



Warner Norcross + Judd

Building Lasting Legacies: The Potential Role of Irrevocable Trusts in Estate and Asset Planning

Molly Nicol + Raquel Sportel

October 9, 2025

© Warner Norcross + Judd LLP

These materials are for educational use only. This is not legal advice and does not create an attorney-client relationship.



Molly Nicol | Associate

mnicol@wnj.com | 313.546.6042

- Trusts and estates attorney, dedicated to helping individuals, families, and business owners protect their wealth and plan for the future



Raquel Sportel | Associate

rsportel@wnj.com | 616.752.2054

- Trusts and estates attorney, providing comprehensive legal services in the areas of estate and tax planning as well as trust and estate settlement





Warner Norcross + Judd

Roadmap

- I. Key Features of Revocable and Irrevocable Trusts
- II. Taxation
- III. Modification Limitations
- IV. Types of Irrevocable Trusts



Warner Norcross + Judd

I. Key Features of Revocable and Irrevocable Trusts



Revocable vs. Irrevocable Trust: What is the Main Difference?

- A key distinction between a revocable and an irrevocable trust lies in how easily the trust can be changed after it is created.
- With a revocable trust, the grantor retains the ability to make modifications, whereas an irrevocable trust is far more difficult to change.



Features of Revocable and Irrevocable Trusts

Revocable Trusts

- Amendability and Revocability
- Grantor Control
- No Immediate Tax Benefits
- Incapacity Planning
- Flexibility



Irrevocable Trusts

- Irrevocability
- Loss of Control
- Asset Protection
- Estate and Tax Benefits
- Limited Flexibility

Which Trust Fits Best? It Depends on Your Goals

Situation/Goal	Revocable Trust	Irrevocable Trust
Avoid Probate	Yes	Yes
Maintain Control/Flexibility	Yes	No
Reduce Estate Taxes	No	Yes
Protect Assets From Creditors	No	Yes
Life Insurance Planning	No	Yes



When to Use an Irrevocable Trust?

Estate Tax Planning: If you have a large estate and want to remove assets from your taxable estate to reduce or avoid estate taxes.

Asset Protection: If you want to protect assets from creditors, lawsuits, or divorce settlements, as assets in an irrevocable trust are generally shielded from such claims.

Life Insurance Planning: If you want to remove life insurance proceeds from your taxable estate, an irrevocable life insurance trust (ILIT) can be used to own and control the policy.



When to Use an Irrevocable Trust?

Gifting: If you want to leverage gift tax exemptions and exclusions to shelter assets from gift taxes.

Supplemental Familial Support: If you want to remove assets from your taxable estate and provide support to family members with indirect access to trust assets.

Removal of Future Appreciation from Estate: If you want to “freeze” the value of trust assets for estate tax purposes and transfer future growth outside of your taxable estate.





