TRUST CALL #67

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RECORD

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INTRO JIM

Hello Everyone, welcome to our call this week. As many of you know, I have been moving. My husband and I are safely ensconced in our new home in Oklahoma. We have not had reliable internet service until 2 days ago. Now that we are here an up and running, we will get back to our regularly scheduled calls.

So, without further ado, let's talk about Trusts. Most currency holders have heard of or researched corporations, LLCs, statutory trusts, common law trusts, and other entities. Most businesses are organized as corporations, partnerships or sole proprietorships. One even better way to organize a business is as a common law trust, also known as a business trust. Just because it is a business trust doesn't mean you have to operate a business. The business of this common law business trust is estate planning and asset protection.

We have been in the trust business since the early 90's, and have had no legal or tax issues regarding our Trusts. My now retired associate, Jim Jenkins, started in the Trust business in the 80s. My current associate, Jim Knox, has been in the Trust business since the late 80s. Collectively, we have close to 100 years' experience. Now that we have that out of the way, let's move on to our presentation.

1. Hi Carol, you mentioned a common business law trust. What is that, exactly?
    a. "A business or common-law trust, commonly known as a Massachusetts trust, is a form of business organization consisting essentially of an arrangement whereby property is conveyed to trustees, in accordance with the terms of an instrument of trust, to be held and managed for the benefit of such persons as may from time to time be holders of transferable certificates issued by the trustees showing the shares into which the beneficial interest is divided, which certificates entitle the holders to share ratably in the income of the property, and on termination of the trust, in the proceeds thereof." Corpus Juris Secondum 12A 495.

2. That sounds pretty generic. What makes yours so different?
    a. The Trust that we prepare is actually a Non-Grantor, Irrevocable Common Law Business Trust Organization. Essentially, it is a Contract in Trust format. That is quite a mouthful, so we make it I easy by referring to it merely as a Trust.

    b. I do think it is important to define and explain the names used, so here goes.

i. Non-grantor means nothing was granted or gifted to the Trust.

ii. Irrevocable means the terms of the Trust cannot be changed and no one, not even a Judge, can make you terminate it. It also indicates that anything you exchange into the Trust is there forever, so it will never be part of your estate when you die.

iii. Common law means it gets its power and strength from the US Constitution and is not dependent on any statutory law for its existence.

iv. While in fact this is a Business Trust, which is a totally different animal from a regular trust, we have deliberately omitted that verbiage from the name, as it is too confusing, especially to the banking community.

v. The Trust is an entity unto itself, hence the word Organization.

3. I'm not familiar with Common Law Trusts or Business Trusts, is it something new?
   a. Common law trusts are not new. Some major US businesses that were originally organized as common law trusts include: American Express, Pepperell Manufacturing, Massachusetts Electric, Chicago Elevated Railroad and Associated Simmons Hardware, among many others.

   b. Common law business trusts were widely used in the 1800s in Massachusetts, the reason for the name.

4. I've heard a lot of talk about NESARA or GESARA. Will your Trust still be valid if they come to pass?
   a. From what I understand about NESARA or GESARA, it will mark the return to Constitutional law. As instruments of common law, we will fit right in. Other statutory entities may not.

5. How is it created?
   a. The common law trust is created by a private, written contract. A trust contract is basically created by two or more individuals: creator and investor/exchanger. The creator makes an offer to the investor/exchanger (the owner of the assets being transferred into the trust), to create the trust. The investor/exchanger exchanges his or her assets (such as business interests, real estate, stocks and bonds and currency) to the creator for Trust Certificates of Capital Units (personal property similar to shares of stock in a corporation).

   b. As his or her last official act the creator appoints the first trustee. The creator exits the contract and has no further duties, authority, access, responsibility or liability to the Trust Organization.

c. The first Trustee then appoints a second trustee, if he or she desires to do so. The trust is valid with only one trustee.

d. The Trustee(s) then appoint one or more successor Trustees, to take over the management of the Trust upon the death of the Trustee.

