



The Trust Protector

Building Flexibility Into Your Irrevocable Trust

Individuals who understand the benefits of an irrevocable life insurance trust (ILIT) in their overall estate plan appreciate that the properties transferred into a ILIT (and any post transfer appreciation) may be excluded from their taxable estate.

Yet, many clients can be reluctant to create an ILIT, out of concern for the irrevocability of the arrangement. These individuals may believe that an ILIT cannot be easily modified to adjust to changing circumstances, such as tax laws, the needs of trust beneficiaries, or events indicating a need to replace an original trustee.

The Trust Protector Solution

Modern trust documents often include provisions naming an individual or entity as "Trust Protector." The Trust Protector is not named as an initial trustee, but is given certain powers to change the trust arrangement upon the occurrence of specified events. The trust protector should never be the grantor.

An irrevocable trust can be given enhanced flexibility by including provisions granting powers to a Trust Protector.

The Trust Protector can be empowered to **add or remove beneficiaries**, to **modify the trust in response to tax law changes**, to **replace an initial trustee**, to **audit the acting trustee's investment performance**, and to **terminate the trust pursuant to instructions and guidelines spelled out in the trust agreement**.

It is theoretically possible for the Trust Protector to be given powers responding to almost any conceivable future circumstance. To avoid having the trust funds being included in the grantor's taxable estate, the Trust Protector provisions should be drafted by an experienced and competent trust attorney. It cannot be emphasized enough that sophisticated advisors should be involved at the outset, to assist the client in deciding on whether to add Trust Protector powers to the trust, and on the precise scope of those powers.

If the estate planning client desires more flexibility than the conventional irrevocable trust, the use of Trust Protector provisions should be considered.

FOR MORE INFORMATION ON IRREVOCABLE TRUSTS CONTACT:



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