

IRREVOCABLE LIFE INSURANCE TRUST

**(INCOME TO SPOUSE, PRINCIPAL TO CHILDREN)
(FUNDING: LIFE INSURANCE POLICY)**

HIGHLIGHTS OF THE PLAN

This specimen irrevocable life insurance trust is designed to be the owner of a life insurance policy, in a policy, that insures the life of the Grantor. The trust may own assets other than life insurance; however, to prevent the Grantor from being taxed on trust income, it is best to leave assets other than life insurance out of the trust until after the death of the Grantor.

After the Grantor's death, the policy proceeds will be paid into this irrevocable life insurance trust, which is designed to pay income to the Grantor's spouse for life and then to benefit the Grantor's children and descendants throughout their lives. Trust assets can be used to provide for education and medical expenses, support and maintenance expenses, money for home purchases, funding for starting or operating a business, or other family needs.

The trust should be used in circumstances where:

1. After the death of the Grantor, the Grantor's spouse is to be the income beneficiary of the trust;
2. After the death of both the Grantor and the Grantor's spouse, the trust assets are to be divided into equal shares, one for each child of the Grantor who is living and one for each child who is deceased and survived by descendants. Each share is held for three years and then paid to the child or the descendants of the deceased child. (The three-year period is to allow time for the administration of the estate of the last to die of the Grantor or Grantor's spouse including filing and audit of the federal estate tax return.)

The specimen trust form is intended to be used to create an irrevocable trust which is unfunded except for the life insurance policy, in a policy, either of which is to be owned by and payable to the trust. Some trustees will also keep a minimum balance bank account in which to deposit contributions by the Grantor and to make policy premium payments. The specimen trust form contemplates that the trust will not have taxable income during the Grantor's lifetime.

The incentive for use of such trusts is the potential for removing life insurance 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 Grantor to make larger contributions without gift tax consequences to the Grantor; 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 Grantor's counsel should be consulted in all cases regarding withdrawal provisions.

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