A Roadmap to Estate and Trust Income

Presented by:
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Introduction

• What you need to know about Estate/Trust income to answer your 1040 clients questions.

• What books don’t tell you! The starting point!

• Other “Tax Forum” Estate/Trust programs. How this program is different.
My Tax Season

• Client’s Questions:

• Aunt’s Estate/Trust sent me $20,000. Is this taxable?

• Father became incapacitated, what do I do?

• Clients created joint trust (husband & wife) what happens?

• Aunt & uncle where in a serious accident my uncle died. What do I do?

• Uncle was in the hospital and his attorney drew up a bill of sale of his LLC to his trust. How will this work?
Income Reporting

• Where do I report the income or is it income?

• How to report the flow of money or benefit?

• “Types of Estate/Trust income” will be discussed at end of presentation.
Example – Which Return?

MFJ – Taxpayer Passes Away in May
Spouse Incapacitated in September
Definitions

• Estate – after death with or without a will

• Grantor or revocable trust – before death or after death

• Irrevocable trust

• Incapacitated
Definitions - Continued

• Transfer on Death (TOD)

• Pay on Death (POD)

• Specific Bequest

• A/B Trust
General Rule
Who Pays the Tax on Estate/Trust

• Step 1
  – Income to Beneficiaries;
    • Is the **lesser** of distribution to beneficiaries or estate/trust income

• Step 2
  – Income to Trust;
    • Is the trust income **less** income distributed in Step 1
The Family Tree

• Most Common Estate/Trust 1041
  1. Probate
  2. Trust Estate
  3. A/B Trust
  4. Control
Where Does the Income Go?
4 Steps!

1. Event - What do I ask the Client?
2. Document - What documents do I need?
3. Return - What return does it go on?
4. Timing - Who pays the tax?
Step 1 - Event

- What happened - What do I ask the client?
  - Gift
  - Death - Estate/Trust
  - Transfer to Trust
  - Revocable
  - Irrevocable
  - Transfers at Death
  - TOD
  - POD
  - Transfer by Document
  - Specific Bequest
  - Others:
Step 2 - Documents

• What documents do I need?
  – Will
  – Trust
  – Durable Power of Attorney
  – 709, 1040, 1041
  – Others - Example - Title, Appraisal
  – Legal Docs for Entities
Step 3 - Returns

• What returns is income reported on?
  – 1040
  – 1040 Spouse
  – 1041 Estate
  – 1041 Trust
  – 1041 Estate/Trust
  – 1041 Beneficiary
  – 1040 Other
Step 4 – Timing

Which Returns Report Income & Which Return Pays the Tax?

• Returns Reported, or

• Who Has Money/Benefit, or

• Was There a Distribution?
Example 1

• Clients created a joint trust (husband & wife), they are the grantors. What happens?

• What would happen if they had a separate husband and wife trust?
Example 2

- Client’s deceased aunt’s estate/trust sent client a check for $20,000. Is it taxable, and where do I report it?
  - Distribution
  - POD
  - Specific Bequest

- Client’s healthy aunt’s trust sent client a check for $20,000. Is it taxable, and where do I report it?
Example 3

• Client’s uncle is in the hospital, his attorney drew up a bill of sale for his 3 LLC’s to transfer his interest to his grantor trust.

  – How do you report it if he lives?

  – How do you report it if he dies?
Example 4

• Clients’ aunt and uncle were in an accident in May. Uncle died in the accident, aunt is still living. He had the following:
  – Trust with wife as beneficiary if she survives; annual distributions
  – A “CD” with “POD” to son
  – Partnership interest in his name
  – The rest of assets in joint name with wife

• Where do I report the income from these assets?
### Who Reports, Who Pays?

<table>
<thead>
<tr>
<th>Who Reports</th>
<th>Who Pays</th>
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<tbody>
<tr>
<td>1/1</td>
<td>Date of Death</td>
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- **Trust – No Distribution**
  - 1040 Joint
  - 1041

- **Trust – Distribution**
  - 1040 Joint
  - 1041- Dist - 1040
  - 1041/1040

- **CD “POD” Son**
  - 1040 Joint
  - 1040 - Son

- **Trust – Distribution**
  - 1040 Joint
  - 1040 Joint
  - 1040 Joint
Example 5

• Client picked up her uncle’s 1041 estate return for 2009. This was the first year of the estate and will still continue for 1 – 2 more years. She saw a NOL worksheet and a negative taxable income including excess deductions. Her question:
  – How did we decide what income went on the 1041 and she as a beneficiary, what part of the loss does she get?
Thank You

• Thank you for attending this session.

• Don’t forget to stop by the NATP booth in the Expo Hall for a handout related to this session.