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A Trust Primer

Many of us may perceive **trusts** as a complex subject better left to our attorney. However, a trust is simply a contract initiated by a **grantor** who agrees to transfer assets to a **beneficiary**, who then receives the assets as stipulated in the trust contract. A **trustee**, who may also be the grantor, manages the trust assets and ensures the stipulated terms of the trust are faithfully executed.

A trust is designed to help individuals manage a variety of family and tax-related estate planning concerns. Here are a few ways in which trusts can be used:

Revocable Living Trust. A revocable living trust is an estate planning trust that deeds property to an heir but allows the grantor to retain control over the property during his or her lifetime. Upon the grantor's death, the property passes to the beneficiary, avoiding **probate**, which is the judicial process wherein a court appoints an executor to carry out the provisions of a will. While the revocable living trust does not provide tax savings for the grantor during his or her lifetime, the trust becomes "irrevocable" upon death, and the beneficiary is then entitled to tax advantages. This is one way that the revocable living trust may be used but isn't the only way it may be used. Also, beneficiaries may not necessarily enjoy any tax benefits.

(Continued on page 8)

Social Security: Is Your Age a Retirement Numbers Game?

When preparing for your retirement, think about how much income you may need each year to fund the lifestyle you want. To help maintain your living standard, you may need to save enough money to supplement other sources of retirement income, such as a company pension and/or Social Security. It is also important to be aware of how your *age* factors into your retirement decisions. Here are some important age milestones to consider:

Age 55. If you take an early retirement, quit, or are otherwise terminated from employment, you can generally withdraw money from **401(k)**, **403(b)**, and **profit-sharing plans** without being subject to a 10% Federal income tax penalty for early withdrawals. As specified in IRS *Publication 575*, the following apply: you must reach age 55 by December 31 of the year you leave the workforce; money must be distributed to you from your employer's plan and cannot be transferred to an **Individual Retirement Account (IRA)**; early withdrawals are subject to the plan's provisions; and only money from your last employer's plan qualifies (not funds from previous employers). You may take early distributions from a traditional IRA without penalty, provided you receive "substantially equal periodic payments." Since certain rules govern this provision, be sure to consult a qualified tax professional.

Age 59½. Generally, you can withdraw money from traditional IRAs and qualified retirement plans after the age of 59½ without being subject to the 10% tax penalty, if

(Continued on page 6)

Your Credit Report and Identity Theft Detection

Identity theft is a serious crime, with increasingly greater numbers of consumers being affected every year. As part of a protection strategy, the Federal Trade Commission (FTC) and other consumer credit organizations recommend a proactive approach to safeguarding your identity: checking your **credit report** annually.

A credit report records information about your bills and loan and repayment history, available credit, and outstanding debts, and is typically used by lenders when deciding to accept a loan or credit application. In addition, credit reports can alert you to accounts that have been fraudulently opened in your name, unauthorized charges made to your existing accounts, and other crimes committed by someone using your personal information.

According to the **Fair Credit Reporting Act (FCRA)**, you can request a free copy of your credit reports from each of the three major credit bureaus (Equifax, Experian, and TransUnion) once a year. For your convenience, you can access all three agencies through a single website, www.annualcreditreport.com. The FTC suggests that you order all three reports, even if you choose to stagger your report requests throughout the calendar year, as the information may differ from each bureau. This is because credit reporting is voluntary, and therefore creditors may subscribe and report information to just one agency, or all three.

Reviewing Your Reports

Usually, a credit report is divided into four major sections: identifying information, credit history, public records, and inquiries. The **identifying information** on your report will include your name, current (and previous) address, Social Security number, driver's license number, telephone number, birth date, current and previous employers, and your spouse's name, if applicable.

The **credit history** section details your payment history with banks, retail stores, finance companies, mortgage companies, and others who have given you credit. Each account, sometimes called a trade line, will appear with the following information: name of creditor, account number, type of credit (i.e., installment loan or revolving credit), account participation (e.g., joint owner, individual account, or authorized user), date opened, last activity (date of last payment or charge), high credit (the credit limit or original loan amount), terms (number of installments or amount of monthly payments), balance at the time of reporting, past due balance at the time of reporting, status of the account (open, closed, inactive, etc.), and date of last report. It is in this section that accounts opened or affected by identity thieves may become apparent.

The **public records** section includes documents that reflect your history of meeting financial obligations, such as bankruptcies, collection accounts, judgments, and tax liens. Since public records can have a serious, negative effect on your credit, verify that the information belongs to you, not someone who used your personal information.

