

FREQUENTLY ASKED

QUESTIONS & ANSWERS



www.1-2-3fastforward.com



(954) 899-6131



123fastforward@gmail.com

FAQ&As

Question

Someone suggested that I get a bank managed Trust. What do you suggest?

Answer

If you give any bank control of a Trust, they take full control and you are left out! Bankers love to get their hands on large trust accounts so they can convert them for the use of the bank and the beneficiaries get nothing. They like to scare people into thinking there is liability in Trust management so they may gain control of their asset and funds.

We have seen this many times in NY and people with means became poor and unable to access anything. All transactions in Spendthrift Trusts are private and not public information unless you wish to make it so. I would never put anyone in a position as they suggest. You determine if you want others to manage you and your family.

Question

The name on my IRS Letter with the EIN number and the name of my Trust do not match. One has "Spendthrift Trust" and the other just "Trust." Do I have to file a name change with the IRS?

Answer

No, the Trust may do business or open any account in all or any part of the name.

Question

Can a non-citizen Settlor create a Spendthrift Trust, or must they have an ITIN number?

Answer

No foreign id numbers may be presented to gain an EIN number for a Trust. If a foreigner is the Settlor of a Trust, they must provide an SSN, an ITIN, or EIN number registered with the IRS. For more about this, [check out: http://www.irs.gov/Individuals/International-Taxpayers/TaxpayerIdentification-Numbers-TIN](http://www.irs.gov/Individuals/International-Taxpayers/TaxpayerIdentification-Numbers-TIN)

Question

What if there is a Settlor who is unwilling to have their SSN number associated with the Trust EIN number. Does this mean that the Trustee should find a different Settlor, or can the Trustee apply for the EIN number?

Answer

The Settlor or Creator of a Trust must give a SSN or EIN period. However, a Settlor who provides their SSN for the EIN is assured that they have no tax consequences where the Trust is concerned. Therefore, they should be willing to present it for the EIN number.

Question

Can a beneficiary witness the signatures of Trustees, etc. on documentation pertaining to operating the Trust?

Answer

No! Under no circumstances!

Question

Manufacturing and selling "a better mousetrap," is the income from that business taxable for the Trust?

Answer

A business trust is required to be a pass through and must disburse its earnings. If it endows a second trust, then the profits may be passed through without tax events.

Question

If I take \$5 million of Trust assets and invest in apartment houses, is the rental income considered taxable income?

Answer

No

Question

If I invest \$1 million of Trust assets in Euros and turn a profit of 10% is that taxable income for the Trust?

Answer

No

Question

Has our Spendthrift Trust ever been challenged by the government and was it successful?

Answer

Trust Law is not subject to any Federal, State or Local court and no judge or court may issue a turnover order against a Spendthrift Trust. The Spendthrift Trust is sold by a licensed attorney as a legal document and the Spendthrift Trust is created for the client by the Attorney unlike others who sell illegal documents or trusts who are not licensed lawyers. The IRS examined our Spendthrift Trust for compliance and a past District Director purchased one for himself. We have prosecuted vigorously those who have infringed on our Copyrighted Trust and prevailed in Federal court each time even when the defendants claimed invalid, it was found valid. The Federal cases are sealed.

Question

Can a provision be written into the Trust stating that only a blood relative be qualified to hold the position of Trustee or Compliance Overseer of the Y Generation Trust during its entire existence? Does it need to be added with Trust initiation?

Answer

Not needed; the named successor is the key here

Question

Are there any potential issues with a Trustee or Compliance Overseer residing in a Trust owned property full time?

Answer

No

Question

Is it best for the trustee or the Compliance Overseer to be paid a salary and the best frequency?

Answer

Salaries are optional and can be paid

Question

Is the Trustee and Compliance Overseer consider an employee or Contracted by the trust?

Answer

No

Question

Do I have to place everything into the trust that I presently own all at once, or can I capitalize items at the time of my choosing?

Answer

Your choosing

Question

Does a "Beneficiary" pay rent while living in a Trust property?

Answer

No

Question

Is there a Min/Max salary range that a Trustee or Compliance Overseer is paid?

Answer

No

Question

When traveling to visit Trust Assets, does the Trust pay for a Beneficiaries travel accommodation?

Answer

Yes

Question

Is the Interest from Trust funds used for investments taxed if they are deposited back immediately back into a Trust bank account?

Answer

Interest earned by trust corpus paid back to corpus is not income to the trust.

Question

Is a Trust owned Property or an Auto paid with Trust funds through a Trust bank account taxable once it leaves the Trust bank account?

Answer

No. But sales tax is paid on the purchase.

Question

Are Trust to Trust funds transfers or assets taxable?

Answer

No

Question

Can the Trustee or Compliance Overseer receive income from another Trust if they are not a Trustee or Compliance Overseer on the new trust if they initially gave funds to the new Trusts?

Answer

Yes

Question

Is it advisable for the Trustee or Compliance Overseer to have a Trust Credit/Debit Card?

Answer

Yes

Question

Is there a form for removing Trust Assets?

Answer

For real property there is a Quit Claim Deed or Auto Transfer or Sales Form otherwise no.

Question

Does a Compliance Overseer receive a salary/income from the Trust?

Answer

They may.

