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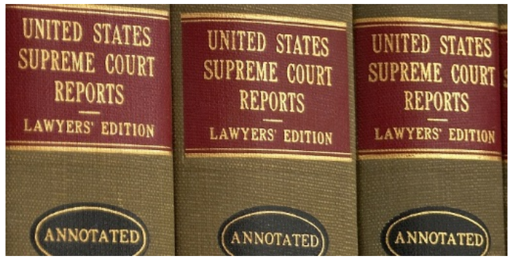

ZOOM PROGRAM

FUNDAMENTALS OF GRANTOR TRUSTS

FACULTY

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October 27, 2020

Suffolk County Bar Association, New York

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He was an adjunct professor in the Masters Program at Long Island University. He has spoken for the New York State BAR Association on complex trust and Estate Planning topics and regularly lectures before the Nassau and Suffolk BAR Association centers for continuing Legal Education, and their committees and sub committees. He is frequently asked to speak on trust topics for (NBI) the National Business Institute and other providers of legal education. He was technical editor for the publication "Fundamentals of Trust Accounting Income and Principal under the Revised NYS Laws" (ABA Publication 2013). Known in the community for his expertise on trusts and related matters, he acts as counsel to many large and small law firms, providing advice and guidance in his areas of concentration.

FUNDAMENTALS OF GRANTOR TRUSTS

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History of Grantor Trusts

The Internal Revenue Code of 1939 treated trusts as separate "individual" taxpayers until the Code was amended in 1954.

Under the 1939 Code, there were 20% - 91% tax brackets that began with taxable income over $400K ($20mm in 2020 dollars) but this was only for a lucky few. However, many middle and upper middle class taxpayers got snagged in 60-70% brackets.

Wealthy individuals created trusts to get parallel use of the progressive tax brackets. The problem was that once the investment assets were placed into the trust, these wealthy individuals were concerned about the loss of access and control of the assets. These income tax dodging trusts had no estate tax benefits and included all kinds of broad powers over income and principal to quell the concern of lack of control. The Code always contained a regulation that stated such a trust arrangement is ignored for income tax purposes but it was never enforced.

Then, in 1954, Code Sections 671-679 were created and enacted. These sections are now 66 years old and have remained mostly unchanged despite all the other sweeping subsequent tax laws created to date.

The 1954 Statutes under Subchapter J of the Code for grantor trusts are as follow:

§671: Where the grantor is treated as the owner of any portion of a trust, items of income, deductions and credits of the trust which are attributable to that portion of the trust are taken into account in computing taxable income of the grantor.

§672: Definitions and Reporting

a) Adverse Party: Substantial beneficial interest

b) Nonadverse Party: Anyone not an adverse party

c) Related or Subordinate Party: any nonadverse party who is the Grantor's spouse (if living with the grantor), Grantor's father, mother, issue, brother or sister; an employee, a corporation or any employee of a corporation in which the stock holdings of the grantor and the trust are significant from the viewpoint of voting control, or a subordinate employee of a corporation in which the grantor is an executive.

§673: Reversionary Interests: The grantor shall be treated as the owner of any portion of a trust in which he has a reversionary interest in either the corpus or the income, if, as of the inception of that portion of the trust, the value of such interest exceeds 5% of the value of such portion.

§674: Power to control beneficial enjoyment: Grantor is treated as the owner of any portion of a trust if the beneficial enjoyment of the corpus or income is subject to a power of disposition exercisable by the grantor, a nonadverse party, or both, without the approval of consent of any adverse party.

§675: Administrative Powers: Grantor is treated as the owner of any portion of a trust in respect of which:

1. Power to deal for less than adequate and full consideration

2. Power to borrow without adequate interest or security

3. Borrowing of the trust funds

4. General Powers of administration: Power to vote; power to control investment of trust funds; power to reacquire trust corpus by substituting other property of equivalent value

§676: Power to Revoke: Grantor shall be treated as the owner of any portion of a trust where at any time the power to reinvest in the grantor title to such portion is exercisable by the grantor or a nonadverse party or both.