Finally, the **inquiry** section lists all the businesses that have received your credit report during the last 24 months. Inquiries are categorized as hard or soft. Hard inquires are those you initiate by filing a credit or loan application. Soft inquiries often come from marketers who want to sell you something. If you do not recognize a listed business, be sure to find out the nature of the business and why they are looking at your credit report.

A Mistake or Identity Theft?

If you find a mistake on your credit report, immediately contact the credit bureau that issued the report using the form provided or by following that particular agency's instructions. If the error is serious, and you suspect that your identity has been stolen, contact the FTC's Identity Theft Hotline at 1-877-IDTHEFT (877-438-4338). Be sure to keep detailed documentation of all communications with creditors, agencies, and the FTC.

You can help safeguard your identity by continually monitoring your credit reports. For more information about identity theft, visit the FTC's website at www.ftc.gov. $

Touching All the Bases with Policy Ownership

While many of us think of **life insurance** planning in relation to *type* and *amount* of coverage, a more complete analysis also includes **policy ownership**. In many cases, the proceeds of a life insurance policy may be unnecessarily included in your estate—unless you plan ahead.

Without insurance, many estates fall below the level at which they are subject to Federal estate taxes. For 2017, the **applicable exclusion amount** is $5.49 million per individual (annually indexed for inflation). Estates that exceed this amount are subject to Federal estate taxes at a top rate of 40% in 2017. The proceeds of life insurance can increase the value of your estate to a level where it could become subject to Federal estate tax.

Fortunately, you can prepare for the possibility of Federal estate taxes. There are two ways to keep insurance proceeds out of your estate:

1) Transfer ownership of your insurance policies to someone else, generally your **beneficiary(ies)**

2) Transfer the policies to a **trust**

Either option, if executed properly and in a timely manner, can decrease your Federal estate tax. You may not have to change ownership of a policy that names your spouse as the ***sole* beneficiary** because the **unlimited marital deduction** allows your spouse to inherit the policy proceeds without estate taxation. However, you may benefit from transferring your policy out of your estate if the purpose of the insurance is to help pay estate taxes or provide for heirs other than your spouse.

The paperwork involved in changing insurance policy ownership is relatively simple. You do have to sign away all rights to your policies, however, making this decision *absolute* and *irrevocable*. Also, you cannot change your beneficiaries, and in the case of policies with **cash value**, you no longer have the right to borrow against them or surrender them for their cash value.

Keep in mind that if the transfer is done within three years of your death, the policy proceeds are generally still considered part of your estate, regardless of ownership. Therefore, proper planning is necessary to help ensure that you achieve your desired results.

Ownership of an individual group insurance policy can generally be transferred to anyone who is old enough to handle money. Depending on your particular circumstances, it may be advisable to transfer a policy directly to a beneficiary or, in the case of a minor, to a **trust** that is designed for the benefit of a child.

Before signing away insurance, it is important to carefully review the consequences. Gifting insurance may have **gift tax** consequences if the transfer is to anyone other than your spouse. In 2017, the **annual gift tax exclusion** is $14,000 per gift to any single donee, and $28,000 for gifts made jointly by a married couple.

For those in higher tax brackets, one useful technique to shelter large policies from estate taxes—and to protect the interests of minor beneficiaries—may be to transfer ownership to an **irrevocable life insurance trust (ILIT)**. When you die, the **trustee** named by you can distribute income to your beneficiaries or, if necessary, use the proceeds to pay estate taxes. For specific guidance, be sure to consult with your qualified tax, insurance, and legal professionals.

The decisions you make regarding policy ownership are no less important than the decisions you make regarding what type of policy and how much insurance you need to fulfill your overall objectives. So, when planning your insurance strategy, make sure to cover all the bases. $

Select Trustees with Care

If you are thinking about establishing a **trust**, you need to select a **trustee**—someone who is charged with administering the trust according to your wishes. Perhaps you are considering naming a family member, or maybe you are wondering whether it would be wiser to designate your attorney or another trusted professional. Choosing a trustee is an important decision that requires great care and an analysis of your unique circumstances.

A trustee's role is to comply with the terms of the trust and fulfill its objectives. In selecting a trustee, you may want to weigh many personal, family, asset management, and business concerns. For instance, an important consideration is the *size* and *complexity* of the trust. Corporate and professional trustees often possess the accounting, tax planning, and money management experience necessary to administer large, complicated trusts. On the other hand, a small trust may not warrant professional management.

