

Focus On Advanced Sales  
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## IRS Releases PLR on Sale of Policies Between Trusts

A situation that comes up often under many different circumstances is how to get a policy from one trust to another with the best income tax consequences. In a recently released Private Letter Ruling (PLR) on the tax consequences of selling life insurance policies from one trust to another the IRS has issued another positive opinion in this area.

In this case, the insured has two grantor trusts. Trust 1 is for the benefit of the insured's children and holds two policies on the insured's life. Trust 2 is for the benefit of the insured's grandchildren. It also holds two policies on the insured's life.

The Trustees of each trust want to exchange policies such that the policies originally held by Trust 1 are now held by Trust 2 and vice versa. The value of the policies in Trust 1 is expected to be greater than the value of the policies held by Trust 2. As a result, Trust 2 will transfer either additional assets or a promissory note in addition to the policies. What results is a sale from one grantor trust to another of the policies.

Grantor trusts are special in that the trust is essentially disregarded for income tax purposes and all consequences are passed to the grantor of the trust. In this case, the grantor of each trust is the same person. Since a person cannot recognize gain or loss on a transaction with himself, the IRS found that the transaction would not cause the recognition of any gain or loss since the trusts were each grantor trusts and the insured is the grantor of both trusts.

The IRS also found that the transfer for value rule would not apply since the transaction is disregarded for income tax purposes.

## INSURANCE PLANNING CONSIDERATIONS

1. Grantor trusts status can be achieved many ways, but not all trusts are designed to be grantor trusts. Make sure of a trusts status by involving the customers tax counsel in the transaction.
2. Note that assets of equal value are being exchanged here. Although the PLR does not discuss it, the reason that equal value is important is likely the fiduciary liability of the trustee.

3. PLRs are not binding legal precedent. They can only be used by the taxpayer that requested the ruling. However, a PLR can give others insight as to what the IRS thinks on an issue.

AIG Life Brokerage Group has retained the law firm of FRIEDMAN & DOWNEY, P.C., as national counsel for estate and business planning to answer your questions about advanced sales cases. We practice in the areas of business and estate planning and advise insurance companies and agents about marketing issues. We also conduct advanced sales seminars and write articles about life insurance for the Journal of Financial Service Professionals (formerly the CLU JOURNAL), The National Underwriter, and law reviews.

#### HOW TO CONTACT DOUG FRIEDMAN and HEATHER DOWNEY

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