

THE DESIGN OF YOUR TRUST MAY BE DEFECTIVE

The estate planning documents that you currently have are defective and need to be amended. If your net worth is under \$3,500,000, then you may need a new Trust design. The Trust design you currently have will force your Trustee, after your death, to spend money needlessly without saving your estate any death tax dollars. Your Trustee will be required to spend money for an attorney and an accountant to calculate what money needs to be distributed from your Trust to your Tax Orientated Credit Shelter Trust. The reason this extra work is necessary is because the design of your Trust **FORCES YOU** to follow a formulae to force the funding of the Credit Shelter Trust. The purpose of the formulae was to decide first how much money needs to go into the Credit Shelter Trust before any money could go to your spouse.

The current design of your Trust may not leave everything to your spouse. Because of the change in the tax law in 2001, and it's resulting implementation in 2010, you no longer should be using the formulae clause contained in your Trust. Instead, you should have a design that leaves everything to your spouse. This is probably the design you thought you had originally. However, for tax purposes it was designed differently. Now because of changes in the tax law your design may be defective.

I would recommend you hire me to amend your Trust to change the design of your Trust from the **FORCED FUNDING DESIGN** to an **OPTIONAL FUNDING DESIGN**. This optional funding design will allow your spouse to decide, on a voluntary basis after your death, with my advice and the advice of your tax advisor, whether or not your spouse should inherit 100% of your assets outright or if inheriting 100% of your assets will result in a large death tax bill at the death of your spouse.

I realize that this is confusing to people who are not tax experts. However, it is so important not to force the funding of your Credit Shelter Trust, if the original purpose was simply to avoid death taxes.

Funding of your Credit Shelter Trust after your death is not free. A tax analysis has to be done by an attorney and a tax advisor. Advice needs to be obtained from an attorney and a tax advisor to calculate the amount to be put into the Credit Shelter Trust. Advice needs to be obtained as to which assets need to be put into the Credit Shelter Trust. A tax return for the Credit Shelter Trust needs to be prepared each year from the date of your death until the death of your spouse. Your spouse will need to learn trust administration rules after your death. This is unlike the current Trust that you have which does not require any Trust administration. Thus,

the current Trust you have has no cost for its operation year after year. The Credit Shelter Trust which will be forced to be funded after your death will have a cost each year to administer the Trust. These include the cost of attorneys, tax advisor, tax return preparer, and the people who would prepare the accounting for the Credit Shelter Trust. It is not unusual for these cost to exceed \$2,000 per year. That was a small cost when you were looking to save \$200,000 in death taxes at the death of your spouse, but is an extremely high cost to pay when there is no death tax savings at all because of the changes in death tax laws. So, because you have a tax designed Trust, it is important to have it changed to greatly reduce the Trust administration expenses.

I would be glad to review your current existing Trust, recommending any changes needed, and do this all for you for a reasonable fee. If you would like more information concerning this, please call Ellen in my office at 262-634-6659.