Duration is another significant concern. A trustee's responsibilities often span one or more generations. **Corporate fiduciaries** may have the advantage of perpetual life (although the individuals administering the trust may change over the years). This longevity may also allow them to more easily fulfill the record-keeping and reporting requirements of the supervising court, as well as Federal and state governments. If you have decided to appoint only *individual* trustees, you may want to consider designating **co-trustees** or **successor trustees** to address longevity concerns.

Advantages of Professional Trustees

Corporate trustees have other advantages, as well. For instance, they may be more impartial when considering beneficiaries' needs than are family members, who may face conflicts of interest. Also, corporate and professional trustees are held to a higher standard of professional conduct than nonprofessionals. Of course, professional service comes with a price. Many grantors of small trusts choose nonprofessional trustees to avoid high corporate fees.

Benefits of Family Members

When a personal touch is needed, family members or other nonprofessionals may offer special advantages as trustees. They generally have the sensitivity and flexibility required to support the special needs of a beneficiary. A family member or business associate may also be the preferred choice if you are leaving a business in trust, as corporate trustees generally do not run businesses.

Best of Both Worlds

Often, a *combination* of professional and nonprofessional trustees may work best. Corporate or professional trustees provide trust management expertise, while family members or other nonprofessionals respond to the changing needs and circumstances of beneficiaries.

Trusts are complex, varying by type and purpose, and are most likely to fulfill their objectives when responsibly administered. A trustee who is uninformed could mismanage a trust or take actions that could have serious tax consequences. A qualified legal professional can help you make the most appropriate choice for your particular situation. $

Assigning Your Life Insurance Policy

Getting approval for a loan can sometimes depend on, for example, a lender asking a borrower, "How will this loan be repaid in the event of your death?" Your answer may be to **assign** your **life insurance** policy, a useful feature that can help provide necessary security for a lender.

You can freely assign your life insurance policy unless some limitation is specified in your contract (your insurance company can furnish the required assignment forms). Through an assignment, you can transfer your rights to all or a portion of the policy proceeds to an **assignee**. The extent to which these rights are transferable depends on the assignment provisions in the policy, the intention of the parties as expressed in the assignment form, and the actual circumstances of the assignment.

Types of Assignments

There are two types of conventional insurance policy assignments:

1) An **absolute assignment** is typically intended to transfer all your interests, rights and ownership in the policy to an assignee. When the transaction is completed, you have no further financial interest in the policy.

(Continued on page 5)

Assigning Your Life Insurance Policy

(continued from page 4)

The terminology of absolute assignments differs from contract to contract. It may state that you transfer all rights, title, and interest in the policy to the assignee. Some insurance companies use an "ownership clause" to accomplish this transfer.

2) A **collateral assignment** is a more limited type of transfer. It is a security arrangement to protect the assignee (lender) by using the policy as security for repayment. After the debt is repaid, the assignee releases his or her interest in the policy, and all rights to the policy revert to the owner.

Under the usual procedure, if the collateral assignment is still in force at the time of your death, the assignee informs the insurance company of the remaining debt, including interest, and receives that amount in a lump sum. Any excess proceeds are then payable to your named **beneficiary** in accordance with the beneficiary designation in your policy.

To fully protect the assignee, notice must be given to the life insurance company that the assignment has been made. If a company without notice of assignment pays the proceeds to another assignee or to a named beneficiary, the insurance company cannot be forced to pay a second time.

Policy Provisions

Some typical policy provisions regarding assignments may include the following:

1) The assignment will not be binding until the original, or a duplicate thereof, is filed at the insurance company's home office.
2) The insurance company assumes no obligation as to the effect, sufficiency, or validity of the assignment.
3) The assignment is subject to any indebtedness to the insurance company on the policy.

Therefore, it is important to ensure that an assignment is made properly, regardless of whether it is absolute or collateral. Be sure to consult your qualified insurance professional for specific guidance about your unique circumstances. $

Living Together: Are There Strings Attached?

Unlike marriage, which involves numerous legal obligations and rights, a couple living together outside of marriage may be unaware of concerns unique to their domestic partnership, and could possibly face the following challenges over the course of their relationship: What happens when property is purchased together, or when one partner financially supports the other and then both individuals go their separate ways? What about assets accumulated while the couple lives together? Does a former partner have a right to such property? Suddenly, cohabitation could become more than a mere living arrangement and turn into an issue of asset protection or lifestyle preservation.

