

**FEBRUARY 2024**

**UT LAW | CLE**

 **TEXAS Law**  
The University of Texas at Austin  
School of Law

# A QUICK TRUST TAX TUTORIAL

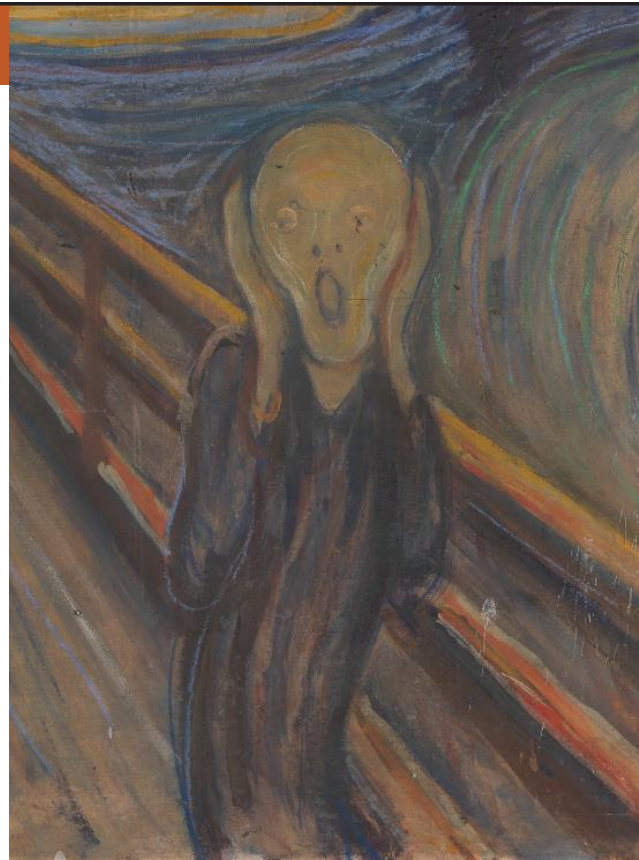
---

**ERIC REIS**  
UNT Dallas College of Law

1

## How Bad Can It Be?

- Classifying Trusts
- Grantor Trusts
- Nongrantor Trusts



2

## Classifying Trusts

- A *grantor trust* is ignored for most income tax purposes
  - Income is “owned” by the grantor or beneficiary
- A *nongrantor trust* is its own taxpayer
  - Trust is taxed on accumulated income
  - Either trust itself, or beneficiary, is taxed on distributed income

3

## What Makes a Grantor Trust?

- Power to revoke, I.R.C. § 676
- Income for benefit of grantor or spouse, I.R.C. § 677
- Reversionary interests, I.R.C. § 673
- Administrative Powers, I.R.C. § 675
- Foreign Trust with U.S. Beneficiary, I.R.C. § 679
- Power to Control Beneficial Enjoyment, I.R.C. § 674
- *Beneficiary Withdrawal Right*, I.R.C. § 678

4

## Power to Revoke

- Grantor or nonadverse party has power to revoke
- “Nonadverse” = no substantial interest or wouldn’t be negatively affected by revocation
- So power may be held by remote contingent beneficiary



5

## Income for Benefit of Grantor or Spouse

- Trust income may be paid to grantor or grantor’s spouse, in discretion of grantor or nonadverse party
- Trust income may be used to pay insurance premiums on life of grantor or grantor’s spouse, in discretion of grantor or nonadverse party
- **Open issue:** Does this rule still apply if grantor and spouse divorce?



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: A Quick Trust Tax Tutorial

Also available as part of the eCourse

[Answer Bar: Considering a Special Needs Trust](#)

First appeared as part of the conference materials for the  
20<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts session  
"A Quick Trust Tax Tutorial"