§677: Income for Benefit of Grantor: Grantor shall be treated as the owner of any portion of a trust whose income without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be

Distributed to the grantor and/or grantor's spouse

1. Held or accumulated for future distribution to the grantor or the grantor's spouse
2. Applied to the payment of premiums on policies of insurance on the life of the grantor or the grantor's spouse

§678: Person other than Grantor treated as Substantial Owner: a person other than the grantor shall be treated as the owner of any portion of a trust with respect to which:

1. Such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself; or
2. Such person has previously partially released or otherwise modified such a power and after the release or modification retains such control as would, within the principles of sections 671-677 subject to grantor of a trust to treatment as the owner thereof

The 1954 Code sections eliminated the gaming of the tax brackets. Now we have individual brackets that range from a 10-37% tax and separate rates for trusts.

Ordinary taxable income in a trust over $12,950 is taxed at the 37% bracket (see table below). The 20% tax bracket for capital gains starts when income exceeds $13,150.

Income Tax Brackets

Bracket	Tax Is This Amount Plus This Percentage	Of the Amount Over
$0 to $2,600	$0 plus 10%	$0
$2,600 to $9,450	$260 plus 24%	$2,600
$9,450 to $12,950	$1,904 plus 35%	$9,450
Above $12,950	$3,129 plus 37%	$12,950

Capital Gain Tax Brackets

Bracket	Percentage of Tax
$0 to $2,650	0%
$2,651 to $13,150	15%
Above $13,150	20%

With the current tax structure in place for income tax, grantor trusts do not benefit a grantor/taxpayer if the grantor/taxpayer is in the highest individual bracket. However, grantor trusts can now be utilized as a planning opportunity for other types of tax planning.

You would typically want a trust to be a grantor trust to maintain the more favorable individual condensed tax brackets. Since the TCJA tax law in 2017 there are reasons when you may **not want** a grantor trust treatment. Here are four examples of when you may want a non-grantor trust:

Example 1. *Section 199A deduction for 20%* - To take advantage of this sizable tax deduction, you may want to use a non-grantor trust. Income phase outs, SSTB's, wage requirements, etc. are limitations on the deduction. Trusts can claim the 199A deduction with same phase outs as individuals. This phase out begins when taxable income exceeds $163,300 per trust. Be aware of Code §643(f) which allows the IRS to treat two or more trusts as one trust if (1) the trusts have **substantially the same grantor(s) and substantially the same primary beneficiary(ies),** and (2) the main purpose of creating the trusts was avoidance of federal income tax. If §643(f) is applied, the income from each trust is combined into one trust for income tax purposes and depending on the total income, would result in income in excess of the §199A income thresholds.

Example 2. *SALT deduction limitation* - Transfer a vacation home into a non-grantor trust along with investment assets that generate at least $10,000 of income (about $500,000 @ 2%). For example, if real estate taxes are $20,000 and you have two children, transfer the vacation home deed into an LLC and set up two trusts to be the members of the LLC. To avoid having the trusts disregarded designate one child as beneficiary of one trust and the other child as the beneficiary of the other. (§643(f) will not apply since the beneficiaries are not the same).

Example 3. *Suspension of miscellaneous itemized deductions* - Tax preparation and legal fees are still deductible expenses for a trust. If you have done work for a grantor and non-grantor trusts, maybe segregate the costs and bill them to the non-grantor trust which contains investment income or reports income from a business K-1.

Example 4. *Avoiding NYS income tax on investment assets or a sale of a business* - This involves a trust in a non-tax state like Florida or Nevada prior to the sale with no NYS trustees, no NYS assets and no NYS income.

Persons other than the Grantor being taxed:

§678 - when a person other than a grantor is taxed as the owner of the trust. 678(a)(1).

(a) General rule

A person other than the grantor shall be treated as the owner of any portion of a trust with respect to which:

(1)such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself

Since the beneficiary has exclusive right to access corpus or income it will be taxed to that beneficiary to the extent of the amount they withdraw (eg. Crummey powers in a gifting trust or ILIT).

Beneficiary Deemed Owned Trust - BDOT (not BDIT) - if a beneficiary, for example, my son, can access the trust income, the BDOT will allow the taxes to be allocated to my son who is likely in a much lower tax bracket. The funds do not have to be withdrawn to have my son be the deemed tax owner. The funds can stay in the trust and accumulate despite the income being taxed to my son. The risk is the exercise of the withdrawal power by the child.

A BDOT may be useful if you are trying to shift income to lower tax brackets. It may also be valuable in obtaining risk free additional 20% deductions from income under IRC Section 199A. This is because §643(f) specifically excludes grantor trusts from the prohibition of using multiple trusts to achieve a result that was solely motivated by tax avoidance. So an attorney who is above the $426,600 (married filing jointly) or 213,300 (single) phase out for 2020 under 199A for an SSTB, (a law practice cannot be gifted but the law office building can) may consider creating multiple BDOT trusts for their adult[1] children and shift ownership of the real estate entity to the trusts. The K-1 income will flow to the children's returns and the building and the cash flows are safe in the trusts. You can even add the grantor's spouse as a trust beneficiary provided any distributions are limited to HEMS.

