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Here's the Tax Beat broadcast for November 11

Subject Line: Would You Like Adjectives With That?

Walk into any restaurant with cloth napkins and you'll find a menu that works harder than the kitchen. It's never just a hot dog. It's a "hand-cased heritage pork frankfurter on a toasted brioche roll with house-fermented kraut." (Still a hot dog. Still $19.) Somewhere, a consultant figured out that every adjective you bolt onto a dish adds two bucks to the price.

Now imagine that same consultant wandered into the trust business.

Last month, a federal grand jury in Dallas indicted four Texans for selling what the indictment calls a "copyrighted, irrevocable, complex, non-grantor, discretionary, spendthrift trust." Six adjectives. One trust. (Nobody's quite sure what "copyrighted" is doing in there, but it probably sounded impressive at the sales seminar.) Prosecutors say that buyers used it to shield up to 90% of their income, hid more than $1.5 billion from the IRS, and cost the Treasury over $200 million. Fees often topped $100,000. Some buyers were allegedly told to backdate their trusts and amend old returns for refunds. And one promoter allegedly raised $2 million from investors to build "digital trusts," then spent it on a Rolls-Royce Ghost and the down payment on a yacht. The Justice Department put photos of both in the press release, which tells you they're having fun at work.

Here's the detail that should've been on the menu: One of the promoters wasn't new to this. In 2014, the same Dallas courthouse sent him away for five years after he pleaded guilty to wire-fraud conspiracy in a $10 million medical-insurance Ponzi scheme. He was still under a court order not to sell unregistered securities when he raised the $2 million for the yacht. So the man selling the six-adjective trust had already done time for selling something that didn't exist. (That slide got cut from the sales seminar.)

Here's the "secret" they were selling, and it's a doozy. Section 643(b) of the tax code lets a trust exclude capital gains and "extraordinary dividends" from income. True! Unfortunately, the promoters stopped reading there. Keep going and you'll find that 643(b) defines "income" as *accounting* income, which decides what the beneficiaries get. It's not *taxable* income at all. The IRS Chief Counsel's office said exactly that in an August 2023 memo, and the structure has sat on the agency's abusive-trust warning list ever since. The opportunity was never real. It was a sentence read halfway.

So why did smart, successful people write six-figure checks to a convicted fraudster? Partly because the pitch came wrapped in enough adjectives to sound like law. But mostly because of the one thing the promoters

got right: nobody else was bringing these folks any ideas. Somebody filed their return every April, accurately and on time, and that was the end of the conversation. Into that silence walked a guy with a Rolls-Royce and a vocabulary.

The problem with those trusts wasn't that they tried to cut the client's taxes. It's that they faked it. *Real* planning *does* the thing the scam promised (keep more of what you make) with tools Congress wrote on purpose: entity structure, retirement plans, cost segregation, charitable strategies, and yes, trusts that do what trusts are supposed to do. Real planning shows up in the tax code, not in a press release with a yacht photo.

If you know somebody who bought one of these, the window to quietly amend and dodge penalties generally slams shut once the IRS contacts the promoter, and that happened long before any grand jury met. Anyone still sitting in one needs a lawyer this week, not another seminar.

We'll never sell you a trust with six adjectives and a brioche roll. But call us and we'll cut your tax bill with the only adjective that matters: *legal*.

Kevin

