ESTATE PLANNING:
UTILIZING GRANTOR TRUSTS 2025

There are many types of trusts that our clients utilize and there are articles on the website describing several of them. Basically, a trust is a legal arrangement whereby a Grantor, who is the person who creates the trust, appoints a Trustee, the fiduciary who will manage the trust according to the trust terms as are indicated in a trust agreement. The Grantor will transfer assets to the Trustee and the Trustee will manage the assets in trust and distribute the assets to beneficiaries named in the trust agreement according to its terms.

Our clients often use a type of trust known as a Grantor Trust to accomplish many estate planning objectives. A Grantor Trust refers to any trust in which the Grantor is considered the owner of the assets that are held in the trust for income tax purposes. This means that the Grantor will pay any income taxes on any income that is earned by the assets held within the trust. A common type of trust that is considered a Grantor Trust is a revocable trust (there is an article on this website describing revocable trusts). At first, paying income tax on the income earned by assets held in a trust seems counter to many client's desires, but then when they realize that income earned by trusts are often subject to much higher income taxes than what individuals will pay they begin to understand the grantor trust importance. Also, if a client's goal is to reduce their estate for estate tax purposes, paying the income tax on the trust assets will not be subject to using additional gift or estate tax exemptions nor will it reduce the annual gift tax exclusion which for 2025, is 19,000 per donee.

A trust is deemed a Grantor Trust if the Grantor, or a third party non adverse to the grantor (ex. a spouse or immediate family relative), retains one or more powers over the trust (even though there is a trustee and the assets were transferred to the trust for management by the trustee). Some of the powers that a Grantor may retain over the trust and which are promulgated by Sections 671-678 of the Internal Revenue Code include the power to revoke, the power to substitute assets of equal value in the trust and the power to add charitable beneficiaries.

Grantor Trusts are used for the centralized management of assets. Some Grantor Trusts are used for the avoidance of probate and others are used for estate tax planning purposes. Revocable Trusts, which is a type of grantor trust, are usually used for the avoidance of probate. An Intentionally Defective Grantor Trust ("IDGT") is used for a completed transfer of assets to a grantor trust for estate tax planning purposes whereby assets transferred to the IDGT is not included within a Grantor's gross estate for estate tax purposes. However, the Grantor is still considered the owner of the assets held within the trust for income tax purposes so that the Grantor will pay the income tax on income earned by the trust assets. If the Grantor retains an acceptable power that is included within Section 671-678 of the Internal Revenue Code, then the future value of the assets transferred to the Grantor Trust are effectively removed from the gross estate of the Grantor for estate tax purposes; and the Grantor can further reduce the Grantor's gross estate by being responsible to personal pay the income taxes for the Grantor Trust.