

Irrevocable Life Insurance Trust

For centuries, trusts have been used in estate planning to:

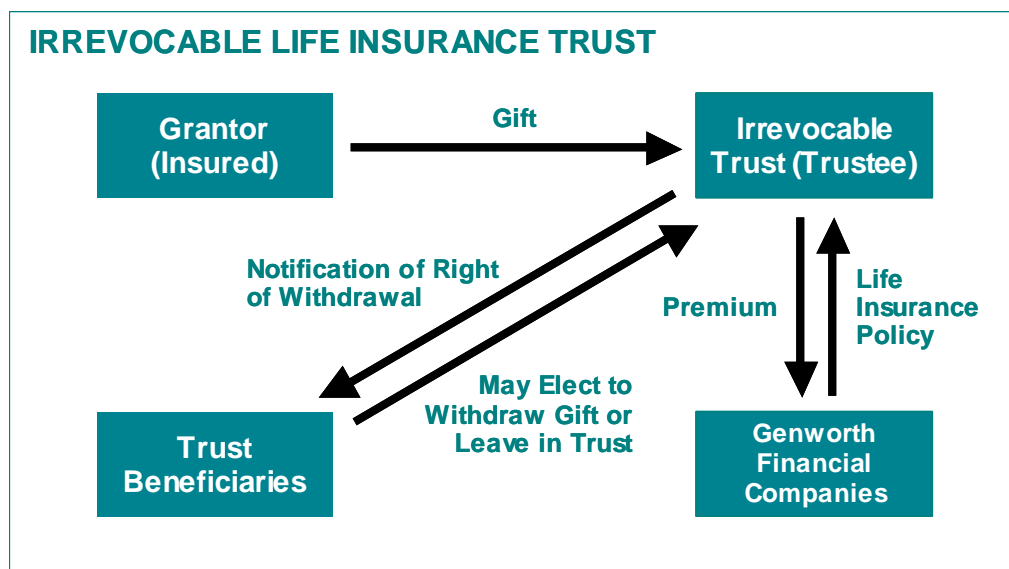
- Pass property to others
- Control the timing and amount of distributions made to the trust beneficiaries
- Delegate decisions related to the investment of trust assets to an experienced trustee or a professional money manager, or
- Assist in providing for family members with special needs.

Irrevocable life insurance trusts (ILITs) offer another major advantage: they can authorize the trustee to purchase and maintain life insurance policies on the lives of the grantor, the grantor's spouse, and even the trust beneficiaries. Trust owned life insurance not only provides a benefit to the beneficiaries of the trust, but can also be used to help create liquidity to meet estate settlement costs. Further, when life insurance policies are held by a properly administered irrevocable trust the death benefit will not be included in the grantor's taxable estate at death. This allows the full death benefit to reach the beneficiaries without being reduced by federal estate taxes, state inheritance or estate taxes or probate costs.

The trustee will need money to pay the life insurance premiums. These dollars may come from assets already in the trust or from gifts to the trust. If the grantor intends to make gifts to pay policy premiums, these gifts may be taxable gifts unless they qualify for the annual gift tax exclusion (\$11,000 per trust beneficiary; \$22,000 if spouses agree to "split" gifts).



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However, to qualify for the exclusion amount, the gift must be a gift of a present interest – that is, the trust beneficiaries must have an immediate right to the “use and enjoyment” of the gifts. But, the right of the beneficiaries to access the gifts does not have to be a permanent right. If reasonable notice is provided and the beneficiaries opt not to exercise their right of withdrawal, the trustee is free to use the gift to pay premiums on the life insurance policy.

The grantor controls what provisions will be included in the trust. These typically include the trustee’s powers; when and how trust assets will be distributed to the trust beneficiaries; how trust assets may or may not be invested; and conditions for selecting the initial and future trustees and circumstances under which a trustee may be replaced.

- The trustee may be authorized, but must not be required, to lend money to the estate or to purchase assets from the grantor’s estate so that it can pay settlement costs and taxes.

TAX CONSIDERATIONS

- Death proceeds received by an ILIT are generally received income tax free.¹
- Life insurance death benefits will not be included in the grantor’s taxable estate if the grantor did not possess any “incidents of ownership” in the policy.
- Cash values, if any, within the life insurance policy grow on a tax deferred basis.
- Gifts of property or cash made to the trust may require the filing of a federal gift tax return if the gift exceeds the annual gift tax exclusion amount for each trust beneficiary or if the grantor and the grantor’s spouse elect to make split gifts to the trust.
- If a beneficiary chooses not to withdraw the entire gift, the amount not taken may be subject to federal gift or estate taxation to the extent that amount exceeds the greater of \$5,000 or 5% of the value of the trust.
- If the trust holds other assets in addition to the life insurance policy, any investment earnings may be income taxable to the trust if they are not distributed to the trust beneficiaries.
- If the trust beneficiaries include individuals two or more generations younger than the grantor, generation skipping transfer taxes may apply.

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¹ Death benefits paid under life insurance policies that have been transferred for valuable consideration may be subject to income taxation to the extent the death benefit exceeds the amount of consideration paid.

² Death benefits of a life insurance policy will be included in the insured's gross estate and may be subject to federal estate taxes if the insured possessed any incidents of ownership in the policy within three years of death.

³ Income earned on investments held by a trust are generally income taxable to the trust unless distributed to the trust beneficiaries. However, if the trust is a trust established under the grantor trust rules, income generated within the trust may be income taxable to the trust grantor rather than the trust.

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Variable products issued by Genworth Life and Annuity Insurance Company

Principal underwriter: Capital Brokerage Corporation (dba Genworth Financial Brokerage Corporation in MN, IN, NM and TX)

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