



Use of Trusts in Tax and Estate Planning

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A PERSONAL NOTE OF WELCOME FROM EVELYN JACKS, PRESIDENT, KNOWLEDGE BUREAU

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Use of Trusts in Tax and Estate Planning

OVERVIEW
This course provides a detailed primer in the subject area featuring common true to life scenarios because every financial advisor who discusses tax, financial or investment plans with clients should have a basic understanding of the taxation of trusts in order to discuss estate planning options with clients.
APPROACH
Students will learn extensive knowledge about the use of trust in tax and estate planning and is to be recommended as part of a background for a tax professional. It clearly spelled out in the structure, advantages and disadvantages of each type of trust.
WHY IS THIS CONTENT ESPECIALLY TIMELY AND/OR IMPORTANT
<ul style="list-style-type: none"> • The student will be able to identify and distinguish the key parties of a trust, the legal status a trust enjoys under income tax and other laws. • Through case studies, you will demonstrate the ability to identify client situations where income tax savings can be generated. The student will learn a variety of different trusts. • This course allows advisors to develop a consistent process for trust planning that looks at tax efficiency of many different kinds of trusts.
WHAT YOU WILL LEARN?
Using these sophisticated tools students will learn trust planning competencies in order to help clients adequately set up various structural fund requirements.
SCOPE OF THE CONTENT:
<ol style="list-style-type: none"> 1. Basic Trust Mechanics 2. Trusts as Mechanisms to Exert Control 3. Basic Tax Treatment 4. Testamentary Trusts 5. Inter Vivos Trusts, Inter Vivos Trusts 6. Charitable Remainder Trusts 7. Alter Ego and Joint Partner Trusts 8. Insurance and RRSP Trusts 9. Spousal Trusts 10. Trusts for Disabled Beneficiaries

CHAPTER ONE

BASIC TRUST MECHANICS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will be able to identify and distinguish the key parties of a trust, the legal status a trust enjoys under income tax and other laws, the separation of legal vs. beneficial ownership, and the three requirements or “three certainties” necessary for the establishment of a trust under the laws of Canada. The student will also learn the types of documentation used to create a trust.

NEW SKILLS TO BE MASTERED:

Awareness of how a trust works, how it fits into the legal landscape, and what documents are necessary to create a trust.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What is a trust?
- Who is the “settlor” of a trust?
- Is a trust a legal entity like a corporation or a flesh and blood person?
- What is the difference between legal and beneficial ownership?
- When is an “in-trust” account a trust?
- What is a trust deed?
- What is a trust declaration?
- What is a trust agreement and how does it vary from a deed or a declaration?

CHAPTER 2

TRUSTS AS MECHANISMS TO EXERT CONTROL

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn to analyze trusts as efforts on the part of the settlor to exert control over the world around the settlor, including measures to control the ultimate destinations of wealth through subsequent users, the conduct of beneficiaries, and the conduct of the government.

NEW SKILLS TO BE MASTERED:

A broader understanding of the role trusts can play in estate planning.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- How can a client give an asset away but keep direct or indirect control of it?
- How can a client take care of a spouse or other beneficiaries before passing assets to other beneficiaries?
- Can a trust be used to manipulate the conduct of family, friends and other beneficiaries?
- What limitations are there in the effort to exert control?
- To what extent can the government be manipulated through the use of trusts?
- What is the obligation of a trustee to the beneficiaries of the trust?
- What is the “even hand doctrine?”
- Can a trustee take profits without disclosing them?

CHAPTER 3

BASIC TAX TREATMENT

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn the basic treatment that a trust receives under the Income Tax Act (Canada), the tax filings required for a trust, how income is allocated to beneficiaries, how to decide what province or territory will have income tax jurisdiction over the trust, and basic information relating to tax credits and exemptions that apply.

NEW SKILLS TO BE MASTERED:

Awareness of basic tax treatment of a trust, and the ability to divide trusts into those which have high income tax rates and those which have lower income tax rates.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Is a trust a separate taxpayer?
- What kind of tax return does it have to file?
- How does the deemed realization at twenty-one years impact on income taxes?
- How does the deemed realization rule compare to other rules?
- When is income taxed in a trust?
- When is income taxed in the hands of the beneficiaries?
- Can income be paid to beneficiaries but still taxed in a trust?
- How are capital distributions made and taxed?
- In what province or territory will a trust be taxed?
- Is a trust subject to minimum tax?
- Can a trust have a deduction for charitable gifts?
- Can a trust claim a principal residence exemption?
- Can a person be taxed for non-cash income from a trust?

CHAPTER 4

TESTAMENTARY TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn how a testamentary trust is structured, the various tax advantages attaching to it, and a variety of planning opportunities available through the use of a testamentary trust.

NEW SKILLS TO BE MASTERED: Identifying client situations where income tax savings can be generated through the use of a testamentary trust.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What particular tax rules apply to a testamentary trust?
- How do income designations add additional advantage?
- What is the tax year of a testamentary trust?
- How does this style of planning impact on probate avoidance strategies?
- What kind of trusts qualify as “testamentary?”
- How does a testamentary trust lose its preferred status?