Question

What is deemed an acceptable salary range for the Trustee(s)?

Answer

No upper limits

Question

Under what conditions should a notarized signature be used when signing Trust documents?

Answer

Only if required by receiving party.

Question

Can this Trust be legally used in all 50 states and overseas countries?

Answer

Yes

Question

What is the life of the Trust and who is responsible to renew it before it expires?

Answer

21 years and is renewed by the Trustee

Question

What is the rule for a Trustee taking up residence in a Trust home, do they pay rent under the daytime /nighttime rule of 30% of the current rental value of the property?

Answer

They declare income personally for a stated amount determined by the Trustee.

Question

Is this particular Trust free from Probate and Estate Taxes?

Answer

Yes

Question

Who besides the Trustee can drive a Trust held vehicle?

Answer

Anyone the Trustee authorizes to do so.

Question

When purchasing Home or Auto Insurance for assets in Trust, who is on the Title and does the Trust pay all premiums?

Answer

Title to Trust and Trust pays premiums.

Question

What type of items can be considered Trust assets and can be capitalized and placed within the trust?

Answer

Anything whatsoever.

Question

Can the Trust operate a business in its name or is it required to utilize LLC when doing so?

Answer

Yes. Not Required

Question

Can the Trust operate a business in its name or is it required to utilize LLC when doing so?

Answer

Yes. Not Required

Question

What type of items can be considered Trust assets and can be capitalized and placed within the trust?

Answer

Anything whatsoever.

Question

Are there any time intervals that are required by the Trustee to hold beneficiary meetings on the status of the Trust or any investments the beneficiaries should be made aware of prior to Trustee participating in them?

Answer

No. The beneficiaries have no right to know about any Trust business affairs.

Question

Is there a way to remove a Compliance Overseer once they hold that position?

Answer

No

Question

Does a Trust pay for all expenses from a beneficiary function wherever it is held?

Answer

Yes

Question

Can a beneficiary travel to view a Trust Property or any other asset purchase if the Trustee is not present?

Answer

Only with permission of the Trustee or a standing permission.

Question

Is it wiser to purchase clothing items etc. that may be used by Trustee that present a professional image when at Trust functions out of income paid to Trustee by the Trust or allowing the Trust to pay for items that will be for Trust use and purpose?

Answer

Trust only pays for items to be used for Trust business

Question

Do all signatures (Trustee/Witness and Settlor/Witness on page 6) have to be the same date?

Answer

No

Question

Can a beneficiary whose children are grown and grandchildren eligible to travel with expenses paid by the Trust when traveling on Trust business?

Answer

Yes

Question

Can I purchase a non-qualified annuity from a trust and pay it to an outside person?

Answer

Yes, the Trust can purchase a non-qualified annuity, but no, the beneficiary cannot be an outsider. They must be the Trustee or Trust Beneficiary. The Trust should be the owner and beneficiary of the annuity and the annuitant will be the Trustee or Beneficiary.

Question

What is a more specific example regarding annuities?

Answer

A mom is a Trustee and she lists her daughter as a beneficiary. Let's say the daughter is a single mom having a hard time making ends meet. Her mom wants to help by giving her daughter \$2,000 a month for 20 years with no taxes except for interest earned on the annuity. Can this be done?

Question

Can this be done?

Answer

No. Because the daughter did not pay for the annuity any payments from the trust would be taxable income to her. If the mother personally gifts the daughter the amount needed to purchase the annuity, then the principal payments from the annuity would be tax free to the daughter. A gift over \$15,000 would require a Gift Tax Return and would go against the mother's lifetime exemption. If the annuity is purchased by the Trust, the Trust must be the beneficiary and receive the payments, not a Beneficiary of the Trust. If the mother deposited the purchase amount into the Trust, this would increase her Demand Note which she could then draw out principal payments tax free. The only exception to the above would be if the is the Annuitant is the daughter and the annuity carries a Death Benefit on the daughter, then the daughter's estate would receive the death benefit tax free when she passes.

Question

What are the implications of moving assets from one trust to another?

Answer

This can be dangerous, because there is an obscure IRS regulation that could be violated by this action. The IRS says that any diversion of anticipated income is tax evasion. Assets or anything in the Corpus of the Trust is Trust property and has no gift basis when placed in Trust. Therefore, for a Trust to endow or gift another Trust with one of these assets is not an authorized transfer. Currencies purchased for the revaluation prospect could be considered diversion unless sold or loaned to the Beneficial Trust. The proper way to accomplish this is to have the second or third Trust purchase the currency before the revaluation. Now, the currency has simply gained in value and this gain is declared to the Corpus and is Extraordinary Dividends declared by the Trustee and is not current taxable income to the Trust.

Question

Do I get a Demand Note for assets I put into the Trust?

Answer

Yes, the basis (cost) of any asset legally sold to the Trust will be reflected on the Demand Note.

Question

Can beneficiaries convey assets into their Trust and draw the principal out tax free?

Answer

Yes, they can transfer assets into the Trust, BUT (1) the Trust owns the asset, (2) they can never take back the asset without buying it from the Trust, and (3) they take a Demand Note for their cost or basis in the Asset. The principal payments on the note are tax free payments. The interest on the note will be taxable income and must be reported and taxes paid each year. The demand note is the payment for the transfer (sale) of the asset to the Trust.