The Section 199A deduction is computed for a grantor trust (or deemed owner under §678) as if the person directly conducted the activities of the trust. The deduction is calculated based on the portion owned by the grantor or deemed owner. Reg. 1.199A-6(d)(2).

Section 679 - Not common in local practice but good to know is that if a U.S. person funds a foregin trust, it is considered a grantor trust provided it has a U.S. person as a beneficiary and fails the test to be a foreign trust fails under **both** of

[1] The Kiddie tax would negate any benefit for minors under age 18 or GE 24 if full time student.

these two prongs: (1) U.S. court would have primary jurisdiction over the trust and (2) there is a U.S. person as a trustee.

What makes a grantor trust a grantor trust:

These powers **will NOT** create a grantor trust: (see slide)

1. Testamentary Special power of appointment
2. Powers limited to HEMS
3. Powers held by independent trustees (unless grantor can remove or replace the trustee)

These powers **WILL** make the trust a grantor trust: (If held by grantor or non adverse party)

1. Grantor has a reversion
2. Power to effect beneficial enjoyment
3. Trust is revocable
4. Power to deal with trust assets for less than full consideration
5. Retained right to trust income (or spouse)
6. Power to substitute assets for equal value in non fiduciary capacity (trust assets using this power will not be included in estate at death)
7. Lifetime Special power of appointment over corpus
8. Borrow from trust without adequate security. Don't have to actually borrow the money. (unclear if this power will cause Estate inclusion)
9. Trustee can add or sprinkle trust assets among charitable beneficiaries safe but not a popular way (no inclusion in the estate.)

Adverse Party - a person who would be financially injured by a trust transaction- i.e. a beneficiary of the trust. These parties negate grantor trust status if the power in the grantor or the spouse can be reviewed or vetoed by such a party.

§672(a) - defines an adverse party as "any person having a substantial beneficial interest in the trust which would be adversely affected by the exercise or non-exercise of the power he possesses with respect to the trust."

Grantor trusts that include the spouse and divorce:

Under Section 677(a)(1) the grantor is treated as the owner of a trust for income tax purposes if income may be distributed to the grantor's spouse. Under Section 672(e)(1) the "spousal unity rule" the grantor is treated as holding any interest held by the grantor's spouse at the time the interest was created. That means, if a trust was created while the parties were married, and trust income may have been distributed to the grantor's spouse, that trust will be a grantor trust. Because we have to look to the time the trust is created to determine grantor trust status, the trust remains a grantor trust even after divorce. In other words, after divorce, the grantor would be 100% liable to pay income taxes on trust income distributed to the x-spouse, and such spouse would receive these distributions totally free of tax.

Prior to 2018, Section 682 prevented that unfair result by providing that the income distributed to an ex-spouse after a divorce was taxable to the "recipient". All that has ended. The TCJA signed into law in 2017, repealed Section 682 for divorce or separation agreements executed after December 31, 2018. So for divorce or separation agreements signed January 1, 2019 forward, Section 682 is repealed. And while many of the TCJA tax laws "sunset" after 2025, repeal of Section 682 is permanent.

If a SLAT or other spousal irrevocable trusts are involved as part of a divorce proceeding, there is planning that can be done. One option is toggling off grantor trust status (discussed below) or maybe removing the spouse as a beneficiary if that power exists or even distributing the trust assets to the spouse.

Medicaid Trusts and the $250,000 exclusion for sale of the home:

IRC Section 121 allows a taxpayer to exclude $250,000 ($500,000 if married) of capital gain from the sale of their primary residence. The taxpayer must have resided in the home as the primary residence for at least two of the preceding five years.

In order for a Medicaid trust to be structured to preserve this capital gain tax exclusion on the sale, it must be a grantor trust for income tax purposes as to **trust principal.** If this is true, in the year of the sale, the grantor will be treated as the owner of the residence for purposes of the capital gains tax exclusion.

IRC Regulation 1.121-1(c) (3) (ii) states: if a residence is owned by a grantor trust, (which is considered disregarded for federal tax purposes as a separate entity) for two years or more, the grantor/taxpayer will be treated as owning the residence for purposes of satisfying the 2-year ownership requirement of section 121, and the sale or exchange by the trust will be treated as if made by the taxpayer.

