

2022 UT Law CLE  
Essentials for Special Needs Planning

UT LAW CLE

# Setting Up The Trust: Part II

Understanding the Basic Elements and Mechanics  
of SNT Provisions

*Presented by:*

**Stephen W. Dale, JD, LLM**

ED, Golden State Pooled Trust  
The Dale Law Firm, PC  
[www.dalelawfirm.com](http://www.dalelawfirm.com)  
[steve@dalelawfirm.com](mailto:steve@dalelawfirm.com)

**Peter J. Wall**

Director of Fiduciary Services  
True Link Financial  
[www.truelinkfinancial.com](http://www.truelinkfinancial.com)  
[peter.wall@truelinkfinancial.com](mailto:peter.wall@truelinkfinancial.com)



1

## Presenter's Bio

### Peter J. Wall

The Director of Fiduciary Services for True Link Financial Advisors, LLC. 20 years of professional trust administration experience - Focus in Elder Law & SNT planning

#### Prior to joining True Link:

- Developed and helped lead the BOK Financial Disability and Elder Trust Solutions division
- President of the Centennial Estate Planning Council
- Member of the Board of Directors for Easter Seals
- President of VSA Access Gallery
- Member of the Academy of Special Needs Planners



**Special needs trusts, estate planning, taxation, and trust administration faculty member and presentations include:**

- 2016, 2018, 2019, 2020 & 2021 Stetson National Conference on Special Needs Planning and Special Needs Trusts
- 2019-2022 UT Law SNT Conference
- CBA 2012, 2014, 2015 & 2017 Elder Law Retreat
- 2013 National Down Syndrome Congress
- 2015 46th Annual Autism Society National Conference
- 2016 CBA Estate Planning Retreat
- 2017 & 2021 National Conference for National Guardianship Association
- 2019 Special Needs Alliance Conference
- 2019, 2020 & 2021 National NAELA Conference
- 2020 CA NAELA
- 2020 PFAC Annual Conference

2

## Presenter's Bio

### Stephen W. Dale, Esq., LLM

Attorney and disability rights advocate

- Serves on boards and committees of disability rights organizations
- Spends much of his time attending disability rights activities, including legislative hearings and serving on boards and committees of disability rights organizations
- Teaches courses to the public, financial professionals, and other attorneys on special needs trusts and trust administration with a special emphasis on achieving independence while maintaining essential government benefits
- Frequent speaker on a variety of disability-related topics across the country
- Longstanding member of the Special Needs Alliance
- Executive Director of the Golden State Pooled Trust



### Degrees and awards

- Attorney and disability rights advocate
- JD from Armstrong Law School
- LLM in Taxation from Golden Gate University
- 2007 NAELA Powley Award recipient
- 2010 Theresa Foundation Award recipient
- Nationally recognized expert in special needs planning

3

3

## First Party SNT / (d)(4)(a) Trust

### Grantor Trust

- **Grantor = Beneficiary**
- Beneficiary retains right to beneficial enjoyment of trust property, even if distributed purely by trustee's discretion

#### I.R.C. §§ 671 - 678

#### I.R.C. § 673(a)

"reversionary interest in either the corpus or the income therefrom if... the value of such interest exceeds 5 percent of the value of such portion."

#### I.R.C. § 677

"grantor shall be treated as the owner of any portion of a trust...whose income...may be distributed to the grantor...."

#### I.R.C. § 675

"grantor or any person [may] purchase, exchange, or otherwise deal with or dispose of the corpus or the income...."

4

4

## First Party SNT / (d)(4)(a) Trust

### Grantor Trust

- Sub-accounts' taxable events flow out to the beneficiary
- Advantage - taxed at beneficiary's personal tax rate (if any)

### 2022 Simplified Federal Personal Income Tax Rates\*

Tax Rate	Single	Married, Filing Jointly
10%	\$0 - \$10,275	\$0 - \$20,550
12%	\$10,276 - \$41,775	\$20,551 - \$83,550
22%	\$41,776 - \$89,076	\$83,551 - \$178,150

### 2022 Simplified Federal Trust Income Tax Rates\*\*

Trust Taxable Income	Trust Tax Rate
\$2,750 or less	10%
\$2,751 - \$9,850	\$275 + 24% of excess over \$2,750
\$9,851 - \$13,450	\$1,979 + 35% of excess over \$9,850
\$13,451+	\$3,239 + 37% of excess over \$13,450

\*Source: IRS Form 1040. \*\*Source: IRS Form 1041

5

5

## First Party SNT / (d)(4)(a) Trust

### Beneficiary Considerations

### Elimination of Miscellaneous Itemized Deductions

- I.R.C. § 67 previously allowed for miscellaneous itemized deductions on personal returns if the following expenses exceeded 2% of beneficiary's AGI:
  - Employee business expenses
  - Tax preparation fees
  - Investment interest expenses
  - Grantor trust administration expenses (trustee fees, legal, accounting, etc.)
- Eliminated by 2018 Tax Cuts and Jobs Act (TCJA)
  - Grantor Trust expenses flow out to beneficiaries just as taxable events
    - No longer deductible on beneficiary Form 1040
    - Note: may not have large impact as standard deduction was raised to \$12,550 (single) and \$18,800 (married filing jointly)

6

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Setting Up the Trust, Part II: Understanding the Basic Elements and Mechanics of SNT Provisions

Also available as part of the eCourse

[2022 Essentials for Special Needs Planning eConference](#)

First appeared as part of the conference materials for the  
2022 Essentials for Special Needs Planning session

"Setting Up the Trust, Part II: Understanding the Basic Elements and Mechanics of SNT Provisions"