IRREVOCABLE LIFE INSURANCE TRUST

An irrevocable life insurance trust (ILIT) is an irrevocable trust set up to own and be beneficiary of life insurance policies. The life insurance can be on one individual or be a second-to-die survivorship policy where death proceeds are payable at the second death.

Generally, the insured(s) will pay the premiums on the life insurance held by the ILIT by making cash gifts to the ILIT. In order to make these gifts “present interest” gifts that qualify for the annual gift tax exclusion ($15,000 in 2021 per beneficiary or $30,000 when a spouse also consents to the gift) the trust will include “Crummey Provisions” -named after the party who successfully fought the IRS.

The Crummey power gives each beneficiary, including contingent beneficiaries, if desired, the right to withdraw their portion of the transferred amount within a specified amount of time after which the right to withdraw lapses. A typical time period is 30 days. Beneficiaries generally reject the right to withdraw. The premium is then sent to insurance company.

How it works:

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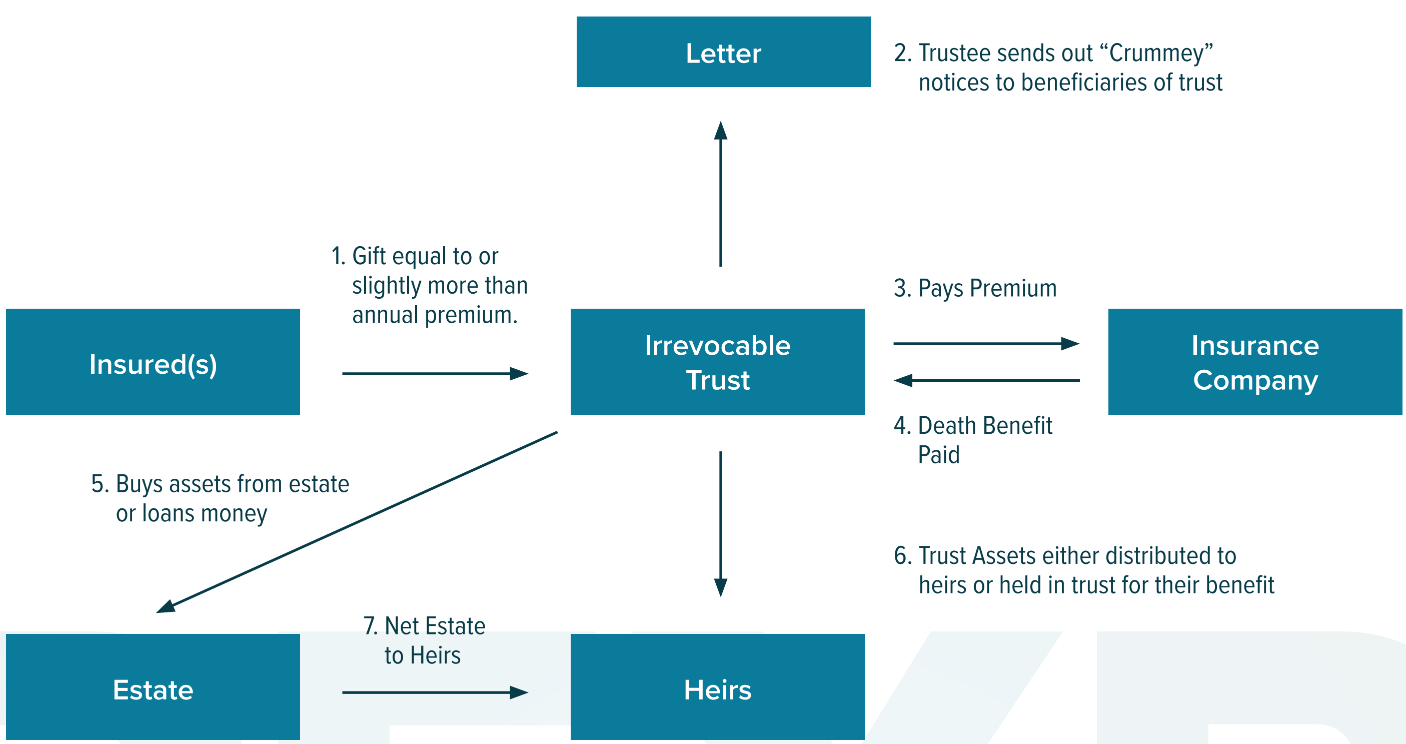

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Advantages

- The life insurance death proceeds are not included in the estate of the insured(s) if the purchase of the life insurance is properly structured
- Gifts to the ILIT may qualify for annual gift tax exclusion (eliminating need to erode the lifetime exclusion)
- At death, the trust provides liquidity for estate taxes and other debts by buying assets from the estate or loan the estate money. The trust itself should not be required to directly pay estate taxes since this would result in the amounts used being includible in the estate. The beneficiaries of the trust are generally also the beneficiaries of the estate, so they get whatever is in both places
- If desired, assets other than the life insurance may be contributed to the trust during the insured's lifetime. The trust wording should be drafted to be flexible enough to permit this

Other Considerations

- If existing policies are transferred to this trust, the proceeds will be brought back into the insured's estate if death occurs within 3 years of the date of transfer
- The trust is irrevocable and any cash values created in the policies belong to the trust and cannot be accessed directly by the insured/grantor
- It is important to send out Crummey letters each year to all beneficiaries that are part of the arrangement so that gifts to pay premiums are considered as part of the annual gift tax inclusion. The IRS may ask to see copies of these letters