Untying the Knots of Obligation

Perhaps the most significant problem facing unmarried domestic partners is a potential claim to property, if and when the relationship ends. The issue of property rights can sometimes create major disagreements that, in some states, have resulted in **palimony** lawsuits.

"Palimony," which means the division of property and/or support payments as a result of the break-up of two unmarried individuals, does not have its origins in the law. The media coined the term in the 1970s amid several high-profile celebrity lawsuits. Although palimony suits generally occur in a limited number of states, unmarried couples could

(Continued on page 6)

Living Together: Are There Strings Attached?

(continued from page 5)

learn valuable lessons from such cases when planning a life together. In states where palimony suits are prevalent, **cohabitation agreements** are an increasingly popular method for unmarried couples to clarify their expectations and obligations. The parties can determine how comprehensive the contracts need to be, taking into consideration their combined assets. When properly drafted, these agreements may be enforceable in a number of states.

A carefully written agreement can outline everything from how jointly owned property will be distributed to what support will be provided by one partner to the other, in the event the relationship terminates. Like any contract, a written cohabitation agreement should be prepared with the assistance of legal counsel to ensure that both parties' wishes are equally and fairly represented.

For whatever reasons, one or even both partners may not wish to enter into a formal agreement. If one party is of substantial means, a personal asset protection plan may be an option for that individual to explore in further detail. However, there are other ways to help avoid potential problems. For example, it may be unwise to purchase significant assets together, title assets in joint names, regularly give money to a partner (unless it is made as a "gift" using the annual gift tax exclusion), place money into a joint account, or use a partner's last name.

In today's tax environment, estate planning for unmarried partners is complex. Although such planning can be challenging, it may be less difficult if both individuals have a realistic understanding of their rights regarding asset protection and lifestyle preservation. $

Social Security: Is Your Age a Retirement Numbers Game?

(continued from page 1)

plan-specific qualifications are met. Ordinary income tax is due if your contributions were tax deductible. No income tax or penalty applies to distributions from a **Roth IRA**, provided you have reached age 59½ and have owned the account for at least five tax years.

Age 60. Widows and widowers may be eligible for Social Security benefits. For the most up-to-date information, visit the Social Security Administration's website at www.ssa.gov.

Age 62. Some companies may allow retirement at 62 with full pension plan benefits. This is also the earliest age for receiving regular Social Security benefits, but the benefit amount is permanently lower than its potential maximum.

Ages 62–64. For those who are working and collecting Social Security benefits while younger than full retirement age—the age at which an individual is eligible to receive full Social Security benefits—the earnings threshold is $16,920 for 2017. One dollar in benefits is withheld (a "give back") for every $2 earned above that amount. A portion of benefits may also be taxed as income based on a complex formula that includes wages and tax-exempt income.

Age 65. Many company pension plans provide full benefits at this age. However, the age may vary by the company plan. **Medicare** eligibility also generally begins at age 65.

Ages 65–67 (or the year in which full retirement age is attained). Traditionally, full retirement age was 65. However, for those born between 1938 and 1959, full retirement age has been rising incrementally, and for those born in 1960 or later, the age for receiving full benefits is 67. The lower earnings threshold amount still applies for years prior to full retirement age, and a second earnings threshold rule applies for the year in which full retirement age is attained.

For those who are working and receiving Social Security benefits, there is a benefit give-back in 2017 of $1 for every $3 over $44,880 earned in the months prior to attaining full retirement. Once full retirement age is attained, the earnings threshold no longer applies, and a portion of benefits may be taxed as income based on a complex formula that includes wages and tax-exempt income.

Age 70½. Required minimum distributions (RMDs) from qualified retirement plans, such as a 401(k) or IRA, must generally begin by April 1 of the calendar year following the year in which you reach age 70½. Roth IRAs, however, are not subject to the age 70½ mandatory distribution rules.

You have worked many decades to accumulate assets to prepare for enjoyable "golden years." Be sure to consult with qualified tax and financial professionals to help you stay on the track to achieving your retirement goals. $

Hire Your Children and Help Them Save

Hiring your teenage children to work in your business can give them valuable employment experience and teach them to handle responsibility. Plus, if you can persuade them to deposit at least part of the money they earn into a **Roth Individual Retirement Account (IRA)**, this can also give them a head start in saving for their future.

Because children seldom make enough to owe tax on their income, they may be better off with a Roth IRA than a tax-deferred traditional IRA. In 2017, your child is allowed to contribute $5,500 (or his or her earned income, whichever is smaller) to a Roth IRA. Contributions are nondeductible, but potential earnings and qualifying distributions are tax free.

