

IRREVOCABLE LIFE INSURANCE TRUST
(TRUST BENEFICIARIES ARE THE CHILDREN)
(FUNDING: LIFE INSURANCE POLICY)

(SECOND-TO-DIE POLICY)

HIGHLIGHTS OF THE PLAN

This irrevocable life insurance trust is designed to be the owner of a second-to-die life insurance policy insuring both grantors (husband and wife).

The trust should be used in circumstances where, after the death of the last to die of the grantors, the trust income is to be paid among the children at the discretion of the trustee and, at such time as the youngest child attains age 25, the trust terminates and is paid out. (Age 25 is illustrative only, and other ages may be substituted.)

The specimen trust form is intended to be used to create an irrevocable trust which is unfunded except for the life insurance policy. Some trustees will also keep a minimum balance bank

account in which to deposit contributions by the grantors and to make policy premium payments. The specimen trust form contemplates that the trust will not have taxable income during the grantors' lifetime.

The incentive for use of such trusts is the potential for removing life insurance policy proceeds from the estate of both the insured and the insured's spouse. In order to help accomplish this, it is recommended that the trust be the original applicant/owner of the life insurance policy. If not, it is certain that there will be a three-year waiting period to keep the policy proceeds out of the insured's estate.

The specimen trust form incorporates Crummey withdrawal provisions in order to qualify contributions to the trust for the annual gift tax exclusion. It is important to note that the specimen trust form utilizes the maximum gift tax exclusion under Internal Revenue Code Section 2503(b). The Crummey withdrawal provisions are not limited to the \$5,000 or 5% lapse protection amount under IRC Sections 2514(e) and 2041(b)(2).

This concept allows the grantors to make larger contributions without gift tax consequences to the grantors; however, in some cases, this technique could cause gift and estate tax issues for the beneficiaries. There are other methods of drafting Crummey withdrawal powers, and grantors' counsel should be consulted in all cases regarding withdrawal provisions.

The specimen trust illustrates just one method of providing for the grantors' children; however, the trust provisions must be designed to fit the individual circumstances of each case.

