

CONTRACT TRUST CALL #65
August 18, 2018

RECORD ON

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INTRO JUDY

Hi Everyone,

On our last couple of calls, we discussed Common Law and why we've chosen to re-name our Trust to a Contract Trust. Today, we're going to talk a bit more about the Contract Trust and why it is an ideal method for protecting your assets.

1. Carol, I recall you mentioning our right to Contract from the Constitution. Can you explain that again.
 - a. Yes, Judy. The first issue that needs to be addressed with a Common Law Contract Trust is covered by Article 1, Section 10 of the United States Constitution under the "right to contract" and "our right to enter into a contract". An important aspect of the Common Law Contract Trust is that it is recognized in any country that observes common law. In the United States we call them Common Law Contract Trusts even though they are not really trusts, but a contract in trust format. To further illustrate this point about the right to enter into contracts, I would like to share the following quote which is extracted from a Supreme Court ruling:

"LIBERTY, as guaranteed in the due process of the Fifth and Fourteenth Amendments of the United States Constitution, has been held to denote not merely freedom from bodily restraint, but also THE RIGHT OF THE INDIVIDUAL TO CONTRACT, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally enjoy those privileges long recognized at common law as being essential to the orderly pursuit of happiness by free men," United States Supreme Court 47 L Ed 2d at 983.

Since contract law prevails one has "the inalienable right" to enter into a contract without basing that right on the Fifth or Fourteenth Amendments but on the body of the Constitution of the United States, Article One Section 10.

Case law on Common Law Trust goes back hundreds of years. The first major decision was *Smith vs Anderson*, Chancery Division 247 in 1780. That decision upheld the validity of Common Law Trusts. This decision stands today and has not been modified by the courts. This means that so long as the Constitution guarantees our right to contract, the Common Law Contract Trust will remain valid.

2. How does that differ from statutory living trusts?
 - a. The biggest difference between a Common Law Contract Trust and Living Trusts is that Living trusts are governed by statute. That means our legislators have enacted (passed) laws that govern the operation and taxation of living trusts. This also means the courts have unlimited jurisdiction over living trusts and whether or not they can be attached for payment of judgments or liens. Remember, with a Living Trust, the assets are still considered the individual's and even if held by the trust, these assets can be attached. It also means they may be considered as the individual's at death, exposing them to probate and inheritance taxes. It is a more difficult if the Living Trust is irrevocable, but those assets can still be attached or seized to pay judgments. Historically, the courts have become more liberal with respect to judgment awards and have continued to erode our rights to our own property.
3. We're still hearing Common Law Trust, Contract Trust, Business Trust etc. What's up with that?
 - a. It is important at this juncture to explain the different names by which a Common Law Trust is recognized:
 - b. "When the express (written) trust is used as an agency of commerce it is commonly known as a Business Trust. Because of its development and common use in the State of Massachusetts it is often called the Massachusetts Trust and because it finds its basis in the law of contract and does not depend on any statute for its existence it is sometimes called a Common Law Trust." *Shumann-Heink v. Folsom*.
 - c. We have found that calling it a Business Trust may raise red flags at your bank. If they think or assume it is a business, they ask for your business registration number with the state, etc. As a Common Law Contract Trust whose sole "business" is asset protection, it is not necessary to register or file with your State.
 - d. That is why we have further distinguished ourselves by naming it a Common Law Contract Trust, or just Contract Trust.
4. How is the Contract Trust created?

