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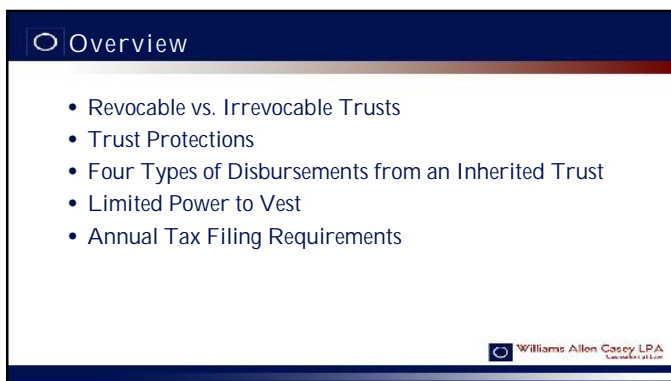
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## Overview

- Form 1041/Grantor Letter
- Capital Gains Tax & the Importance of Basis
- Federal Estate Tax Planning
- Required Distributions from Qualified Retirement Plans
- The Importance of Tax Planning and Coordination – WHY WE DO THIS!

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## Revocable vs. Irrevocable Trusts

- Primary Trust - Revocable during Trustmaker's Lifetime
- "Sub Trusts" are created by the Primary Trust upon the happening of some event
  - Family Trusts: Created for a surviving spouse and family
  - Marital Trusts: Created for a surviving spouse only
  - Beneficiary Trusts: Created for adult children and/or other beneficiaries

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## Trust Protections

- "Outright" Distributions remain the norm in the estate planning industry
- Easier for attorneys to wind down affairs
- Complete loss of Trust Protections
- One Way Street!!!
- Two Part Test to maintain protections:
  - Ownership
  - Control

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## ○ Trust Protections

- Creditor
- Catastrophic Law Suits
- Divorce
- Bankruptcy
- Nursing Home
- Bloodline
- Remarriage
- Federal Estate Tax (2026 "Coupon" Amount - \$15M per person/\$30M per married couple (adjusted for inflation))

All reasons to maintain assets in "sub-trust" as opposed to outright distributions

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## ○ Beneficiary Trusts

- Generally two types – Trust Share or Inherited Trust
- Trust Share:
  - One beneficiary
  - Trustees = Beneficiary + Professional co-Trustee
  - Requires both trustees to transact business together – Practical Challenges
- Inherited Trust:
  - Cutting edge planning strategy
  - One beneficiary
  - One Trustee = Beneficiary
  - Utilizes a Distribution Protector
- Remember - Two Part Test to maintain protections:
  - Ownership – Inherited Trust with own EIN
  - Control – Trustee and Distribution Protector

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## ○ Distribution Protector

- Has the power to veto "distributions"
- Appointed by the beneficiary
- Terms of trust require the Distribution Protector to approve (or disapprove) all distributions
- Attorney serves as a Distribution Protector
- Important to notify the attorney (i.e. Jen) of all "distributions"
- It's the PROCESS that provides the Protections (BMP Program)

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## ○ Big Picture

Goal is to:

- Maintain Protections
- Maintain Control
- Ease of Use for Beneficiary
- Create no Adverse Income Taxes

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## ○ Four Types of "Disbursements"

- Expenses
- Withdrawals of Income under a Limited Power to Vest
- Distributions
- Loans (Promissory Notes)

**\*\*Remember - ONE WAY STREET!\*\***

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## ○ Limited Power to Vest

- Goal is not to **distribute** the income from the Inherited Trust to maintain the Protections
- Income **distributed** loses Protections
- Income **distributed** to beneficiary is taxed at beneficiary income tax rates and added to their net worth
- Income retained in trust is taxed at higher trust income tax rates
- We want the best of both worlds – low taxes and maintain protections

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### ○ Limited Power to Vest

- Beneficiary has the right to demand a withdrawal of the income from the prior year
- Beneficiary does not have to exercise the demand
- Regardless of whether the beneficiary exercises the demand, the income is **attributed** to the beneficiary and taxed at beneficiary's individual tax rate – NOT the trust tax rate!

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### ○ Limited Power to Vest

- Income for prior year is subject to attachment by creditors for that year
- At end of year, **undistributed** income becomes principal and is now once again protected
- Cutting edge concept and planning strategy
  - Need CPAs that understand 1041 world
- We receive calls from CPAs because they are initially alarmed.
- At the end of the calls we are asked "Why doesn't everyone do this?"

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### Trust Document

- Trust of the decedent is the agreement that defines the Inherited Trust.
- The law firm restates decedent's trust for the beneficiaries and will provide this document to your CPA.

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**What Returns are Required Each Year?**

- Form 1041
- Grantor Letter

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**1041 Form**



Accumulates all income types

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**1041 Form**

- Rules are hybrid of 1040 & pass through for reporting
- New ID number created when trust is funded (provided through law firm)
- Always calendar year, cash basis taxpayer

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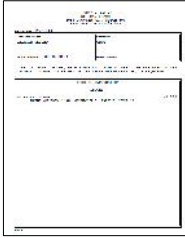
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## K The Most Important Thing

- DO NOT FILE your personal return until you have your Grantor Letter!!!



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## K Grantor Letter

- Used to capture income for current year when Limited Power to Vest is in place
- Tracking mechanism for IRS ID numbers
- A K-1 should not be generated for this type of trust

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## K Basis of Inherited Assets

- Asset reports are prepared by the law firm to help you track
  - Brokerage
  - Real Estate
  - Collectibles (art, coins), vehicles
- Taxed at capital gains (0, 15 or 20%) or collectibles rate (28%)

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 IRAs, Pensions & Annuities

- No need to track basis
- Taxed at ordinary rates when distributed
- "Qualified Assets"

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 IRAs Held within Trust

- If established prior to 2020:
  - ROTH – must take Required Minimum Distributions (RMD), but distributions are not taxable
  - Inherited IRA – stretch distributions are taxable when taken

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 IRAs Held within Trust

- After 1/1/2020
  - SECURE Act shortens distribution period for inherited IRAs to 10 years vs. stretch IRA over the beneficiaries lifetime
  - If RMDs have started ALAR rule applies meaning that you take some each year and all by year 10
  - Opportunity to plan income

Rules are complex! Make sure to consult a tax advisor.  
Penalties are strict for not taking

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## Planning Pitfalls

- Plan for increases carefully
- Medicare bump if over 65
- QBI threshold
- Rental loss deduction (income threshold)
- AOTC threshold

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## Investments

- Important to align with specific beneficiary vs. decedent

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## Contact Corrigan Krause

Corrigan Krause CPAs and Consultants  
191 American Blvd, Suite #201  
Westlake, OH 44145  
(440) 471-0800

<b>CK South</b> 4015 Medina Road, # 150 Medina, OH 44256	<b>CK East</b> 5875 Landerbrook Dr, Ste 250 Mayfield Heights, OH 44124
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[www.corrigankrause.com](http://www.corrigankrause.com)

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Thank you!

Questions?

Corrigan  Krause

CPAs and Consultants



Williams Allen Casey LPA

Counselors at Law

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