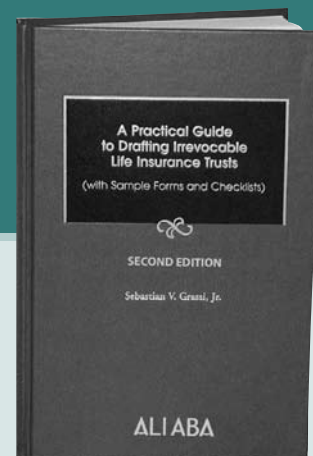


A Practical Guide to Drafting Irrevocable Life Insurance Trusts (with Sample Forms and Checklists)—Second Edition

By Sebastian V. Grassi, Jr., published by American Law Institute—American Bar Association, 2007, hard cover, 952 pages plus CD-ROM, \$199 (free shipping and handling)
<http://www.ali-aba.org/aliaba/BK45.asp>; (800) 253-6397



Reviewed by Henry M. Grix

As long as there are death and taxes, clients will need irrevocable life insurance trusts (ILITs), and practitioners will need the kind of clear analysis and expert guidance presented in the second edition of Sebastian V. Grassi, Jr.'s *A Practical Guide to Drafting Irrevocable Life Insurance Trusts*. This updated and expanded edition, like its predecessor, is at once scholarly and practical. It not only covers the law with professorial rigor, but also serves as a desk reference manual that explains more than 200 common (and not so common) tax and non-tax issues a practitioner may need to consider when drafting and administering an ILIT.

Properly structured and administered, ILITs are significant planning tools because they shelter life insurance proceeds from estate and income taxes—a double benefit for the insured's loved ones! These potential tax benefits come at the cost of complexity, and Mr. Grassi's volume is a reliable guide through treacherous waters.

The second edition of Mr. Grassi's book is nearly three times the length of the first edition published in 2003, and it represents a substantial reorganization and amplification of the first edition. Fortunately, the practitioner does not need to read 952 pages to find an answer to a specific question because the focused format of the first edition has been retained. Complicated issues are broken into separate chapters and, further, into concise sections that are well indexed and cross referenced. For example, separate chapters deal with different taxes: income, gift, estate, and generation-skipping

transfer tax (GST). Within each chapter, separate sections hone in on particular topics, e.g., the "transfer for value rule" or a "Checklist of 25 Rules for GST Planning with ILITs." A separate CD-ROM contains the entire book, with hyperlinks to provisions of the three sample ILIT forms (up from two forms in the prior edition) so that the reader instantly can view how a concept is translated into a useable form. A sample memorandum to the insured and the ILIT trustee about the intricacies of funding and administering an ILIT also is an excellent roadmap for the practitioner.

For the ILIT novice, the book provides a new Chapter 1 that lists 22 benefits of an ILIT. For seasoned practitioners, there are advanced topics, like a brand new chapter on "Fixing a Damaged ILIT" that grapples with issues such as "How to Deal with Ignored or Neglected *Crummey* Withdrawal Notices." *Crummey* withdrawal powers are essential to the optimal operation of most ILITs and a mind-numbingly complex topic about which Mr. Grassi provides a definitive discussion, including drafting examples.

One of the bonuses of Mr. Grassi's *Practical Guide* is its application to drafting not only ILITs, but also other types of trusts. For example, the chapters on "Trustee Selection" and "Tax Sensitive Powers Held by a Beneficiary-Trustee" clearly describe the state of the law and offer drafting suggestions that can be employed with trusts of any type.

The second edition expands certain important chapters included in the first edition, like "Drafting an ILIT for Flexibility and Changing Circumstances" and "Advanced

Planning Opportunities and Techniques for ILITs." The increased attention to flexibility is welcome because of the instability of our current estate tax law. If the estate tax is permanently repealed or if the estate tax exemption is substantially increased, many clients may no longer want or need an ILIT. Mr. Grassi suggests 13 ways to build flexibility into an ILIT, including permitting the trustee, in a proper case, to terminate the ILIT, and designating a "special power holder" (definitions supplied) who, acting in a non-fiduciary capacity, can appoint the ILIT assets to a new trustee or to an individual.

The thoroughness and scope of the second edition are what readers may expect from Mr. Grassi, a nationally recognized authority who is also the author of another excellent treatise published by ALI-ABA, *A Practical Guide to Drafting Marital Deduction Trusts*. The second edition of *A Practical Guide to Drafting Irrevocable Life Insurance Trusts* is a "value added" resource on which the practitioner can rely for fast, practical, and expert advice. Practitioners who would like to view the book's table of contents and a sample chapter may do so by visiting <http://www.ali-aba.org/aliaba/BK45.asp> or by calling (800) 253-6397. ■

Henry M. Grix is a member of Dickinson Wright PLLC, where he has concentrated on tax and estate planning for 30 years. He is a past chairperson of the Probate and Estate Planning Council (the governing body of the Probate and Estate Planning Section), a Fellow of the American College of Trust and Estate Counsel, and is listed in The Best Lawyers in America.