- a. The Contract Trust is formed by the writing of the Trust Indenture. The Indenture specifies all of the main parameters of the Contract Trust. In that document the Trustees are named, the powers of the Trustees are specified, the Trust Certificates are issued and generally all items are addressed that are reasonably necessary to start a business. Upon the completion of the writing of the Trust Indenture, it is signed and the Contract Trust is a legal operating entity.
 - b. There are two parties that participate in the formation of the Contract Trust that being the Creator and the Investor/Exchanger. The Creator creates the Trust and offers to exchange the property of the Investor, issues the Trust Certificates and appoints the First Trustee. After these tasks are complete the Creator has no further duties or rights to the Contract Trust. This can all be done at the same time as the formation of the Contract Trust. This part is all complete when we send you the completed Contract Trust.
 - c. Upon creation of the Contract Trust the Creator exchanges the Investor/Exchanger and issues the Trust Certificates. The Trust Certificates have no value and since the assets are transferred to the Contract Trust When a Common Law Contract Trust is formed the assets are transferred and title changes. The assets are held by the Trust, not the individual. by an exchange there is no tax consequence.
 - d. Some have expressed concern that Common Law Contract Trusts are irrevocable. Under normal circumstances that could cause problems, but Common Law Contract Trusts, as you know, are also called Unincorporated Business Organizations. Contract Trusts be dissolved (similar to a corporation) and the assets distributed accordingly.
5. So that means the Contract Trust now owns those assets, and I get Certificates in Exchange. How does that work?
- a. It's actually a pretty good deal. First of all, the Trust Certificates have no value and therefore, there is no inheritance tax at the time of death of the Certificate Holder. The Trust Indenture (Trust Document) we use has another built-in safeguard to further protect against Federal Estate Tax. The indenture contains the specific provision embodied in the text that renders the Trust Certificates Null and Void at the Certificate Holder's death.
 - b. Another important aspect of the Contract Trust is the lack of liability created for the Trustees. Corporations, partnerships, and sole proprietorships (individuals) are all governed by statute (laws enacted by legislators). The officers, general partners, managing partners, and individuals can all be held liable for their acts and those of their employees and agents under certain circumstances.
 - c. Another protection for the Trustee acting on behalf of the Trust is the statement of non-liability of the Trust embodied within the Contract Trust itself: "The

Trustees, officers and agents are mere employees and are not personally liable when dealing with the Trust Organization's property or business matters."

- d. What this gives you is an “empty pockets” persona. You no longer own the assets, no one can take them from you. You can be sued, but you don’t have any assets in your name. You are not responsible for the liabilities of the Trust, nor is the Trust responsible for your liabilities.

6. Who can be Trustee?

- a. The Contract Trust can employ a Certificate Holder as its Trustee. The Contract Trust is a contract between the Investor/Exchanger and the Creator and specifically holds the Trustee harmless from acts of omission and negligence. I have been asked the question about the Investor/Exchanger and the Trustee being the same person and the possibility of the problems created by that relationship.
- b. There are numerous court decision on the issue of the Investor/Exchanger (Certificate Holder) being the same person. The following is a Supreme Court decision that addresses the issue directly:
- c. "The legal title, possession and control of property may, by declaration of trust, be passed irrevocably from the grantor [investor] to himself as trustee with the same effect as if the trustee receiving the conveyance had been another person." Becker, Collector of Internal Revenue vs St. Louis Union Trust Co., et al., Executors, 296 VS 48 (193,)).

7. Who are the beneficiaries?

- a. Actually, there are no beneficiaries. The Contract Trust is created in contemplation of life, not death. So will you and your spouse may pass away, the Contract Trust does die with you. Instead of Beneficiaries, we have Successor Trustees, person(s) named by you to take over the management of the Contract Trust when you die.
- b. You can name your children as Successor Trustees.
- c. You can add a “bloodline” clause, to ensure that your family’s generational wealth does not fall into other’s hands.
- d. You can also add a “spendthrift” clause so no one can hypothecate or pledge his or her possible share of Trust income.
- e. You can designate one or more Successor Trustees, specifying that they both become Trustees at the same time, or one goes before the other. You can change this designation at any time for any reason.

8. How do I get money out of the Contract Trust when I need it?
 - a. The Trustees are given broad powers to make distributions in several ways:
 - i. The Trustees can declare a distribution to the certificate holders at any time.
 - ii. The Trustees can be reimbursed for legitimate business expenses incurred by the Trustees.
 - iii. The Trustees can be paid a salary for the services they provide the CONTRACT TRUST.
 - b. The Trustees can also lend money to others or to themselves, with fair security, like a Promissory Note. Amounts, payments, interest rates can be anything reasonable, including "jumbo loans" and 10 or 20 year balloon notes.
 - c. The Trustees can choose to create and fund additional Trusts at any time, for any lawful purpose. This is NOT a taxable event, and an ideal way to purchase property etc.
 - d. The above methods of paying for services, reimbursing expenses and making distributions and loans all fall within the guidelines of Internal Revenue Service Codes.
9. I think we've all heard that our exchange will not be taxed at the Federal level. If it is not taxed, and I put all of the money in the Trust, I will be taxed when I take it out, right? How do I get money out up front without paying taxes on it?
 - a. Again, I am not a CPA or tax professional. This is just my opinion on how we may be able to take advantage of this one-time tax break. I think most of us have issues that we need to address post RV. Whether it be outstanding debt, a new car, helping out friends, we don't want to pay taxes if we don't have to. So, at the exchange, how about this scenario? "Mr. Banker, I now have x million dollars. I would like you to put \$100K into my personal account. Here is my account number and wiring instructions. I would like to take \$7500 cash with me when I leave today, as well as a funded debit card attached to my personal account. I will need these wires to be sent and here is a list of cashiers checks that I need. I will need a pass through account for X \$. I would like to put the balance into an account at your bank for ABC Trust to begin a long term, mutually beneficial relationship. Here is my paperwork (Abstract and EIN should be all that you need.)". This is obviously pretty simplified, but you get the idea.
10. You mentioned not being taxed at the Federal level, what about state taxes? Is there any

