Given the increases in the gift, estate, and generation-skipping transfer exemptions by the 2017 Tax Act to $11,400,000 per person, in 2019, indexed for inflation, doubled for married taxpayers, in effect through 2025, the authors recognize that, for many clients, the “typical” use of an irrevocable life insurance trust—to indirectly provide liquidity to help pay estate taxes at the insured’s or surviving insured’s death—will not apply to many taxpayers. However, there continue to be taxpayers whose estates will face a Federal estate tax liability, and for those taxpayers, use of irrevocable insurance trusts for that primary purpose will continue to make sense. In addition, even for taxpayers whose estates will not, under current law, face an estate tax liability, using an irrevocable insurance trust to be both the owner and beneficiary of a life insurance policy will provide additional creditor protection for the policy during the insured’s lifetime, as well as an opportunity for the management of the insurance proceeds at the insured’s death and protection for the trust’s beneficiaries from claims of creditors and divorcing spouses.

This volume in The Insurance Counselor series provides two separate sample Irrevocable Insurance Trust forms for use by the drafting attorney—the first form, beginning on page 39, is intended for use when the trust is both the owner and beneficiary of any policy(ies) insuring the life of the grantor alone; the other form, beginning on page 109, is intended for use only where the policy(ies) owned by the trust insure the joint lives of the grantor and his or her spouse (on a survivorship basis). The first form contemplates the creation of a trust for the surviving spouse for life, then for the benefit of the grantor’s children or
other descendants; the second form contemplates creation of a trust only for the benefit of the grantor’s children and descendants (on an intergenerational, generation-skipping basis).

Each sample trust form is accompanied by a Notes to Drafter section, which attempts, in a general way, to alert the drafter to those special problems associated with planning and drafting each form. For additional references and for the technical support for the discussion contained in the Notes to Drafter sections, the drafting attorney is referred to the relevant portions of the companion volumes in *The Insurance Counselor* series entitled *Federal Gift, Estate and Generation-Skipping Transfer Taxation of Life Insurance* (3rd ed. 2012), and *Federal Income Taxation of Life Insurance* (2nd ed. 1999), referred to in the Notes to Drafter sections as the *Transfer Tax Primer*, and the *Income Tax Primer*. For a discussion of the use of split-dollar and loan arrangements to fund insurance trusts, see *Leveraging Life Insurance Premium Payments, Using Split-Dollar and Related Party Premium Financing Techniques* (ABA, 2017).

Each form is also accompanied by a “plain English” outline, designed to provide nontechnical guidance to the client regarding the provisions of each sample Insurance Trust form—these outlines may either be used as a helpful “reading guide” for the client in reviewing a draft Irrevocable Insurance Trust or as a practice aid to prepare the client for a meeting to discuss the planning and drafting issues involved in utilizing an Irrevocable Insurance Trust in his or her estate plan.

Finally, this volume contains both a sample Memorandum to a client who has created an Irrevocable Insurance Trust, outlining, again in nontechnical terms, the procedures which will need to be followed both by the insured/grantor and the trustee of the Irrevocable Insurance Trust in order to comply with the requirements of the agreement and Federal tax law, and a sample transmittal letter to the client to accompany that Memorandum.

The sample trust agreements and other forms included in this volume are provided for the reference of the drafting attorney as an educational and informational aid ONLY. The authors, editors, special advisors, other contributors, and publishers hereby expressly disclaim any liability for the use of either of the sample trust agreements, the other forms, or any of the other materials contained in this volume, and expressly state that no express or implied warranty is made as to the effectiveness, validity, or suitability of the sample trust agreements, forms, or any other material contained herein for tax or legal purposes. The drafting lawyer is cautioned that the sample trust agreements, forms, and other materials in this volume have been prepared with an emphasis on general Federal tax law and may not be appropriate to the state law requirements of any particular state, and further, that Federal tax law changes constantly, requiring a current knowledge of Federal income
and transfer tax law at the time a particular client’s trust is planned and drafted. As always, the drafting lawyer is responsible for making all necessary modifications to the sample trust agreement(s) and other form(s) to make their use appropriate to the client’s situation and to assure compliance with both Federal tax law and applicable local law.

All references herein to Internal Revenue Code Sections are to sections of the Internal Revenue Code of 1986, as amended, unless specified otherwise.