

insights

TYPES NOT MAPPED YET April 26, 2022 | TTR not mapped yet | Steve B. Gorin

Basis Step-Up by Trust Modification; BDOT by Trust Distribution; Preferred Partnerships Preferred to Fees

Webinar

Drawn from Steve Gorin's 1st quarter 2022 newsletter, this course discusses trust modifications to receive basis step-up in light of a recent letter ruling, avoiding high fiduciary income tax rates by treating the beneficiary as the deemed owner, and income tax advantages of preferred partnership interests.

Letter Ruling 202206008 held that adding a formula general power of appointment caused estate inclusion only to the extent the beneficiary exercised the power. We will examine the formula general power of appointment approved in that and two other letter rulings. We will very briefly review the income and transfer tax consequences of trust modifications, then we will discuss the law on formula general powers of appointment and why those letter rulings are a risky model to follow. We will conclude that topic discussing what may be a less risky formula as well as reminder of much safer flexibility to consider including.

The segment on BDOT by Trust Distribution responds to high fiduciary income rates (actual and threatened) on business interests held in trust, as well as on accelerated distributions from IRAs under the SECURE Act. We will start with how a trustee can cause income to be taxed to the beneficiary without actually distributing it. Then we will review the rules on lapsing withdrawal rights without the lapse constituting a gift, including sample language granting and then lapsing a withdrawal right. Next, we will discuss how a GST-exempt trust can acquire assets from a GST-nonexempt trust using similar principles.

Finally, we will examine using preferred partnership interests. After reviewing the basics of preferred partnerships, we will see how they may be better than a sale to an irrevocable grantor trust. Next, we discuss how giving a service partner a preferred profits interest may benefit both the partnership and the service partner. Then we will review how family offices might use this idea to avoid unfair tax rules, as well as IRS judicial attacks on certain efforts and regulatory attacks on similar strategies. We will conclude by discussing how an old-and-cold preferred partnership can generate better tax results than an inter vivos charitable lead trust.

CLE

The live presentation of this webinar was approved for 1.5 hours of general CLE credit in California, Illinois, and Texas; 1.8 hours of general CLE credit in Missouri; and 1.5 hours of professional practice CLE credit in New York. CLE credit is no longer available for this recording.

Presenter:

[Steve Gorin](#)

[For technical materials supporting the slides, please see Steve's newsletter.](#)

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