CRUMMEY TRUSTS

DEFINITION

A Crummey Trust is a type of trust designed to allow long-term contributions for the benefit of a minor while still qualifying for exclusion from the unified gift and estate tax. Its name came from the first taxpayer to ever use this type of trust successfully and it is used to avoid the payment of estate or gift tax when transferring assets. With a Crummy Trust, the beneficiary has no right to receive the property at age 18 or 21, unlike 2503(c) Minor's Trusts or UGMA/UTMA accounts. The grantor can still stipulate how and when the assets may be used, and the beneficiary does not have any right to the trust income.

HOW THEY WORK

ANNUAL GIFT TAX EXCLUSION

The annual gift tax exclusion allows an individual to give away a specified amount of money without any gift or estate tax consequences. In 2015, the amount of the annual exclusion is $14,000 (or $28,000 per married couple) and is indexed with inflation for future years. However, the annual gift tax exclusion is only available for gifts of “current interests.” A gift into a trust that only allows the beneficiary to gain control of the funds at a future date does not constitute a current interest. A Crummey Trust utilizes a feature which makes the gift a present interest and therefore eligible for the gift tax exclusion. Without this, it would be considered a gift of future interest and would subsequently be subject to gift taxes.

CRUMMEY POWER

The feature of the Crummey Trust which differentiates it from any other trust is the *Crummey Power*. When the grantor makes a contribution to the trust, the beneficiaries must be notified that the funds can be withdrawn within a certain time period. This time period is generally between 30 to 60 days, but can be no less than 30 days. If the beneficiary does not exercise their right to withdraw the funds, they go to the trust and are then subject to the annual gift tax exclusion. Although beneficiaries have the right to withdraw any contribution, few will exercise this right because they know that the donor may stop giving future contributions. In the event the beneficiary does decide to withdraw the money, he or she can only withdraw the amount of the most recent gift, not the entire trust.

LIFE INSURANCE

An effective use of the Crummey power may include life insurance. By purchasing a life insurance policy inside of the trust, the annual gift tax exclusion can then be used to fund the trust with policy premiums. By contributing premium amounts of up to $14,000 (or $28,000 for married couples), these funds are removed from an estate. Since the trust is the policy owner, the death benefit is paid to the trust and avoids federal estate taxes. These funds can then be distributed, tax-free, in accordance with the provisions of the trust.