way to avoid being taxed on the RV in my state?

- a. We suggest that you "domicile" the Trust in a state that does not levy a state tax. Corporations and LLCs have been using that particular method for years.
- b. We recommend Wyoming, as there are few, if any, laws in Wyoming regarding this type of Trust. A mailbox in Cheyenne costs about \$120 to set up for a year. You MUST maintain that address to keep the Trust protected from any state tax.
- c. While privacy is of the utmost importance, any mailbox rental will provide a USPS form which requires your name and home address.
- d. I also suggest you send the Trust a piece of registered mail to further verify the address of the Trust.

11. Is it difficult to operate the Contract Trust?

- a. The operation of the Trust is simple in its basic format. As with any business, the more complicated the business the more complicated the operation. If you keep the operation and scope of the Contract Trust simple then the operation and reporting is simple.
- b. There are only a few things that need to be done to operate Contract Trust. The Contract Trust needs to have its own bank accounts. Those bank accounts are for the business of the Contract Trust. You can not pay your personal items from those accounts. The accounts are for the business of the Contract Trust. The Contract Trust has to acquire its own Tax Identification Number or EIN, which we will obtain for you.
- c. The last important operational requirement of the Contract Trust is that you need to keep minutes. For example, if the Contract Trust is to make a major investment, such as a piece of property, then the Trustee(s) must have a meeting and record the minutes. These are about the only requirements of the operation of the Contract Trust.
- d. The Contract Trust you receive from us has complete operational instructions, as well as over 250 pages of legal back up.

12. Do you offer or suggest additional Trusts?

- a. Yes, Judy, thanks for asking. We consider this first Trust to be your "Mother Lode Trust". We anticipate that you will want to set up more Trusts post RV. We suggest Real Estate Trusts, Vehicle Trusts, Personal Property Trusts and Charitable Trusts. They are all stand alone entities which can be funded by the Mother Lode Trust. If they require a bank account, they will need a new EIN.

13. I anticipate needing more Trusts after the RV. How long will you be working post RV?
 - a. My Staff and I will be around for about 6 months post RV for your additional needs.

14. How long does it take to get a Contract Trust from you?
 - a. Right now, turnaround time is about a week. Post RV, it will be considerably longer, as well as more expensive.

15. So, how much does this Contract Trust cost?
 - a. Our Contract Trusts are still just \$1495. Secondary Trusts and Trusts for family members are \$1195. We accept all major credit cards.
 - b. If you refer a fully paid Trust client to us, we will send you \$300 or credit you \$300 toward another Trust.

16. Do I need anything else to complete my Estate Planning Package?
 - a. We recommend and offer the "Triple Play", which consists of a Pour Over Will, Durable Power of Attorney and Healthcare Directive. The cost for a single is \$275, and \$350 for a couple.

I hope that this call has been helpful and provided the basis for you to understand the advantages and attributes of the Common Law Contract Trust. Should you have any questions, please feel free to contact us and we will be more than happy to try to answer them. If you ask a question we can't answer immediately, we will get the answer for you.

Our next call falls on Labor Day weekend, so our next call will be on September 8.

Thank you for your attendance and attention. Thank you Judy for your assistance today, Once again, my name is Carol Werelius, my phone number is 425-820-8090. I am available between 9 and 5 Pacific time. My email address is info@indicatorinformation.com. Go RV and have a great week.