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Treatment of Ownership Changes in
Irrevocable Intervivos Trusts

Earlier this year you raised the question regarding the treatment of ownership changes in irrevocable intervivos trusts. You believed that the transfer to an irrevocable trust should be handled in a manner similar to our treatment of life estates – that is, reappraised the property upon a transfer of a present interest. I agree.

When property is placed in an irrevocable intervivos trust, I am of the opinion it should be reappraised when the trust is terminated to the extent that real property is transferred to a person who did not have a present beneficial interest during the time the trust was in existence. This result should obtain except as regards a beneficiary who has a present beneficial interest that was appraised at the time the trust was created. In such a case, the present beneficiary has equitable title and obtains mere legal title on the termination of the trust equitable title and obtains mere legal title on the termination of the trust. This should be distinguished from a holder of a future interest since this future interest was not subject to reappraisal when the trust was created.

I think Rule 462 (H) (2) (D) says this but perhaps it needs some clarification. We will attempt to make this clarification when we republish Rule 462.

GLR:ljt