Recognizing a problem trust. Taxpayers should look for the following common warning signs that may reveal an unscrupulous trust promotion:

- A promise to reduce or eliminate income and self-employment tax.
- Deductions for personal expenses paid by the trust.
- Depreciation deductions on an owner's personal residence and furnishings.
- High fees for trust packages, to be offset by promised tax benefits.
- Use of back-dated documents.
- Unjustified replacement of trustee.
- Lack of an independent trustee.
- Use of post office boxes for trust addresses.
- Use of terms such as *pure trust*, *constitutional trust*, *sovereign trust* or *unincorporated business organization*.

> "*Taxes* are what we pay for a civilized society"
>
> – Oliver Wendell Holmes

There have always been groups and/or individuals who, for a variety of reasons, have tried to circumvent the tax system. And there have always been groups and/or individuals who have made legitimate efforts to seek reform of our tax system and to simplify our tax laws. But those who participate in or encourage taxpayers to structure transactions, specifically for the purpose of evading taxes, are engaging in criminal activity.

Following false, misleading, or unorthodox tax advice is seldom free. Upfront you pay fees or commissions to subscribe to fraudulent trust schemes and in the end, unfortunately, you pay even more in penalties, interest, and fines for following bad advice.

Knowingly participating in fraudulent trust arrangements has led to the incarceration and/or financial ruin of many taxpayers.

See criminal cases United States v. Scott and United States v. Noske for what the Federal courts really say about fraudulent trusts. (Internet site - www.findlaw.com)

The bottom line is Don't Buy In!

The IRS has recently undertaken a national coordinated strategy to address fraudulent trust schemes. For more details about the IRS policy regarding fraudulent trusts, read IRS Public Announcement Notice 97-24 which warns taxpayers to avoid fraudulent trust schemes that advertise bogus tax benefits. (IRS Notice 97-24 can be found on the Internet at www.irs.gov)

If it sounds too good to be true; it is!

Report Suspected
Tax Fraud to your local
IRS office.

Call 1-800-829-0433.

The IRS takes fraudulent trust arrangements seriously. It is a matter of maintaining public confidence in the fairness of the tax laws. Recommending prosecution of those who violate the tax laws demonstrates the IRS' commitment to ensuring all taxpayers pay their fair share of taxes.

For more information go to: www.treas.gov/irs/ci

Department of the Treasury
Internal Revenue Service

www.irs.gov

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Should your financial portfolio include

Too Good to be True TRUSTS?

1

A trust is a form of ownership which completely separates responsibility and control of assets from all the benefits of ownership.

2

Trusts are used in such matters as estate planning; to facilitate the genuine charitable transfer of assets; and to hold assets for minors and those unable to handle their financial affairs.

3

All trusts must comply with the tax laws as set forth by the Congress in the Internal Revenue Code, Sections 641-683.

4

Violations of the Internal Revenue Code may result in civil penalties and/or criminal prosecution.

- Civil sanctions can include a fraud penalty up to 75% of the underpayment of tax attributable to the fraud in addition to the taxes owed.
- Criminal convictions may result in fines up to $250,000 and/or up to five years in prison for each offense.

5

Taxpayers are responsible for payment of their taxes as set forth by Congress regardless of who prepares their return.

Trusts established to hide the true ownership of assets and income or to disguise the substance of financial transactions are considered Fraudulent Trusts

The Facts about Trusts

False claims concerning fraudulent trust arrangements can include:

- **False Claim:** Establishing a trust will reduce or eliminate income taxes or self-employment taxes.

  Truth: Taxes must be paid on the income or assets held in trust, including the income generated by property held in trust. The responsibility to pay taxes may fall to either the trust, the beneficiary or the transferor.

- **False Claim:** You will retain complete control over your income and assets with the establishment of a trust.

  Truth: Under legal trust arrangements, you must give up significant control over income and assets. An independent trustee is designated to hold legal title to the trust assets, to exercise independent control over the trust, and to manage the trust.

- **False Claim:** Taxpayers may deduct personal expenses paid by the trust on their tax return.

  Truth: Non-deductible personal living expenses cannot be transformed into deductible expenses by virtue of assigning assets and income to a trust.

- **False Claim:** Taxpayers can depreciate their personal residence and furnishings and take them as deductions on their tax return.

  Truth: Depreciation of a taxpayer's residence and furnishings used solely for personal use is not deductible by virtue of assigning the residence to a trust.

Taxpayers must take responsibility for their own actions. Should a taxpayer choose to participate in a fraudulent trust scheme, the taxpayer will not be shielded from potential civil and criminal sanctions.

Don't be misled by the word "trust." Just because the name "trust" is associated with financial arrangements does not make it a legitimate trust. The following arrangements have been used to promote fraudulent trust schemes:

1. Business Trust: This involves the transfer of an on going business to a trust. Also called an unincorporated business organization, a pure trust or a constitutional trust, it makes it appear that the taxpayer has given up control of his or her business. In reality, however, through trustees or other entities controlled by the taxpayer, he or she still runs day-to-day activities and controls the business' stream of income. Such arrangements provide no tax relief.

2. Equipment or Service Trust: This trust is formed to hold equipment that is rented or leased to the business trust, often at inflated rates. The business trust reduces its income by claiming deductions for payments to the equipment trust. This type of arrangement has the same pitfalls as the business trust. It provides no tax relief.

3. Family Residence Trust: Taxpayers transfer family residences, including furnishings, to a trust, which sometimes rents the residence back to the taxpayer. The trust deducts depreciation and the expenses of maintaining and operating the residence including, pool service and utilities. These expenses are not deductible and the IRS will disallow them.

4. Charitable Trust: Taxpayers transfer assets or income to a trust claiming to be a charitable organization. The trust or organization pays for personal, educational, and recreational expenses on behalf of the taxpayer or family member. The trust then claims the payments as charitable deductions on its tax returns. These alleged charitable organizations often are not qualified and have no IRS exemption letter. Therefore, contributions are not deductible.

5. Foreign Trust: These trusts often are located in foreign countries that impose little or no tax on trusts and also provide financial secrecy. Typically, abusive foreign trust arrangements enable taxable funds to flow through several trusts or entities until the funds are ultimately distributed or made available to the original owner. The trust promoter claims that this distribution is tax-free. In fact, the income from these arrangements is fully taxable.