Warner Norcross + Judd

III. Taxation





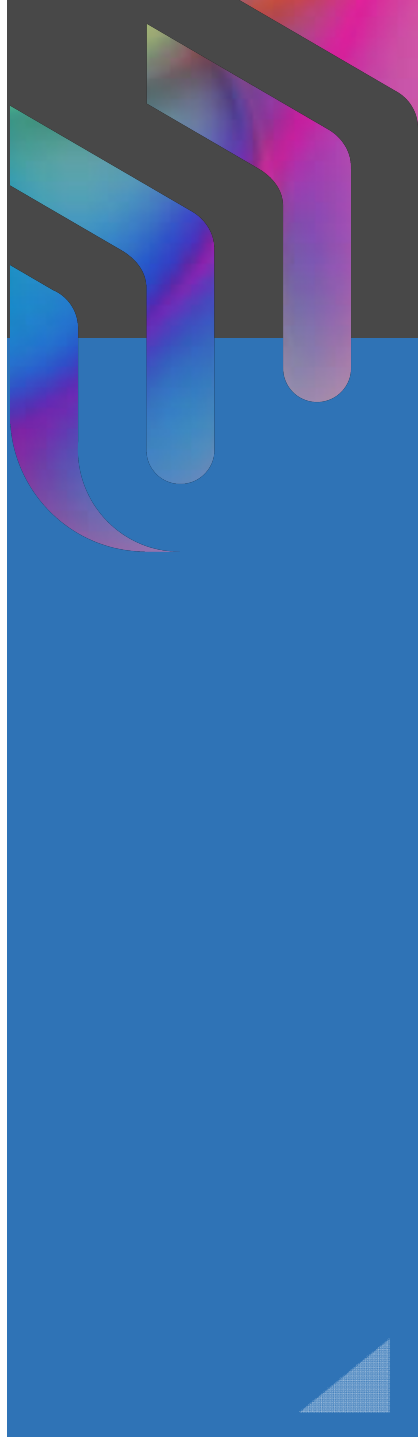
Warner Norcross + Judd

Taxation of Irrevocable Trusts: Key Features and Federal Tax Treatment



Taxation of Irrevocable Trusts: Key Features and Federal Tax Treatment

- Default is Separate Tax Entity Status
- Harsh Federal Income Taxation
- Personal Exemption and Deductions
- State Income Tax
- Capital Gains Taxation



Irrevocable Trusts: Separate Tax Entity

- An irrevocable trust that is not classified as a grantor trust for income tax purposes is treated as a **separate taxpayer**, distinct from its grantor and beneficiaries.
- The trust must file its own federal income tax return (Form 1041) and is responsible for paying income tax on any undistributed income.



Irrevocable Trusts: Federal Income Taxation

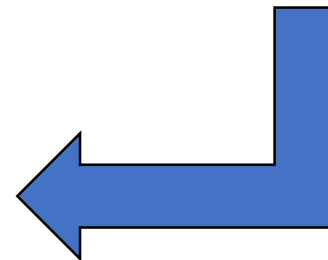
- Irrevocable trusts that accumulate income (rather than distributing it to beneficiaries) are subject to highly compressed federal income tax brackets.
- The purpose of these harsh rules is to prevent the use of trusts to shelter income from higher individual tax rates by accumulating income within the trust.



Irrevocable Trusts: Federal Income Taxation

Taxable Income (2025)	Tax Rate/Amount
Up to \$3,150	10%
\$3,150 – \$11,450	\$315 plus 24% of the excess over \$3,150
\$11,450 – \$15,650	\$2,307 plus 35% of the excess over \$11,450
Over \$15,650	\$3,777 plus 37% of the excess over \$15,650

By comparison, individuals do not reach the 37% marginal federal income tax bracket until their taxable income exceeds **\$626,350**.



Irrevocable Trusts: State Income Tax

- In addition to federal tax, irrevocable trusts are subject to Michigan income tax at a rate of 4.25%.



Irrevocable Trusts: Capital Gains Taxation

- If an irrevocable trust's taxable income exceeds \$12,950, it is subject to the higher 20% federal capital gains tax rate.
- Under the Michigan Uniform Principal and Income Act, those gains are allocated to principal, so beneficiaries do not automatically receive them as income unless the trustee chooses to distribute them.
- When the trust is a "grantor trust" for income-tax purposes but its assets are not included in the grantor's estate, the assets do not receive a step-up in basis at the grantor's death.





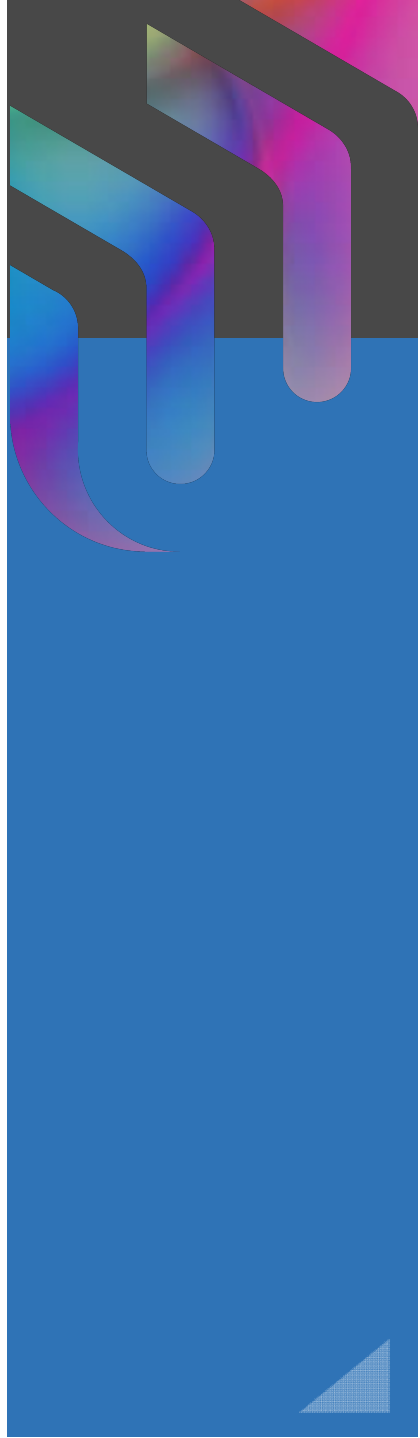
Warner Norcross + Judd

Taxation of Grantor Trusts: Key Features and Grantor Trust Rules



What is a Grantor Trust?