Question

How is the household furniture value used?

Answer

Household Furnishing can be valued at the amount up to the value authorized by your homeowners Insurance Policy (usually about 25%)

Question

Do all signatures (Trustee/Witness and Settlor/Witness on page 6) have to be the same date?

Answer

No

Question

Can a beneficiary whose children are grown and grandchildren eligible to travel with expenses paid by the Trust when traveling on Trust business?

Answer

Yes

Question

Can I purchase a non-qualified annuity from a trust and pay it to an outside person?

Answer

Yes, the Trust can purchase a non-qualified annuity, but no, the beneficiary cannot be an outsider. They must be the Trustee or Trust Beneficiary. The Trust should be the owner and beneficiary of the annuity and the annuitant will be the Trustee or Beneficiary.3/5

Question

If I put certificates into my trust before the RV and then take out cash, is the tax rate based on the date of the receipt or the date from when they exchanged the currency?

Answer

Any cash taken out of the Trust is 100% taxable income to the person taking the cash. A distribution after RV would be a K-1 Dividend Distribution. If the Trust held the currency more than a year, the dividends would be qualified dividends.

Question

Would a K-1 still be issued at the end of the year if cash or currency before RV was moved between the trusts?

Answer

Funds moved between beneficial trusts is a taxable event requiring a K-1 unless a Note Payable (for funds) or Bill of Sale (for asset transfers) is properly executed.

Question

If I put all the currencies I have bought into the trust, does that mean I could also take a tax-free draw from the trust from the principal?

Answer

Transfer the asset (currency) at your "Cost" (or "Basis") and take a Demand Note. The principal payments on the Demand Note are just that and are not taxable income to you. The interest will be taxable income to you each year you hold the note.

Question

When we exchange our currency, will it be drawn out tax free?

Answer

No. The gain on the RV will be Extraordinary Dividends and held in the corpus.

Question

What percent of my total RV exchange should I hold in my personal account vs. my trust account?

Answer

Hold only 3 months' worth of personal expense funds in your personal non-trust bank account. This will be the money used for Food, Fun & Fashion - again, 3 months' worth. This is because any funds in the personal bank account can be seized or levied in a lawsuit. For example - I have all my Social Security and funds Direct Deposited into my Trust Bank Account so that the funds are untouchable and while I still have to pay taxes on that income, it can't be seized or levied. Next, I Bank Transfer enough funds for each month to support my family's monthly budget for the 3 F's.

Question

Can I donate to other Trusts as a beneficiary?

Answer

The word "Donate" only applies to a 501c3 organization. "K-1 Distributions" are made to another Trust or beneficiaries.

Question

If an exchange was not taxable; can I still distribute it to the beneficiaries?

Answer

You can distribute an asset or funds, but the action will generate a taxable event (K-1 to beneficiaries and 1099's to anyone else). I recommend a "Transfer" to the Trust at "cost" or "book value". This will generate a Demand Note from the Trust to the person transferring the asset. The Demand Note gives that person a means of taking note principal payments from the Trust with no taxes due. Endowments have no basis or value and as such would not be recorded in the Trust's Financials and would not be added to a demand note.3/5

Question

Can a Trust make donations to churches and charities?

Answer

Yes, any Trust can make a Charitable Contribution to a 501c3 organization and take the deduction on

Question

Who is the beneficiary on a Charitable Trust? What would be the best wording to use for beneficiaries if you don't want to put individual companies down?

Answer

Charitable Trusts are not 501c3 but make contributions to 501c3 organizations and these 501c3 organizations do not need to be listed as beneficiaries of the Trust. Non 501c3 organizations' doing charitable works must be named as a beneficiary to receive funds from the Trust. These funds would be reported to the beneficiary on a K-1. If the non-501c3 "work" (i.e.: distributing bibles to China) is a function of the Trust, then the expenses incurred would be authorized expenses of the Trust. A Charitable Trust is a Trust for the benefit of Charities, Charitable Benefits, Religious Causes, Religious Works, Churches, Education, Academics, and all Charitable Works as its function.

Question

How do I give to a ministry?

Answer

Donations/contributions to a 501c3 organization are fully deductible by the Trust as charitable contributions. A payment made to another trust or foundation that is a beneficiary would create a K1 to that trust or foundation. If the 2d trust is also a Spendthrift Trust that K-1 income would be Extraordinary Dividends to that Trust. Giving funds to any person or organization not a beneficiary of your trust and not a 501c3 organization will create a Form 1099 issued to that person/organization. Most ministries and missions work through a 501c3 organization - give the funds to the 501c3 organization and designate the donation for the benefit of the ministry/missionary

Question

What method do I use when giving to a ministry?

Answer

Trust checks are all you need, but the Trust can transfer funds bank to bank or even wire the money. Be sure to keep the receipt. A Charitable Trust can have beneficiaries that are not 501c3 organizations but are organizations that do "charitable work". As such, they will receive a K-1 and can deduct the charitable work expenses from the K-1 income they get from the Spendthrift Trust. Also, the Charitable Trust can deduct all expenses it incurs doing charitable work directly.

