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**Real Estate Blues Are Boon For Some Trusts**

## By Arden Dale

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The deep slump in real estate values can play to the advantage of property owners who want to pass real estate on to future generations free of estate tax.

Putting the property into a special kind of trust that is set up now could mean even bigger tax savings if and when those values rise later.

The wealthy have long used the trusts--known as intentionally defective grantor trusts or IDGTs--to keep property and other assets in the family for generations while providing beneficiaries with an annual income.

Lauren Y. Detzel, chair of the estate and succession planning department at Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth in Orlando, Fla., said property value does not have to skyrocket right away to make IDGTs worthwhile because the trusts can hold property for many decades.

Commercial real estate values in Florida are down by about 40% and the volume of commercial real estate transactions is nearly 80% lower than last year, according to Daryl M. Carter, president of Maury L. Carter & Associates, Inc., a realtor in Orlando. "It's not rocket science," Carter says, "and if property is at the bottom, you have to think it is going to come back."

Property can be given outright to the trust or it can be sold to the trust, with repayment to the owner made over time from revenue the property produces. Properties such as a warehouse or shopping center, which generate a cash flow, work best for this option.

Shopping malls or office buildings with heavy vacancies are examples of real estate with values that have slumped but could rebound, said John Crossman, president of Crossman & Co. in Orlando.

Anyone considering an IDGT should think carefully about the obligation to repay the note. Advisers need to help clients focus on this.

If the payments can't be met, the person who set up the trust takes back property equal to the amount of the note. Take the example of a note for $1 million, with property worth $2 million when it comes due: The trust could give back half of the property to the person who created it, and keep the other half to escape estate tax.

The trust's odd name reflects an ungainly structure that lets the owner avoid estate tax but not income tax. Each year, the owner pays income tax on income earned by the trust. That means the trust is considered to grow income-tax free, compounding the value that gets passed on down the generations.

These trusts are generally set up to go on for generations. A trust that holds a property that generates income pays a profit to beneficiaries each year once income tax has been paid. Many states have laws that allow the trust to go on forever. Others restrict this. Florida, for example, has a 360-year limit.

Talk in Congress of limiting another popular estate-tax skipping trust-- the grantor retained annuity trust, or GRAT--has more people focused on alternatives like the IDGT.

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