CHAPTER 5

INTER VIVOS TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn how *inter vivos* trusts are used for estate planning, and the income tax implications for the settlor of the trust, the trust itself, and the taxpayers.

NEW SKILLS TO BE MASTERED:

Identifying client situations where income tax savings can be generated through the use of an *inter vivos* trust.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- When is a trust properly described as “*inter vivos*?”
- When will the settlor of the trust incur capital gains taxes at insertion?
- When will income earned by the trust be attributed back to the settlor?
- What tax rate applies to *inter vivos* trusts?
- When might estate freezes be used?
- Is it possible to multiply access to the capital gains exemption?

CHAPTER 6

CHARITABLE REMAINDER TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN: The student will learn how a charitable remainder trust is used to reduce income taxes now for a gift that takes effect in the future.

NEW SKILLS TO BE MASTERED: Identifying client situations where a charitable remainder trust might be to their advantage, and understanding situations where a charitable remainder trust would be ill-advised.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- When does a trust qualify as a charitable remainder trust?
- How is the donation receipt quantified?
- How are capital gains treated at death?
- How old should the settlor be before these trusts make sense?
- How can other income tax advantages be combined with the use of a charitable remainder trust?

CHAPTER 7

ALTER EGO AND JOINT PARTNER TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn the necessary elements to qualify a trust as alter ego or joint partner, the special tax treatment available to the settlor and available to the trust itself, how to manipulate income attribution, planning purposes that drive the use of such trusts.

NEW SKILLS TO BE MASTERED:

The ability to identify situations where an alter ego trust or joint partner trust might be to the advantage of a client, along with advantages and disadvantages in this type of planning.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- How old does the settlor have to be to set up an alter ego or joint partner trust?
- Does the twenty-one year deemed realization apply?
- How is the trust taxed at the death of the settlor?
- Can there be two settlors?
- Who is entitled to the income?
- Can income be retained in the trust?
- Can an alter ego trust fund a testamentary trust?
- How are these trusts used in jurisdiction shopping strategies?
- Can a charity be a capital beneficiary after the death of the settlor or the settlor's spouse?
- Can the settlor opt out of the capital gains roll-over when inserting property?

CHAPTER 8

INSURANCE AND RRSP TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn how to fund a life insurance trust using a beneficiary declaration, the different types of documents that can be used to establish the terms of the trust, critical errors that can be made in selecting particular insurance policies to fund insurance trusts and planning general tax planning strategies pertaining to insurance trusts. The student will also learn the basic structure of a “RRSP” trust, the circumstances where such trusts might be advisable, and the advantages and disadvantages that they entail...

NEW SKILLS TO BE MASTERED:

Identifying situations where a life insurance trust will add value to a client’s estate planning and flaws that can deny the client the benefits of such structures. Identifying circumstances where establishing a testamentary trust funded by de-registered proceeds of registered investments will be advisable.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Can the declaration refer to “all life insurance policies?”
- Should the policies be specifically described by policy number?
- Is it necessary to identify the trustees by given name?
- Does the settlor have to be the owner of the policy?
- When will an insurance trust be taxed as testamentary?
- Is it preferable to roll registered investments to a spouse?
- What is a “hybrid” trust?

CHAPTER 9

SPOUSAL TRUSTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn structural requirements for a spousal trust, the special and preferential tax treatment available to qualifying spousal trusts, the various planning purposes that can be pursued, situations where spouse trusts are warranted, application in second marriage situations, common drafting errors made in establishing such trusts.

NEW SKILLS TO BE MASTERED:

To identify situations where a spouse trust will be to the advantage of a client and their family.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- How are the income provisions of a spouse trust properly structured?
- How are the capital provisions of a spouse trust properly structured?
- Are capital gains taxes payable by the settlor when assets are inserted?
- Is there any choice involved in the capital gains treatment?
- How are capital gains treated at the death of the settlor?
- How does this planning interact with probate avoidance strategies?
- Can or should registered investments be used to fund a spouse trust?
- Can income be kept in a spouse trust?

CHAPTER 10

TRUSTS FOR DISABLED BENEFICIARIES

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

The student will learn how trusts are used to improve the lives of disabled beneficiaries, special tax rules available to such trusts, strategies to deal with income, the impact on government income support and programs, and different strategies to use in different situations.

NEW SKILLS TO BE MASTERED:

To help clients plan in circumstances where they have a disabled heir.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What is a “Henson trust?”
- How do provincial rules impact on this type of planning?
- Does this planning work across Canada?
- What is the preferred beneficiary election?
- Can these trusts be either testamentary or *inter vivos*?
- Can registered investments be used to fund these trusts?
- What is a “springboard” strategy?

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"It is important that we are proactive in terms of planning our clients' affairs. Knowledge Bureau continues to provide me with relevant knowledge and strategies to help my clients navigate through the complex world of finance, life and taxation."

