



National Association of Tax Professionals

# **A Roadmap to Estate and Trust Income**

Presented by:  
Larry Gray, CPA

# 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

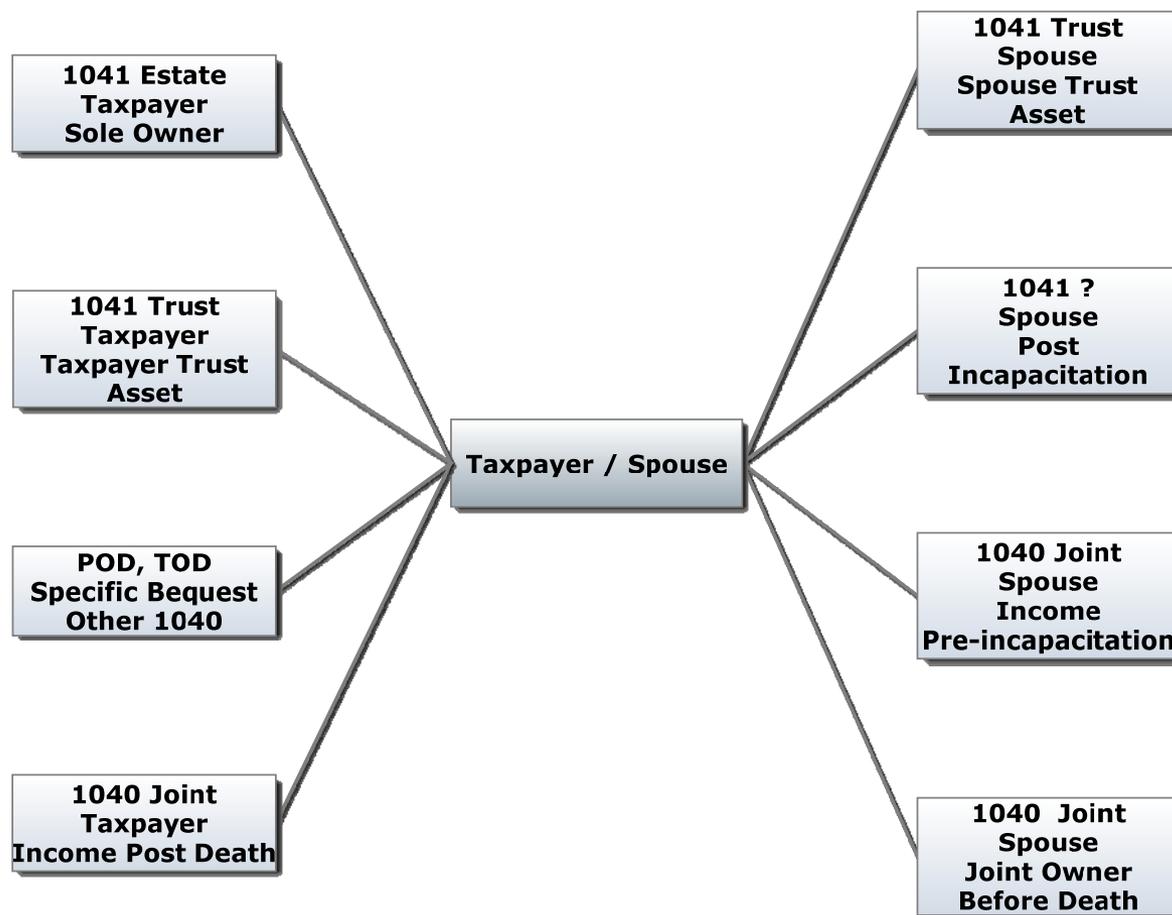
- Client's Questions:
- Aunt's Estate/Trust sent me \$20,000. Is this taxable?
- Father became incapacitated, what do I do?
- Clients created joint trust (husband & wife) what happens?
- Aunt & uncle were in a serious accident my uncle died. What do I do?
- Uncle was in the hospital and his attorney 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 **lessor** 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

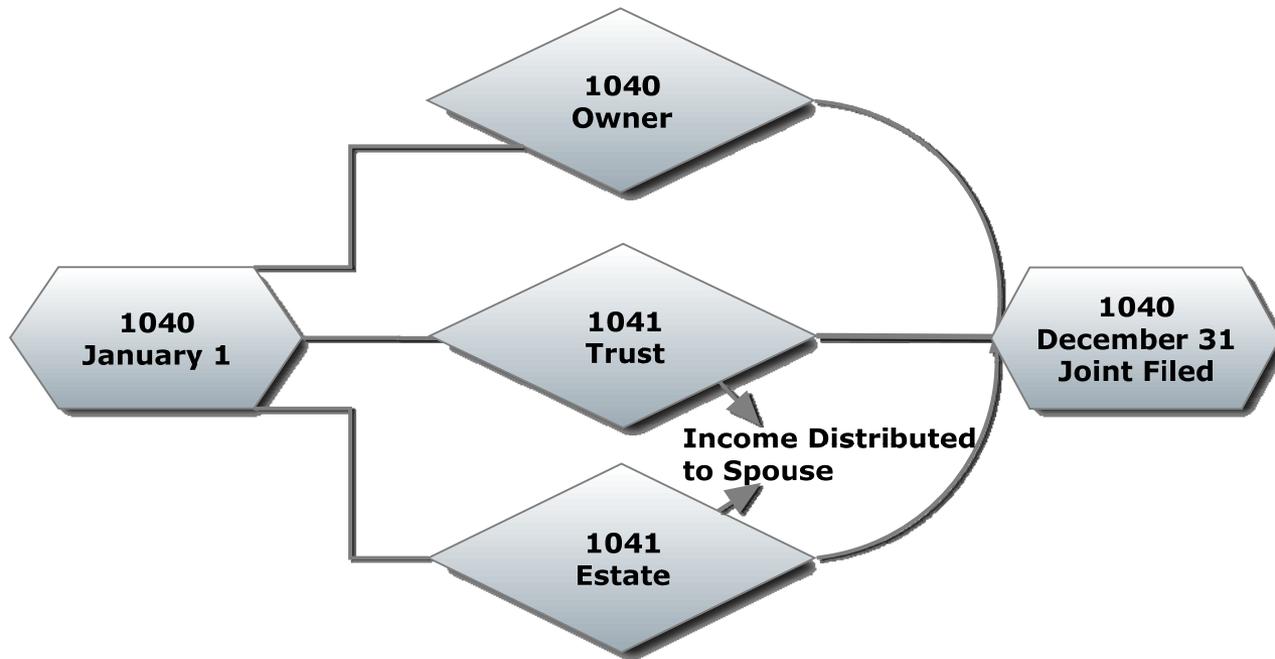
- What returns is income reported on?
  - 1040
  - 1040 Spouse
  - 1041 Estate
  - 1041 Trust
  - 1041 Estate/Trust
  - 1041 Beneficiary
  - 1040 Other

# Step 4 – Timing

## Which Returns Report Income & Which Return Pays the Tax?

- Returns Reported, or
- Who Has Money/Benefit, or
- Was There a Distribution?

# Timing Flow Chart



# 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?

Who Reports

Who Pays



1/1

Date of Death

12/31



- Trust – No Distribution      1040 Joint      1041      1041



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



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



- 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.