Question

Can I charge Trust expenses to my personal Credit Cards and then pay them off with Trust funds?

Answer

A Spendthrift Trust cannot hold a Credit Card because the issuing agency could not collect on default.

Question

What type of card should I use for Trust expenses?

Answer

I recommend a personal Credit Card marked For Trust Use Only. Maintain a receipt for each expenditure and attach the receipts to the Credit Card bill and then the Trust can pay the bill. Only charge Trust authorized expenditures to this card. If using Bill Pay or direct Debit, print a copy of the payment receipt and attach that to the Credit Card Bill along with the receipts for each expenditure.

Question

Why do I need to keep such a strict record of my receipts and payment methods?

Answer

Strict records must be kept in order to maintain full records of all authorized Trust expenditures. Unauthorized expenditures (personal expenses) will be charged to your Liability Account (Demand Note) or, if insured value of a home). Lump all household furniture, fixtures, appliances and other household items as one item = Household Furnishings using a value up to 25% of insured home value. This must be listed on (or attached to) the Notarized Bill of Sale.

Question

What is the purpose of putting "equipment" in the Trust?

Answer

The Spendthrift Trust does not take depreciation on business assets it owns. All business assets are sold to the Beneficial Trust at Book Value (Cost less Depreciation taken) There is no need to generate a tax deduction of the business when the business now will Lease those assets and intellectual property from the Beneficial Trust and deduct the Lease Payment as an expense. The Beneficial Trust reports the Lease Payments as Lease Income and that income is Passive Income and tax deferred per IRC 643B. When an asset is sold from the Beneficial Trust and sale generates a Capital Gain, that Capital Gain is deferred per IRC 643B?

Question

When should I move assets into the Trust in order maximize savings?

Answer

Let's say both husband and wives are retired. The only income they've had so far are these three categories; a) around 6 weeks of 1099 income from my husband working for his previous general contractor. 1099 Income is Business Income and cannot be income to the Trust. You can have checks direct deposited into the Trust to fund the Trust, but the Income will still be recorded on a Business Tax Return. b) Some interest and dividend income from bank and brokerage accounts. If the account has been legally moved to the Trust and the Interest and Dividend income is reported using the Trust's Name and EIN, this income will be Tax Deferred. c) Rental income from three local rentals. This will be the same as above. If the Rental Properties are legally sold to the Trust, the Rental Income will be Tax Deferred.

Question

If a husband or wife earns future 1099 consulting income, is there a way to put that income directly into the Trust for tax purposes?

Answer

No, this is Business income. Checks can be direct deposited into the Trust to fund the Trust, but the income must be reported on a Business Tax Return (Business Trust, LLC or probably a Schedule C in this case.)

Question

I will be purchasing a new rent house that I would like to directly deed into the trust. How do I sign the Purchase & Sale Agreement and how will the Owners Name be listed on the Warranty Deed?

Answer

All Sale Papers and the Deed must be in the name of the Trust and the Trustee will sign all papers with "TTE" behind their name.

Question

I'm involved in three apartment properties. My LLC is on the management side as well as the investor side. Management income on all properties will come to the LLC. Should I file a manager change with the Secretary of State's Office and make the Trust as the manager and remove my name completely? Is there another way to move the LLC into the Trust?

Answer

Once the Rental Property is sold and deeded to the Trust, the Trust is the Manager. All income and expenses are recorded in the Trust. Rental Income is Passive to the Trust and is Tax Deferred. The LLC's will then have no function with Rental Properties. Your Trust can do all of that. Close the LLC's after the property is sold and deeded to the Trust.

Question

I've added all assets I'll be moving into the Trust on the Purchase of Assets & Liabilities sheet. Should my husband and I both sign with a witness to prove agreement in moving to the Trust?

Answer

The Purchase of Assets and Liabilities Form is for my info only and is not a legal sale to the Trust. You must use a Notarized Bill of Sale for all assets SOLD to the Trust. A Notarized Deed must also be used of Buildings and Land. I use the Purchase of Assets and Liabilities Form to property constructs your Trust's Balance Sheets and gives credit to your Demand Note.

Question

Can we sell the property in the trust at any time?

Answer

Yes. The trust can sell any asset it owns at any time. There is no "seasoning" with trust asset sales.

Question

Suggestion for how a beneficiary should be set up.

Answer

Your Trust is a Discretionary Trust and the Trustee (at his or her discretion) can add or remove beneficiaries at will. An individual with a US SSN would be the Trustee and the others would be designated Beneficiaries.

Question

How do I buy a truck for another person's Trust?

Answer

Your Trust CAN NOT buy any asset FOR another person or trust. You can pay a "distribution" (K-1 income) to that trust and then they can buy the asset. All funds leaving your Trust must be for (1) buying an asset for your Trust, (2) paying an authorized expense of your Trust, (3) making a "taxable K1 distribution" to a beneficiary or (4) making a "taxable 1099 payment" to a Trustee or other person not a beneficiary. Your trust can not make gifts or donations that are not to a 501c3 organization.

Question

My car is paid for, but can I deed it to Trust and have maintenance paid for by the Trust?

Answer

Vehicles are transferred into the Trust at basis or cost through a notarized "Vehicle Transfer" Form. As Trustee you must pay the Trust for the Personal Use of the vehicle. Use the IRS mileage rates to reimburse the Trust for the Personal Mileage.