- George Donkor, ON

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LEVEL I COURSES - CORE PROFESSIONAL SKILLS

Build your core professional skills by taking the three courses below.

Understand family-owned enterprises throughout the lifecycle of the business - from startup to successful transition. That insight requires a firm understanding of the latest tax changes for incorporated family businesses.

1

Corporate Tax Filing Fundamentals

This course serves as an introduction to the filing of a corporate income tax return for small business operating under a corporate structure as a Canadian Controlled Private Corporation (CCPC). From a company's transformation from Proprietorship through to Corporation, this course will teach you the fundamentals of filing a T2 return for the majority of small business corporations

Knowledge Journal Topics:

- Basis of Reporting Income
- Understanding the Corporate Balance Sheet
- Understanding Shareholder Equity
- Sources of Corporate Income
- Creating an Audit Trail for CRA Purposes
- Completing the T2 Return
- Tax Reserves
- Shareholder Remuneration
- Corporate/Shareholder Integration Theory

2

Tax Planning for Corporate Owner-Managers

New tax legislation has created "new realities" for owners of private corporations and they have added considerable complexity to the tax component of this process. Learn to provide advice throughout the year with a view to minimizing the total amount of income taxes paid by the family.

Knowledge Journal Topics:

- The Taxation of Business Income and Its Integration in Personal Taxation
- Understanding Family Compensation Requirements
- Income Tax Treatment of Salary
- Income Tax Treatment of Dividends
- Other Compensation Issues - Benefits, Shareholder Loans
- Income Splitting, Kiddie Tax, Tax on Split Income
- Basic Issues in Using a Holding Company or Trust
- Registered Deferred Income Plans
- Unregistered Deferred Income Plans
- Planning Pitfalls - the Capital Gains Deduction, CNIL, ABIL's

3

Tax Planning for Incorporated Professionals

This course will focus on personal and corporate tax planning for small to medium sized businesses, owned and operated by professionals, with a special focus on financial advisors and medical practitioners. Retirement and succession planning is an integral part of the course.

Knowledge Journal Topics:

- Tax Rules for Professional Corporations
- Incorporated vs Non-Incorporated Professional Businesses
- Corporate Structures
- Shareholder Remuneration
- Corporate/Shareholder Integration Theory
- Using the PC for Family Benefits
- Retirement Planning for the Incorporated Professional
- Getting the Business Ready for Sale

"This program was very challenging and the information contained was valuable to me in my practice. I plan to keep my journal nearby as a reference when required. This is a very valuable program for anyone in private practice."

- Heather McLeod, MFATM - Business Services Specialist

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Looking for a way to stand out in the competitive tax services industry and attract more business? Advance your business (or career) and guide clients through succession planning, valuations and transitions. You will be able to provide a superior level of service that will continue to pay off throughout your career.

4

Cross Border Taxation

Advisors who work with affluent boomers must be prepared to discuss cross border taxation with a comprehensive general knowledge, as well as recognize and advise on how certain actions on both sides of the border affect a person's tax situation.

Knowledge Journal Topics:

- Residency
- Immigration and Emigration
- Snowbirds
- Owning Property as a Non-resident
- Canada - U.S. Tax Treaty
- U.S. Citizenship
- Canadian and U.S. Investments (including FATCA)
- U.S. Estate and Gift Tax
- Renouncing U.S. Citizenship

5

Understanding Business Valuation

This course is designed in a practical format and will help an advisor become a valuable resource to their clients when considering business valuation issues. The objective of this course is to provide an overview of the fundamentals of business valuation, enabling advisors to assist clients in facing various types of business transactions, including mergers, transfer of an ownership position, sale of a business, or raising capital.

Knowledge Journal Topics:

- The Notion of Value
- Valuation Approaches: Company Specific
- Valuation Approaches: Market-Based
- Issues That Could Impact Value
- Business Transactions: Preparation Stage
- Business Transactions: Closing and Transition
- Value and Investment Transactions
- Business Succession
- Financial Performance and Implications
- Selected Topics in Valuation

6

Use of Trusts in Tax & Estate Planning

Trusts are used on an ever-increasing basis to plan for the wealth and succession objectives of medium and high-worth clients. The advisor with the ability to assist with that process creates the opportunity to establish a long-term, potentially intergenerational connection with a client and their family; provided their strategy considers recent tax changes in the planning process.

Knowledge Journal Topics:

- Basic Trust Mechanics
- Trusts as Mechanisms to Exert Control
- Basic Tax Treatment
- Testamentary Trusts
- Inter Vivos Trusts, Inter Vivos Trusts
- Charitable Remainder Trusts
- Alter Ego a& Joint Partner Trusts
- Insurance and RRSP Trusts
- Spousal Trusts
- Trusts for Disabled People

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- Evelyn Jacks, President of Knowledge Bureau

“Everything so far has had value to it. These studies have added to my knowledge and skills and I have put this knowledge to use immediately for our clients or I gained new skills which has given me the opportunity to expand our services.”

- William Samplonius, ON

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