A power or right over trust income will not suffice for the Section 121 exclusion as it must be a delineated power over corpus since under the EPTL principal and income act, capital gain is attributable to principal and not to income of the trust. The IRS looks to state law to determine how trust income is allocated. By naming the grantor or spouse as the income beneficiaries of the Medicaid trust you will satisfy the requirement and all the interest, rents and dividends are taxed to the grantor, but not the short and long term capital gains.[2]

There is hope. The grantor can be deemed the owner of the trust principal if he/she retains certain administrative powers in the trust. One such example is the swap power over corpus under IRC Section 675(4)(C) a power to reacquire the trust corpus by substituting other property of an equivalent value. A lifetime special power of appointment which is an IRC Section 674 power to change beneficial interests works also and is typically used to allow the grantor to later omit or change trust beneficiaries, especially in order to qualify for statutory revocation under EPTL 7-1.9. [3]

[2] Of course, the trust instrument can override the principal and income act statutes and state that all trust capital gains are to be allocated to trust income but this in practice is uncommon.
[3] See *Matter of Spetz vs. NYS Department of Health,* 190 Misc. 2d 297 (N.Y. Misc. 2002)

Swap power explored:

Non fiduciary capacity - 675(4)(C) power to acquire property back from trust in return for an asset with equal value. A Trustee cannot veto this right and his or her only obligation is to ensure value is correct. A Trustee may object to the swap and all they really need to meet their fiduciary duties are qualified appraisals to ensure the values are equivalent.

Example - Due to Covid 19, the grantor may want to swap airline stocks out of the trust for personally held Amazon Stock so the trust assets outside of the taxable estate will appreciate. On the other hand if the grantor is cash strapped and worried about access to funds due to the Covid 19 economy, then they would do the opposite.

This is a great power to have in a trust because:

1. Use of it will not cause the trust assets to be in the estate[4]
2. It's a non-fiduciary power
3. You don't have to actually exercise it to get grantor trust status

Tax Effect of Swap: there should be no adverse income tax consequences upon the exercise of a swap between the grantor and the trust. The grantor takes the property coming out of the trust and maintains the basis the trust had and the trust will take the Grantor's basis as a carryover in the incoming property.

What are some reasons I have advised a grantor to exercise a swap power in my practice:

1. Pre-death planning for income tax - in order to achieve a step up in basis by swapping high basis assets in hands of grantor with low basis assets that the trust may own. (i.e. swap cash in for low basis assets in trust out).
2. Buying a new house when the current house is owned by Medicaid trust. New smaller house is purchased by the grantor all cash from his bank

[4] Revenue Ruling 2011-28

account and the old house has not yet been sold. Grantor then sells the house in trust and swaps cash out of trust for the new house into trust.

3. Life insurance to avoid 3 year rule under IRC Section 2035. Grantor is ill and wants to get a sizable life policy out of their name so it's not taxed in their estate at death and may not have three years to live. Grantor swaps out an asset from the trust for the surrender[5] value of the life insurance. On death the policy is no longer owned by the decedent.
4. Grantor has founders stock with possibly high appreciation from a business acquisition that has two traunces for payout but grantor is cash poor due to income taxes on the first transaction. Swap out cash in the trust for the founders stock.
5. Divorce case where husband, grantor, was bitter that he created SLAT and no longer was married. He swapped in two "appraised" ski resorts with losses but high property value for apartment buildings with strong cash flows of the same intrinsic value.
6. To terminate an irrevocable sale to an IDGT for a note. Grantor had sellers remorse after he sold his interest in a family business to a grantor trust for a promissory note and demanded it all be undone. The trust was not revocable under EPTL 7-1.9 due to minor beneficiaries. Note held by the grantor was swapped for business stock owned by trust. Note becomes moot since the trust owed the note to itself.