Question

What is the purpose of valuation on motor vehicles?

Answer

All Assets must be sold to the Trust at their Cost Basis (original purchase price plus improvements and other costs) or Book Value (purchase plus improvement and other costs less depreciation taken). The exception would be your home. Your home should be sold at close to Fair Market Value. This Sale will generate a Demand Note for payment of the purchased asset or the trust can pay cash for the purchase. There must be an exchange of value for a sale to be legal as well as a Notarized Bill of Sale. Real Property (buildings and land) must also have a Notarized Quit Claim Deed or Recorded Warranty Deed with a Title Policy.

Question

What can't the Trust pay for?

Answer

The Trust CAN NOT pay for personal expenses.

Question

If you buy a house for your spouse (beneficiary) is it in their name or trust name?

Answer

Trust must own the house and pay for the house. If the home was owned by the Trustee or Beneficiary, it must then be transferred (sold) to the Trust by a Quit Claim Deed or a new Warranty Deed.

Question

If you buy a TV to go in the house owned by the trust, is that a 100% authorized Trust expenditure?

Answer

If the Trust owns the home, yes. The Trust must pay for the appliances and fixtures and maintain receipts for all purchases.

Question

My spouse is a beneficiary - if I buy a house for the trust how does the living in it work?

Answer

No balance is in your Demand Note, then a Form 1099 will be issued to a Trustee or a K-1 will be issued to a Beneficiary for the personal expenses paid by the Trust.

Question

Can the Trust get a Credit card? Can Trust build credit? If so, can beneficiaries use it. If they can, is it considered cash?

Answer

No bank or credit card company will issue a credit card to a Spendthrift Trust since they have no way to collect on defaulted payments.

Question

If a person has ordered a trust and does not pay for it until after the RV can they exchange just enough to pay for the trust and then put the balance of the currency in the trust to defer taxes?

Answer

Making a down payment on a trust does not give you a legally working Trust. The Trustee does not have the pages outlining what the Trustee legally can do. Once the RV takes place, purchase a full trust then transfer the currency certificate into the legitimate Trust. The Trust then exchanges the certificate for US dollars. The US dollars then go into the Trust bank account and then the Trust can use those dollars to pay for Trust expenses.

Question

If a person exchanges currency and it's not in the trust, is the tax based on the date of their receipt?

Answer

As with any asset sold, the basis is what was paid for the asset and the tax is a capital gain based on the date bought. If the Trust does not own the foreign currency certificate prior to the exchange, the gain is personal and reported on a personal 1040 tax return. *see Assets & Implications (1.) all Trust functions but must pay rent for the personal use of non-trust portions of the house (i.e.: bedroom, kitchen, etc.).

Question

If a Trust buys the house; does the trust pay the property tax?

Answer

Yes, and all other expenses necessary to maintain the property.

Question

Can the trust pay for construction costs of a house if the house is being built on land which belongs to the trust?

Answer

The Trust must own the land and must be the Payee on the Interim Construction Note (if a note is needed) for the Trust to pay for the construction.

Question

If a person has a trust and they put their home into the trust, do they go back to the date the house was purchased to recap the expenses for the demand note or is it only from the date the house was put in the trust?

Answer

Like any asset transferred (sold) to the Trust, expenses are authorized starting with the date the asset is legally transferred (sold) to the Trust. The Demand Note amount is based on the basis (cost) of the asset not the fair market value.

Question

If I deposit my job income into the Trust Account, do I report it as income if the 1099 is made out to me?

Answer

Income from 1099's and W2's will still be reported as income to whomever the form is made out to (you or your business). The dollars can be direct deposited into the Trust to "fund" the Trust and add to your Demand Note, but the income reporting will still be on your personal tax or business return.

Question

If my 1099 is made out to the Trust, how will it affect my 1040?

Answer

A 1000-Misl means "Contract Labor" (Business Income). A business should not be run from a Beneficial Trust. A business should be run from an LLC using the Beneficial Trust as 90% Limited Partner or from a Business Trust's Tax Return. The 10% General Partner Income from the LLC would be reported to you on a K-1 and end up on your personal tax return as Supplemental Income. The Pass-Through Business Income that is passed from the Business Trust after a lease Payment for the use of assets and intellectual Property to the Beneficial Trust's expenses and then pass to you personally on a K-1 as Supplemental Income if you are a Beneficiary of the Beneficial Trust or on a 1099 if you are the Trustee of the Beneficial Trust.

Question

How should I report interest income from investments to the IRS?

Answer

If the Trust is the owner of the investment account, all passive income is tax deferred. Passive Income is Interest, Dividends, Capital Gains, Rents, Royalties and Passive K-1 income. Ownership of the account must be recorded in the Investment Company's books as the Trust with the Trust's EIN and all 1099's must be reported in the Name and EIN of the Trust. If you have legally sold these investments to the Trust and changed the ownership on the books of Investment Company, the income would not be reported on your personal tax return since the 1099's would be in the name of the Trust.

Question

Can the Trust fund annuities to auto pay the Life Insurance policies on each of us and each 1099 worker with the Trust as beneficiary?

