estate tax. In fact, in 2018, the first year of the increased exemption, only about 1,900 estate tax returns were filed for taxable estates, affecting less than 0.1% of the people who died that year.

Does this mean that ILITs are alive as an estate planning tool? Are ILITs still a useful arrow in the financial planner's quiver? The answer to both questions, for many people, is a definite yes. Even if you do not have a federal estate tax problem, an ILIT can be a valuable tool. Here are some of the reasons:

Asset Protection

Every state has different rules determining the extent to which an individual's assets, including those that are part of their estate following death, are protected from the claims of creditors. Assets in excess of these amounts may be attached for the payment of legitimate debts. With an ILIT, life insurance proceeds are payable to the trust for further distribution to the beneficiaries of the trust. As such, the proceeds can be protected from creditors' claims until they are distributed pursuant to the terms of the trust. This includes both creditors of the decedent and the beneficiaries. Many trusts also have spendthrift provisions that prevent creditors from attaching the interest of the beneficiary in the trust's assets until distributed to him or her. If the proceeds remain in the trust, they will be safe from creditors.

Preservation of Government Benefits

Having the proceeds of a life insurance policy paid into an ILIT can help protect the government-paid benefits of an ILIT beneficiary, such as social security disability income, Medicaid, or benefits payable to an individual with special needs. With appropriate drafting, the trustee can control when and how distributions to the beneficiary are used to prevent the loss of eligibility for such

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benefits. Where this is a goal of the ILIT, an independent advisor with specific knowledge of the complex rules and regulations regarding eligibility should be appointed to assist with the development of distribution schedules and strategies.

State Estate Tax Avoidance

While most states no longer have an estate tax, 12 states (and the District of Columbia) still impose a death tax. And for some of those that do, the estate tax threshold is much lower than the federal exemption. For example, Massachusetts and Oregon impose an estate tax with a maximum rate of 16%, and the exemption is only $1 million. And in several others, the exemption is in the range of $4-6 million. For residents of those states that do impose an estate tax, an ILIT is still a useful strategy for avoiding those taxes.

The rules of establishing an ILIT that will be recognized as such by the courts and taxing authorities have not changed. The trust must be irrevocable, and all the incidents of ownership (generally, the ability to change a beneficiary or cancel or assign the policy) must belong to the trust. In addition, the trust beneficiaries must have the right to the use, benefit, and enjoyment of contributions to the trust by the grantor for any purpose, including payment of policy premiums, to qualify as a present interest gift, thus avoiding inclusion in the grantor's taxable estate upon their death.

ILITs can be complicated vehicles that require the skills of an experienced attorney to draft agreements correctly. However, in the right situation they continue to be a powerful tool that should be considered in many wealth management plans.

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A LOCAL TRUST SOLUTION

Call us today at (800) 786-1598 to learn more about working with Halliday Private Trust.

For information and assistance, please feel free to contact one of our Trust Advisors:

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