

Verne, B. Michael

801.1(b)

From: [REDACTED]
Sent: Thursday, February 15, 2007 1:32 PM
To: Verne, B. Michael
Subject: Control of Trust

Mike,

I have what I think is a quick question regarding whether settler controls a trust.

An individual (settler) set up a charitable trust. The trust is irrevocable, and the settler holds no reversionary interest. (The trust is a charitable foundational and all holdings of the trust must go to charity). So far so good. The settler and his wife are the designated trustees, and he has the power to appoint more trustees. He does not have the power to remove and replace trustees. According to opinion 47 in the PNO manual, I conclude that the trust is its own UPE and its assets are not held by the settler. In particular, Opinion 47 says "Note, however, that a trust instrument that designates the settler as trustee does not, by itself, confer power to control the trust on the settler/trustee."

Do you agree?

As always, many thanks,

[REDACTED]

AGREE - THE TRUST IS ITS
OWN UPE


2/15/07