Answer

The Trust is the owner and beneficiary of the insurance policies and as such pays the premiums on those policies directly. The Trust can be the owner and beneficiary of the annuity and the distributions on that annuity can be used to pay for the insurance policies that the trust owns.

Question

Who should own policies?

Answer

The Trust should own the policies and be the beneficiary on those policies. IRS code 7702 allows for the tax free distributions on the policy to pass tax free to the person insured on the policy. The Trustee then manages those policies. The original owners can take a Demand Note for the Cash Value in the policy when transferred to the Trust.

Question

When a Trustee leases the Personal Use of the House, do they pay income tax on the rent they receive?

Answer

A Trustee completes a Trustee Personal Use Lease Form and leases the Personal Use of the home and vehicle from the Trust. Since there is a Legal Lease Agreement and payments to the trust, there will be no requirement to report the personal use of the house and vehicle as income on your personal tax return. Trustee must maintain, oversee and protect all the assets owned by the Trust, including the house and vehicle. As such, the Trustee must have access and occupy the house and vehicle for Trust Business. As such, only the personal use would be taxable compensation to the Trustee if a Lease Agreement were not in place.

Question

Can you add a Trust rule or salary?

Answer

There is no RULE needed. The Trustee has full DISCRETIONARY powers and has absolute and sole discretion in making Trust expense payments. A "salary" is not needed. A Form 1099 will be issued to the Trustee for funds he (she) takes out of the Trust. A K-1 will be issued to Beneficiaries for funds they take out of the Trust.

Question

Are the trust accounts subject to Bail-in?

Answer

NO

Question

Can the IRS grab money that is in the Trust?

Answer

NO

Question

What happens to a loan if the Trust closes?

Answer

Per the Trust Document - all balances (assets & accounts) must be distributed to the beneficiaries when the Trust is closed. Any outstanding notes/loans would have to be paid off before the distributions. Although; (1) don't close the Trust, extend it another 21 years just prior to the 21 year period ending and (2) be sure there are Successor Trustee(s) and Compliance Overseers named so someone else can take over if something happens to you.

Question

Can my personal work checks be issued in name of Trust?

Answer

You can have your check direct deposited or endorsed to the Trust Bank Account but not issued in the Trust name. The W-2 would still be reported as personal income and listed on his personal tax return.

Question

What is the purpose of the Chart of Accounts?

Answer

The Chart of Accounts are used to identify categories for Income, Expenses, Assets, Liabilities and Equity in the Trust. I need all Income, Expenses, Purchase or Sale of Assets and payments on Liabilities (Note Payments) or adding new Liabilities (new notes) categorized so I can produce a valid Financial Statement for the Trust each year and produce a Tax Return for the Trust. The Beneficial Trust is run like a business (but not a business) in that all income and expenses must be reported, and receipts must be maintained for all expenditures. My computer program imports this income and expenses directly using the Charts of Accounts to identify the proper category to produce a correct Financial Statement and Tax Return.

Question

If my wife and I start out as Co-Trustees and Co-compliance officers, can we easily amend that later to one of us just being the Beneficiary?

Answer

A Trustee or Compliance overseer can resign at any time and then the Co-Trustee will take over. If no Co-Trustee, then the Successor Trustee/Compliance Overseer will take over. I usually recommend that one spouse be the Trustee and the other spouse be a Beneficiary. Since the Trustee is a Fiduciary Role and has no ownership of any of the Trust's Assets there is no conflict with this procedure

Question

If couple divorces, who owns property within the Trust?

Answer

If all your property is legally sold to the Trust, neither party has any right to any of the property. The Trust owns the property, not the individual.

Question

Whomever the Trustee names as the Successor Compliance Officer and Successor Trustee have no powers until the Trustee dies or resigns, correct?

Answer

Yes. The successor can remain and beneficiary until they assume the role as Trustee or Compliance Overseer. You cannot be a Beneficiary at the same time as being a Trustee or Compliance Overseer

Question

. What powers does the Settlor have?

Answer

The Settlor has no power after they convey the Trust to the Initial Trustee.

Question

Why does the Settlor have to give their Social Security number if there aren't tax consequences for them?

Answer

Sometimes the Settlor's SSN is used to get the Trust's EIN before the Trust is conveyed to the Initial Trustee.

Question

Can a non-US be a beneficiary of this trust?

Answer

A foreign national can be Beneficiary as long as they do not take Taxable Distributions from the Trust that would require a K-1. Otherwise, they will need a US SSN or ITIN.

Question

If I take a loan, can I set up insurance policies as the collateral, so that when I die the Trust would be beneficiary for the death benefit, which would cover the loans?

Answer

The Cash Value of the insurance policy when transferred into the Trust can create a Demand Note and you can take principal payments tax free from that Demand Note. Your Demand Note at your death would go to anyone you designate. If you take a loan from the Trust, then you will have to make periodic payments to the Trust of principal and interest with a set amortization schedule. The insurance policy as collateral will still be needed in order to take the loan from the Trust. The Trust must have a means of collecting on the loan should you fail to make the required payments- just like any other loan from a bank etc.

Question

If I take a loan from the Trust and set up a repayment plan, what do I use to repay the loan with?

