
Intentionally Defective Trust

Posted by Tomas P. - 2007/05/29 20:20

:huh:

I dont do much advanced estate planning. Can some explain the purpose of an IDIT to me and give me an example of when a client would need such planning?

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Re: Intentionally Defective Trust

Posted by Brian - 2007/06/24 13:03

An IDIT is a trust that has one or more of the powers described in IRC secs. 671-678, but none of the powers described in IRC secs. 2036-38. Trusts fitting within secs. 671-678 are considered grantor-type of trusts for income tax purposes while trusts containing the powers described in secs. 2036-38 are considered owned by a grantor and included in their estate.

The powers described under each of these code sections are not completely the same. Therefore the planner has the ability, through careful drafting, to have the grantor retain the ownership for income tax purposes but not for estate tax purposes.

Under secs. 671-678, grantor are treated as trust owners if:

- * They retain a reversionary interest in trust corpus or income; has power to control the "beneficial enjoyment" of the income or principal of the trust;
- * They retain certain powers of administration without consent of any person in a fiduciary capacity;
- * They can revoke the trust at any time or revest the property to themselves;
- * They can distribute income to the grantor or the grantor's spouse; and
- * Someone other than the grantor will be treated as owner of a portion of the trust if that person has the power to vest the trust's income or corpus in himself.

Secs. 2036-38 generally provide that assets are included in a decedent's estate if the decedent, at death:

- * Retained a life estate in the property previously transferred;
- * Retained a reversionary interest; or
- * Made a revocable transfer of the property.

The primary purpose of an IDIT is to shift income ownership and related tax burden and attributes back to the grantor, while preserving the completed gift characterization for estate and generation-skipping transfer taxes. IDITs are commonly used to:

Shift the Income Tax Bracket--An irrevocable trust is normally taxed on its own income or, if distributed, to the beneficiaries. Creating an IDIT shifts the tax burden back to the grantor, who pays less tax than the trust due to the differences in the income tax brackets.

Consider using an IDIT with irrevocable life insurance trusts or other irrevocable trusts with high-income beneficiaries. IDIT's also work well when the grantor has a large amount of tax-exempt income or loss carryovers.

Increase Cash Flow to Beneficiaries--Because an IDIT is not liable for income taxes, the trust corpus is not reduced by the tax burden, assuming no reimbursement to the grantor. This allows for a larger accumulation for the beneficiaries.

Nonrecognition of Gain--The grantor's sale of property to an IDIT is a nontaxable event. The fact that no gain is recognized results in the transfer of basis to the trust, but keeps the appreciation of the assets sold out of the donor's estate.

Retention of Tax Attributes--The grantor's tax attributes are retained and applicable to the trust income. Thus the grantor's carryovers of passive losses, investment interest and capital losses can be applied to trust income and

deductions.

B)

Re: Intentionally Defective Trust

Posted by tzipo - 2008/10/28 12:28

Hey,

I know this message is old but I got here from Google, and I am desperately looking for more info on IDIT's income taxes features.

I've got into their website and it is all talking about insurance software and the technologies in use. Also Brian if you're still around here - I would like to know about this latest features they added (I know it got even more expensive).

Thanks in advance!

Re: Intentionally Defective Trust

Posted by Brian - 2008/10/28 12:34

tzipo:

legalnut thread sends me email notifications when other reply to a thread I was on.

The site you reference is for insurance products and called IDIT. But an IDIT is a type of irrevocable trust, not an insurance product. Sure, the IDIT can own insurance, put I want to make the point that the site you went to is for something different.

Be specific as to the questions you have....

Re: Intentionally Defective Trust

Posted by tzipo - 2008/10/29 03:13

Brian wrote:

tzipo:

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Got you. Thanks for your quick answer!

Re: Intentionally Defective Trust

Posted by Brian - 2008/10/29 05:32

If you need any help let me know.