Sale of Stock to an Intentionally Defective Grantor Trust for a Note: This estate planning method allows for the "freezing" of the future appreciation of assets for tax purposes. The grantor would sell assets to a trust for a Promissory Note (the "Note"). The Note would pay the interest at the prevailing applicable federal rate. At the end of the term of the Note, the principal amount would be paid to the grantor in cash or in-kind (interests in your limited liability companies), or restructured. Most importantly, the portion of assets sold to the trust will be "frozen" in value on the date of the sale. Accordingly, all future growth and

[5] This would actually be what is called the interpolated terminal reserve value and can be obtained by asking the insurer to provide IRS Form 712.

appreciation over the grantor's lifetime would occur outside of his/her estate. Thus, for every dollar of growth, $.56 of Federal and NYS tax should be saved and passed on to the children. The estate tax consequences with respect to the Note in the transaction will depend on whether the grantor survives the term of the Note. If the grantor does not survive the term of the Note, the value of the Note should be included in the grantor's estate. Since the Note never appreciates like the real estate, the "freeze" has been accomplished.

Example: The grantor sells a Blackacre, a commercial building, with a basis of $10 and a FMV of $15mm to a grantor trust in return for a $10mm promissory note. IRS Revenue Ruling 85-13 states that transactions between the grantor and their wholly owned grantor trust are ignored for income tax purposes so no gain is recognized on the sale. The note is a 10 year amortization at the Prime Rate 3.25% interest and is paid in 10 equal installments, paid by the cash flows from Blackacre to the trust, and from the trust back to the grantor. The interest is not taxable to the grantor due to the same revenue ruling. The tax on the rental income from Blackacre is all paid by the grantor and "burns" up the note payments. The trust pays no taxes and appreciates outside the estate and ideally the note is fully paid off and used up by the time the grantor dies.

Turning Grantor Trusts Status on or off

Trusts can be changed into a grantor trusts if they were not drafted to be one and vice versa. This is called "toggling". **There are many reasons to do this such as tax losses or credits held by the individual that are trapped in the trust (turn on); to avoid NYS taxes if the situs of the trust is later changed (turn off). After a divorce when a spouse is entitled to income (turn off). To get a Section 199A 20% tax deduction or maximize the same (turn off). To avoid reporting**

or showing income on the grantor's 1040 (turn off). To maximize SALT deductions (turn off).

The following ideas could be helpful to toggle the trust and obtain the tax results you desire:

1. Decant the trust to a new trust
2. Have the grantor release the administrative power creating the status
3. Borrow from the trust. If the grantor or the spouse has actually borrowed from the trust and remains still outstanding on the last day of the tax year, the trust is a wholly owned grantor trust for the entire year under Section 675(3). This can be a useful option in 2020 with the election tax year looming, you may want to modify an old irrevocable trust to be a grantor trust.
4. If the trustee can modify administrative powers have the trustee add consent of an adverse party over any administrative power by the grantor.

Tax Returns

According to Treas. Reg. §1.671-4(a) General Reporting Requirements, the Trustee of a Grantor Trust <u>must</u> file Form 1041 and provide the grantor with a statement. However, Treas. Reg. §1.671-4(b) Reporting Requirements provides Alternate Method (on wholly owned):

1. If grantor is also Trustee: Grantor must complete W-9 and information to banks for issuing 1099 (using grantor's Social Security Number)
2. If grantor is not a Trustee: Must comply with #1 PLUS the Trustee must give grantor statement each year with income, deductions and credits; or the Trustee gives 1099 to grantor and file with IRS

What happens from a Tax Perspective when the Grantor Dies?

There are still many unanswered questions as to what occurs when the grantor of a grantor trust expires if there is a sale to the trust by the deceased grantor and the note remains unpaid at death. We do know that the note payments become taxable to the Estate of the grantor (until such time the note passes to the children or to the debtor trust itself) and can be cancelled[6]. The basis of the assets in the trust should not get a step up in my opinion since there was no tax realization event on the original sale, but some perspectives differ.

I do not believe that death is a realization event since there is nowhere to report the transaction. It does not belong on the decedent's final 1040 tax return since that is only for income that was received prior to death. It also does not belong on the Estate 1041 tax return either, since that only requires reporting "IRD" (income in respect of a decedent, which this is not in the definition of IRD) and sales of property and income earned after death. Furthermore, the IRS has ruled generally that the conversion of a grantor trust to a non-grantor trust is not a taxable event.

From a tax reporting point of view the trust becomes a "complex trust" under the Code and pays its own income tax and capital gains tax (or issues a K-1 for ordinary net income that was distributed).

Regulations 301.6109-1(2)(B) require that a new Employment Identification Number (EIN) is obtained the first taxable year that the trust income is not reported on the grantor's return. This happens "immediately" upon the passing of the grantor.

[6] Based on the last IRS estate tax audit in my office I suggest the note continue to be paid until the audit is completed or the statute of limitations has run.