Answer

If you take a standard loan FROM the Trust, you repay the loan as you would with any other loan from personal funds. If you transfer an insurance policy to the Trust, the cash value can create a Demand Note to them. If a Trustee or Beneficiary takes a loan from the Trust, the loan must be repaid per an amortized schedule.

Question

When can loans be utilized and by who?

Answer

"Anyone" can take a loan from the Trust, BUT (1) the loan must be amortized with periodic payments with interest paid, and (2) the loan must be backed by collateral (the Trust must have recourse if the loan is not paid back).

Question

Can I pay for health insurance out of the Trust?

Answer

The Spendthrift Trust can pay for education and medical for the Trustee and the Beneficiaries. Expenses must be paid directly to the provider and not to Trustee or Beneficiary.

Question

Can the trust pay for something such as, cosmetic surgery?

Answer

Personal expenses are not authorized expenses. If a doctor orders the procedure for medical reasons, then it is an authorized expense (i.e. doctor prescribes a pool for therapy - the Trust can pay for the installation of a pool).

Question

Can the trust pay for alternative medical treatments for wellbeing; meditation retreats, reiki, acupressure, acupuncture, etc?

Answer

If any medical treatments are doctor recommended or you feel are necessary to keep you healthy, then they can be a trust expense.

Question

I have a brokerage account and do investing. Should I invest inside the Beneficial Trust or should I do that inside a Business Trust?

Answer

I recommend all Family Trust assets/investments be transferred to the Beneficial Trust. The Spendthrift Trust provides a lot more asset and legal protection and income tax advantages. Investments would then be done through the Spendthrift Trust. A Business Trust is not needed for investments. All investments can be owned by the Spendthrift Trust.

Question

As beneficiaries, can my son, his wife and daughter have the Trust pay for their house rent, leased cars and college/school needs and overhead such as insurance, maintenance, utilities, etc.? If yes on the leased car, does the Trust have to be the one leasing car?

Answer

The Trust must own or be on the lease for the house or vehicle. Only the of a Trust Asset used by the Trustee. This would only apply to a small portion of the house and vehicle used for personal use by the Trustee- i.e. sleeping, eating, using the vehicle for food or clothing shopping. The Trustee is the caretaker of the house or vehicle, so all other expenses for the house or vehicle would be authorized Trust expenses. The Trust must own the vehicle or be on the lease agreement. Education, training, medical and wellness of a beneficiary are authorized Trust expenses. All expenses for a minor, underage or incapacitated beneficiary are Trust expenses.

Question

Do I need a statement when I get a notary?

Answer

Most notaries will need to have a statement that the person signing the document is the person appearing before them. Notary vs. Witness. The bank can notarize any papers that require notary. You must use a third- party Witness for papers that require a witness. A person who is a Beneficiary or might be a Beneficiary in the future should not be the Witness.

Question

Do I need a Bill of Sale notarized within the state the property is being sold in?

Answer

The notary is only notarizing the signatures not the effective date or origin of the transactions stated on the document. When you sign the document, have it notarized anywhere and at any time.

Question

Can a Trustee be paid for their services?

Answer

Yes - and would receive a 1099 for this compensation. The Trust could set up a payroll account and pay the Trustee through a W-2 but this would create additional reporting (W-2, W-3, 941, 940 & State UI). I would recommend 1099 Contract Labor and an Independent Contractor Agreement be drawn up.

Question

Can a Trustee be paid?

Answer

Yes. If the Trustee takes funds out of the Trust, the Trust pays for the personal expenses of the Trustee, or if the Trustee lives in a Trust owned residence and operates a Trust owned vehicle and does not pay rent for the personal use of these assets the amounts for personal use will be added to a 1099 issued to the Trustee. This is where a Demand Note to the Trustee can be used to pay for these unauthorized expenses.

Question

Can this trust buy or rent a future retirement home for beneficiary?

Answer

Yes, but The Rental Agreement must in the name of the Trust or legally Assigned to the Trust for the Trust to be able to pay the Rent.

Question

How will the IRA withdrawal affect my personal return if I put my IRA in the Trust?

Answer

Qualified Plans (Retirement Plans) cannot be put into the Trust. Distributions from a Retirement Account (SS, 401K's, 401B's, IRA's, Roth's, Etc.) can be direct deposited into the Trust to "fund" the trust and add to your Demand Note, but the income reporting will still be on your personal tax return.

Question

Can I sell items that I bought with my Trust to my clients?

Answer

Business inventory should be kept outside the Trust and then when sold would be income in the business.

Question

What can be done to reduce the tax on my income?

Answer

I would get a Business Trust and contract the work from the Trust. Then have all assets and intellectual property used by the business owned by the Beneficial Trust. The Business Trust would then lease the use of those assets from the Beneficial Trust converting some of the Contract Labor Income to Lease Expense in the Business Trust and Lease Income in the Beneficial Trust. This Lease Income in the Beneficial Trust would be declared Extraordinary Dividends and no current taxes paid.

Question

Must all expenses for the beneficiary be specifically paid for by the trustee?

Answer

Yes. You may have expenses paid by personal funds, but they must be reimbursed by the Trust and the Trust maintains the receipt of the expense. Try not to do this as common practice. Try to have the Trust pay Trust expenses directly to the third party.