A Roth IRA offers the greatest growth potential if the account is left untouched until the holder reaches the age of 59½. At that age, the holder can withdraw earnings tax free without penalty, provided the account has been owned for five years. Although the IRS does permit penalty-free Roth IRA withdrawals to pay for education or to help with a first-time home purchase, taxes are owed on nonqualified early withdrawals.

Before you open a Roth IRA for your child, keep in mind that you cannot stop your child from withdrawing money from the account whenever he or she wants after reaching the age of majority, which is 18 in many states. If you are uncertain about your child's ability to manage money, opening an account in your child's name may not be the best choice.

In addition, only taxable compensation income can be sheltered tax free in a Roth IRA. Generally, paying your children for doing chores around the house does not qualify as compensation income, as this is an intrafamily transaction usually not reported to the IRS. As a business owner, however, you are permitted to hire your minor children to perform certain jobs. As long as you pay your children a fair market wage for the services they perform, the money they earn can be considered compensation income and be invested in a Roth IRA.

It is essential to keep detailed records of how the money contributed to a Roth IRA was earned, even if a teenager's working arrangements were informal and he or she did not earn enough to owe income tax. If the IRS determines that the funds deposited in a Roth IRA were not matched by compensation income, severe penalties could apply.

Your toughest task may lie in convincing your adolescents to save, rather than spend, their earnings. The good news is that, even if your teenager goes out and blows his paychecks on a new smartphone and skateboard, all saving is not lost. If, for example, your son earned $2,500 over the summer but spent all the money, you could still contribute the amount equivalent to his taxable earnings into a Roth IRA on his behalf, thereby helping to ensure he has something set aside when he retires and his skateboarding days are behind him. $

A Trust Primer

(continued from page 1)

Irrevocable Living Trust. An irrevocable living trust is an estate planning trust wherein the grantor does not retain control of assets or property. Through the transfer of assets or property into the trust, the grantor may be eligible for certain tax savings. An irrevocable living trust may also be used to avoid probate.

Irrevocable Life Insurance Trust (ILIT). An irrevocable life insurance trust is designed to provide tax savings through the ownership of a life insurance policy. Assets in the trust are generally not considered part of the grantor's estate. ILITs may be funded or unfunded. With a *funded* ILIT, income-generating assets are transferred into the trust, and the generated income is then used to pay the premiums on the life insurance policy. With an *unfunded* ILIT, the grantor makes yearly gifts to the trust, and this money is then used to pay the premiums on the life insurance policy.

Credit Shelter Trust: A credit shelter trust, also called a **bypass trust**, is an estate planning tool used to protect assets from successive estate taxes. While current law permits an unlimited amount of assets and property to pass to a surviving spouse without being subject to Federal estate taxes, assets passing to children and other beneficiaries valued in excess of the applicable estate tax exclusion amount, which is $5.49 million per individual in 2017 is subject to Federal estate tax. Note that the estate pays the tax, not the beneficiary. If a married couple wishes to take advantage of a credit shelter trust, they generally arrange for certain assets to pass into the trust for the benefit of the surviving spouse, rather than passing all assets directly to the spouse. This trust, which would *not* be considered part of the surviving spouse's estate—and generally does not exceed the applicable exclusion amount—may pay the surviving spouse income for life and then, upon his or her death, may pass to a beneficiary, such as a child, free of estate taxes if under the exclusion limit. In addition, the gross estate of the surviving spouse upon his or her death could pass to the same beneficiary, and up to $5.49 million in 2017 would be free of estate taxes. Even with the advent of portability which passes the unused applicable exclusion amount to the surviving spouse, this is still a valuable estate planning tool.

Charitable Remainder Trust (CRT): A charitable remainder trust is an arrangement in which assets are donated to a charity but the grantor continues to use the property and/or receives income from it. The grantor pays income tax on the income stream they receive. A CRT may allow the grantor to minimize capital gains taxes on highly appreciated assets; receive an income stream based on the full, **fair market value (FMV)** of those assets; receive an immediate charitable deduction; and ultimately, benefit the charity of his or her choice.

Dynasty Trust: This trust is often used by individuals to pass wealth to their grandchildren *free* of **generation-skipping transfer taxes**.

A trust can be an effective way to accomplish your long-term estate planning goals, but often involve complicated tax laws. Consult with your tax and legal professionals about your particular situation and how a trust may enable you to share your wealth with family, friends, or charities**.** $

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