Questions and Answers: (see slides) - is it a Grantor Trust?

1. Medicaid trust, income to grantor, principal to children and child is trustee. No other provisions involving grantor, the grantor's house is only asset and grantor has right to reside.
2. Medicaid trust, income to the grantor's spouse, principal to children and child is trustee. No other provisions involving grantor, Grantor's house is the only asset.
3. Medicaid trust, income to grantor, principal to children. Grantor is the trustee. No other administration powers vested in the grantor. What if the grantor limited distributions of principal by trustee to HEMS?
4. Medicaid trust, income to grantor, principal to children. Child is the co-trustee with the grantor. No other provisions involving grantor.
5. Medicaid trust, no income to grantor, principal to children. Child is the trustee. No other provisions for the grantor.
6. Medicaid trust, income to grantor, principal to children. Child is the trustee. Grantor has a power to substitute assets of equal value into trust.
7. Medicaid trust, income to grantor, principal to children. Child is the trustee. Grantor has a limited special power to appoint principal in will at death.
8. Medicaid trust, income to grantor, principal to children. Child is the trustee. Grantor has a limited special power to appoint principal during lifetime.
9. Medicaid trust, income to grantor, principal to children. Child is the trustee. No other powers in grantor. Trustee has power to pay principal to charitable organizations.
10. Joint Medicaid trusts for a husband and wife. Income to grantors with principal to children. No other powers. The house is the only asset and deed was tenants by the entirety. Husband dies and the wife later sells the house. Is it a grantor trust to the principal? i.e. does she get 121 exclusion? What about step up?
11. Medicaid trust, grantor borrows principal without adequate security.
12. Life insurance trust, independent trustee has the power to pay premiums on the life of the grantor and spouse. No administrative powers to the grantor. What about on the death of the grantor?
13. Irrevocable trust - Grantor has unrestricted power ability to remove or change trustees?

14. Irrevocable trust with an independent trustee. Power to substitute in grantor. Children have power to withdraw grantors contributions to the trust annually up to annual exclusion.
15. Same as #14 but no administrative powers in grantor. What if hanging power in the child?
16. Irrevocable trust, child has right to demand principal in writing to trustee.
17. Irrevocable trust with an independent trustee and child has power to withdraw principal in initial year only but has a hanging power. No other admin powers in trust.
18. Irrevocable Trust for estate tax planning and the grantor's spouse is sole trustee and can distribute funds to the children in his/her discretion. No other powers in grantor or spouse.
19. What if a spouse can only pay children limited to HEMS?
20. Irrevocable SLAT fbo spouse and children. No powers in spouse or grantor. Independent trustee for gift splitting distributions to a spouse and are limited to HEMS?
21. Irrevocable SLAT fbo spouse and children. Independent trustee, no gift splitting so distributions to a spouse are unlimited in trustees sole and pure unfettered discretion. What result if they get divorced? What result if the spouse dies?
22. Irrevocable trust with discretionary principal to grantor and family drafted to show Alaska is the situs and the governing law and has an Alaska corporate trustee. No admin powers in grantor.
23. What if instead an Alaska trustee is limited in making distributions to grantor to HEMS? What if it was HEMS and the comfort of the grantor?
24. Irrevocable trust fbo grantor’s spouse and children. No other powers in spouse or grantor. Independent trustee can pay any amount of principal to a spouse with written consent of a child.
25. Self settled SNT with an independent trustee, grantor is beneficiary but no income or principal is allowed to be paid directly to the disabled child.
26. QPRT allows the grantor to live in the house for 10 years then the house goes in further trust until the grantor's death fbo children. Does the grantor get IRC 121 exclusion on sale?

27. QPRT says after the 10 year term, the trustee can substitute property of equal value. What can we do to change that result?
28. Irrevocable trust to use up gifting exemption and avoid estate tax. The trust gives the grantor an administrative power to borrow principal without adequate security. Is this a good idea?
29. Irrevocable trust to use up gifting exemption and avoid estate tax gives the grantor no other administrative powers but gives an independent protector (the CFO at grantor's office) the power to add or remove trust beneficiaries. What result if the protector is the grantor's lawyer instead?
30. Irrevocable trust, grantor has no powers and has an independent trustee. Grantor has one unmarried child as the principal beneficiary. Then the child later dies before the grantor, with no issue. The trust continues for the child's heirs at law until death of the grantor. How is trust taxed at the death of the child?