Question

Is the income received from a rental home business considered Passive income?

Answer

Yes, if the Trust owns the rental property. Then, any rental operation is Passive Income and is Tax deferred by the Trust.

Question

Can the EPA come after the Trust for any reason?

Answer

The Trust is bullet proof from any legal action, except for negligence. Therefore, you must carry insurance on all property owned by the Trust.

Question

Can I transfer the money from LLC account into ST bank account once a year, after LLC tax return is filed?

Answer

If an account payable was established, and then the payments can be made the next year. The LLC's Lease Payments for equipment and intellectual property should be made monthly per a per-established lease agreement. The lease agreement must be established the accounting period before the payments are made. The LLC's 90% LP income can be distributed any time. A K-1 will dictate the amount of income to the trust even if not actually paid to the Trust. Income payments in excess of the 90% shown on the tax return would create a real problem.

Question

If I have multiple trusts with same beneficiaries, can any one of those beneficiaries receive maximum yearly gift allowed by law without taxation from each trust?

Answer

Trusts cannot give gifts. Any funds given to a Trustee or Beneficiary are taxable income. The Trustee gets a Form 1099 and a beneficiary gets a K-1.

Question

Can I move money out of the Trust tax free?

Answer

It is taxable income regardless of whomever you are giving the money to.

Question

How do I get a taxable 1041 Trust return "untaxed"?

Answer

Passive Income in the Beneficial Trust is Tax Deferred under IRC 643B. Thus, after the Trust Expenses are deducted from the Trust Income, the balance is prorated between Passive Income and Non-Passive (Business or Farming) Income and the Passive portion is declared Extraordinary Dividends by the Discretion of the Trustee and moved to the Trust Corpus (Equity) per IRC 643B. These Extraordinary Dividends are held in the Corpus until distributed if the Trust is Active. Upon dissolution of the Trust these Dividends must then be distributed.

Question

How does the setup of a Beneficial Trust affect IRS reporting?

Answer

The Beneficial Trust has its own reporting on a Form 1041. All income being reported by the Trust must legally belong to the Trust. That means all investment accounts must have the ownership changed to the Trust so the reporting entity will report the investment income in the name and EIN of the Trust. Property receiving rental income must be legally sold to the Trust using a Bill of Sale and Deed in the name of the Trust.

Question

Can I take draws from my Demand Note for Food, Fun and Fashion?

Answer

Yes, but draws from the Demand Note must be Accrued Taxable Interest first, and then tax free principal. For example, a couple has a \$24,000 exemption on their personal tax return for 2019. If their taxable, Income falls below the \$24,400.50 for 2019 and there was no refund due them, they would not be required to file and tax return for 2019. If a refund is due though, (i.e. income taxes withheld on a W-2 or 1099-R) and their taxable income is below \$24,400.50 they will need to file a return to receive the refund.

Question

Is purchase of a boat or car considered a trust expense?

Answer

The trust purchases any asset at cost and that is what is recorded in the books at capital asset value. There is no expense for the purchase, it is simply an Asset Purchase. All expenses for that asset are expenses of the trust.

Question

Do we still take depreciation on the properties since it's already tax deferred?

Answer

No, because the trust does not take depreciation on its property.

Question

My wife is a beneficiary of my trust, and we will be vacationing in an area that we will be looking at property to invest in. My question is - what expenses can I run through my trust? Such as transportation, lodging, meals and clothes.

Answer

Your Trust can pay for any and all expenses associated with the management, maintenance and operation of the Trust. The Trust can buy, sell and invest in property, equipment and other investments. So, if you can justify the travel for any of the above reasons, then associated expenses are authorized expenses of the Trust. Food and entertainment would be personal expenses, unless in conjunction with a trust business meeting - a real business meeting. Clothing would be personal expenses unless it is safety clothing used when working on a Trust Asset. Clothing with the Trust LOGO could be considered trust clothing. The Trust must maintain receipts for travel and entertainment with the WHO, WHAT, WHERE and WHY written on the back of the receipt. You must also have proof of the travel for Trust Business - photos, newspaper ads, real estate agent business cards, investment brochures, etc.

If you are going to purchase a new vehicle, is it better to pay for it in full or take out a loan and let the trust make the payments?

The Trust can purchase the vehicle or can execute a note on the vehicle. The lender may not allow the Trust to be on the Note since they cannot demand payment from a Spendthrift Trust. The Trustee/beneficiary may have to personally guarantee the note.

Question

Can a leased car be put into a trust if it's the car that the beneficiary drives?

Answer

The Trust must be on the Lease and then the expenses to operate that vehicle used by a beneficiary are Trust expenses. If a Trustee uses the vehicle, then the Trustee must pay rent for the portion of the vehicle used for personal use. Keep a mileage log. The Lessor may require a personal guarantor on the lease.

Question

Can I buy a car for myself as Trustee, to drive without having to keep detailed record?

Answer

The Trust must own the vehicle and then all Trust uses of the vehicle are Trust expenses. The Trustee must pay rent/lease for the non- trust (personal) use of the vehicle. A mileage log of personal mileage will help to calculate this rent/lease. Trustees cannot benefit from the Trust or its assets.



Jorge E. Gonzalez CMFC,CRPC® (954)736-9098