6. So, what are the advantages of the common law Trust?
   a. The advantages of a business trust far exceed the benefits of a corporation.
      i. **ADVANTAGE No. 1.** Because the corporation is created by the state as a privilege, corporate benefits may be diminished, limited or eliminated by the state government, whereas common law business trusts existence and operation are controlled by its contract, not by state corporation law.

      ii. **ADVANTAGE No. 2.** The state charges high incorporation fees and high ongoing annual fees. The common law business trust, as a privately created entity, does not have these expenses.

      iii. **ADVANTAGE No. 3.** A corporation (expect for a Subchapter S corporation that is taxed as a partnership) can be subject to double taxation (income taxes on corporate profits, then income taxes on dividends paid now or in the future from those profits to shareholders). In contrast, a Common Law Business Trust does not pay income taxes on its profits if it must distribute all of its net income to its Certificate Holders (beneficiaries) - thereby escaping taxation as a simple trust.

      iv. **ADVANTAGE No. 4.** Likewise, capital gains taxes may be entirely avoided by a common law business trust that sells assets at a profit if the trust contract specifies that all net trust income is to be distributed annually to the Certificate Holders who will be the ones to report the capital gains as taxable income and pay any due taxes.

      v. A**DVANTAGE No. 5.** Corporate officers and directors (and sometimes shareholder names) and financial dealings are a matter of public record and detailed annual reports. Common Law Business Trust affairs are private and not a matter of public record.

      vi. **ADVANTAGE No. 6.** The avoidance of probate administration is one major advantage of a Common Law Business Trust. If one's assets are all owned by one or more trusts, at one's death, there are no assets in the deceased person's name to go through probate. The trustees and successor trustees continue the uninterrupted administration and benefit of the trust assets and income.

vii. **ADVANTAGE No. 7.** Because the Common Law Business Trust assets do not go through probate, a Common Law Business Trust cannot be challenged by persons falsely claiming to be heirs or creditors of the deceased person.

viii. **ADVANTAGE No. 8.** Assets can often be protected against creditors while Trustees and Certificate Holders are alive because the Common Law Business Trust holds legal title to the trust assets with the result that Trustees and Certificate Holders cannot have their shares of capital units attached by creditors.

ix. **ADVANTAGE No. 9.** Like the initial funding of a new corporation, there is no income or transfer (gift) tax to put initial assets into a business trust (structured to be like a corporation in the initial funding process) because the transferor of the assets receives back a proportionate share of the Certificates of capital Units.

x. **ADVANTAGE No. 10.** Whereas corporate stock owned by a stockholder is liable for death taxes (to the extent the value exceeds exemptions and deductions), the assets to a properly structured, funded and administered Asset Preservation Common Law Business Trust will not be part of the original investor/exchanger who originally funded the trust when the grantor dies.

7. Will I be able to use this Trust at my exchange?
    a. To the best of my knowledge, all you will need is an Abstract or Certification of Trust and a valid EIN from the IRS. We will supply you with both of those items.

8. Will I be able to get money out of the Trust?
    a. Having a piggy bank without a key is pretty worthless. So is a Trust if you cannot get access to the money.

    b. We suggest you take a salary. The amount can be anything you choose, but it is taxable income to you, so try to make it reasonable. If you cannot live on $10,000 a month, give yourself a raise, just be sure to document it with a Minute.

    c. You can also borrow from the Trust. You are your own banker, so create terms that are favorable to you, like a long-term low interest renewable balloon note. At some point you will have to make interest payments, or the IRS may consider it a gift and tax you accordingly.

    d. The Trust can pay all legitimate business deductions. So, if you want to visit Italy, look at some real estate, pick up brochures and business cards, and write off most of the trip.

e. As Trustee, you can declare a Distribution to the Certificate Holders. Again, that will be a taxable event.

f. If you are planning on purchasing real estate, and I believe most of us are, have your first or "Mother Lode" Trust create and fund additional Trusts that will pay for and own that real estate.

9. This sounds like a lot of work. What if I need help?
    a. Many years ago, when my husband Jay and I first got into the Trust business, we realized that if people were going to successfully use the Trust, we needed to create an instruction manual. Included with every Trust are 5 booklets that we wrote explaining the need for Trusts, how to operate the Trust and legal backup for the Trust. My co-host, Jim has created a wonderful website with instructions, sample minutes and operational guides. It is a members' only website and we give all of our clients access to the site.

    b. Just as an aside, when this money comes to fruition, it will probably be more than most of us have ever imagined, let alone seen or realized. We will all need help managing our projects and our bank accounts.

10. How long does it take to get a Trust from you?
    a. Typical turnaround time is 4-5 days, barring anything unusual, like my recent move. Jim has really stepped up to plate to pick up where I've been unavailable. Post RV, you can expect 1-2 weeks for new business.

    b. We have both promised to continue in this business for about 6 months post RV.