- A Grantor Trust is a trust in which the grantor (settlor) is treated as the owner of the trust property for U.S. income tax purposes.
- The grantor is responsible for reporting all items of income, deduction, and credit from the trust on their individual income tax return.



Tax Benefits of Grantor Trust Status

Trust assets are not considered owned by the grantor for estate tax purposes, so trust assets are not includable in the grantor's estate

Transactions between grantor and trust are disregarded for income tax purposes

All trust income is reported on the grantor's individual return, often resulting in lower marginal tax rates

Grantor's payment of trust's income tax liability is not a taxable gift



Grantor Trust Characteristics

A Trust is considered a “Grantor Trust” when:

- The grantor retains certain powers or interests, such as:
 - Reversionary interest in the trust’s income or principal
 - Ability to control distributions or beneficial enjoyment of trust property without the approval of an adverse party
 - Certain administrative powers (such as borrowing or substitution)
- Trust income may be distributed or accumulated for the grantor or the grantor’s spouse
- Trust income is used to pay premiums on a life insurance policy on the life of grantor or grantor’s spouse
- Beneficiary has the sole power to vest trust corpus or income in themselves (in which case the beneficiary is treated as the grantor for income tax purposes)



Release of Grantor Powers: Turning Off Grantor Trust Status

- Over time, a grantor may no longer wish to pay the income taxes associated with a grantor trust.
- In many situations, it is possible for the grantor to “turn off” grantor trust status, causing the trust to become a separate taxpaying entity responsible for its own income tax obligations.
- Grantor trust status cannot be turned off after a divorce if spouse remains a beneficiary of the trust.



Methods for Releasing Grantor Powers

- Grantor trust status can often be terminated by releasing or relinquishing the specific power or beneficial interest that caused the trust to be treated as a grantor trust for income tax purposes.
- The process for terminating grantor trust status depends on the terms of the trust agreement and the nature of the powers held by the grantor.





Warner Norcross + Judd

IV. Modification Limitations



Modification of Irrevocable Trusts

- Irrevocable trusts are generally intended to be unchangeable.
- However, Michigan law provides several mechanisms for modifying or terminating irrevocable trusts under certain circumstances.



Methods for Modification in Michigan

Beneficiary & Trustee Consent

Beneficiary Consent & Court

Changed Circumstances

Correcting Mistakes

Decanting

Trust Protector/Reserved Power





Warner Norcross + Judd

V. Types of Irrevocable Trusts



Types of Irrevocable Trusts

- Irrevocable Life Insurance Trust (ILIT)
- Gift Trust
- Grantor Retained Annuity Trust (GRAT)
- Spousal Lifetime Access Trust (SLAT)





Warner Norcross + Judd

Irrevocable Life Insurance Trust (ILIT)



Irrevocable Life Insurance Trust (ILIT): Overview

- An ILIT is an irrevocable trust established to own a life insurance policy.
- The primary purposes are to remove the policy proceeds from the grantor's taxable estate, provide asset protection for beneficiaries, and allow for controlled distribution of funds after the grantor's death.
- The ILIT is both the owner and beneficiary of the life insurance policy.



When to Use an ILIT?

Liquidity for Estate Taxes or Business Buy/Sell: Provides cash to pay estate taxes, allowing heirs to avoid selling valuable assets, and can fund business succession or buy/sell agreements.

Creditor Protection for Beneficiaries: Allows the grantor to specify how and when funds are distributed, protecting beneficiaries from creditors or poor financial management.

Generation-Skipping Transfer (GST) Planning: GST exemption can be allocated if grandchildren or future generations are beneficiaries.

Shelter Proceeds from Estate Taxes: Life insurance proceeds are excluded from the taxable estate if the ILIT is properly structured.

BUT need to consider the 3-Year Lookback Rule!





Warner Norcross + Judd

Gift Trust



Gift Trust: Overview

- A gift trust is a type of irrevocable trust established under Michigan law to receive and hold gifts for the benefit of one or more beneficiaries.
- It is commonly used for estate planning, wealth transfer, and tax minimization purposes.



Gift Trust: Key Features

Feature	Description
Irrevocable	Generally cannot be changed or revoked by the grantor
GST Qualification	Gift trusts can be structured for the GST exemption
Gift Tax Benefits	Gifts may qualify for annual exclusion and reduce taxable estate
Trustee	Manages trust assets and distributions
Beneficiaries	Receive distributions per trust terms
Crummey Powers	Beneficiaries may have limited withdrawal rights to qualify for gift exclusion
Spendthrift Protection	Can protect assets from beneficiaries' creditors
Termination	Trust ends at a specified time/event, assets distributed to beneficiaries





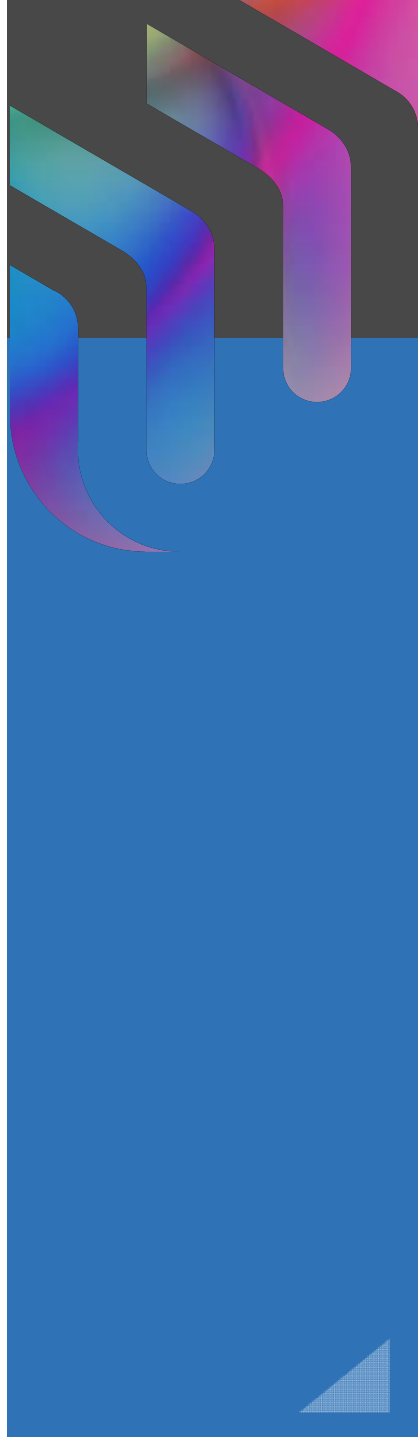
Warner Norcross + Judd

Grantor Retained Annuity Trust (GRAT)



Grantor Retained Annuity Trust (GRAT): Overview

- A GRAT is an irrevocable trust designed to transfer assets to beneficiaries (typically children) at a reduced gift and estate tax cost.
- The grantor receives fixed annuity payments from the trust for a specified term, and any appreciation on the assets passes to the beneficiaries at the end of the term.



When to Use a GRAT?



Anticipated Asset Appreciation



Grantor Expected to Outlive the Term



Reduce Estate Tax Liability



Warner Norcross + Judd

Spousal Lifetime Access Trust (SLAT)



Spousal Lifetime Access Trust (SLAT): Overview

- A SLAT is an irrevocable trust created by one spouse (the “grantor”) for the benefit of the other spouse (the “beneficiary spouse”), and often for other family members such as children or grandchildren.
- The primary purpose of a SLAT is to remove assets from the grantor’s taxable estate while still allowing spousal access.



Spousal Lifetime Access Trust (SLAT): Key Features

Feature	Description
Irrevocable	Cannot be changed or revoked by the grantor
Beneficiary Spouse	Receives distributions, providing access to assets
Gift/Estate Tax Benefit	Removes assets from grantor's taxable estate
Creditor Protection	Assets generally protected from creditors
Remainder Beneficiaries	Children, grandchildren, or others after beneficiary spouse's death
Reciprocal Trust Risk	Must avoid creating "mirror" trusts for each spouse





Warner Norcross + Judd

Thank you!

Molly Nicol
mnicol@wnj.com

Raquel Sportel
rsportel@wnj.com

wnj.com

© Warner Norcross + Judd LLP

These materials are for educational use only. This is not legal advice and does not create an attorney-client relationship.

