REASONS TO CONSIDER TRUSTS

THROUGHOUT YOUR LIFETIME, there are only five things you do with money—earn, spend, save, invest, or give it away. In death, however, your money can only do three things—go to beneficiaries, charity, or the IRS. Trusts may help keep your wealth with the first two and minimize how much is paid to the IRS. Although best known for helping families transfer wealth with tax efficiency, trusts have a variety of other benefits.

Reduce estate tax liabilities.

Assets properly put into a trust are not subject to estate taxes. Once you transfer assets to a trust, the trust owns them. You no longer own them. Estate taxes are assessed based on assets you own.

Bypass probate.

Probate is the legal process used to validate a will, settle disputes, and distribute property after someone dies. Because the trust owns the assets it holds, not the decedent, those assets bypass the probate process. The advantages of avoiding probate include:

SAVE TIME The probate process can take anywhere between six months to two years to complete.

SAVE MONEY The probate process usually costs 3%–8% of an estate. Expenses typically include court fees, professional fees (personal representatives, lawyers, accountants, and appraisers), and bonds. Generally, the greater the value of the probate property, the higher the cost will be.

STAY PRIVATE The probate process is public. Anyone who has an interest in learning about property owned by the decedent can do so. Trust-owned assets remain private.

Maintain peace among the family.

Trusts may be as detailed as you want. They can specify items and monetary amounts to be distributed to each beneficiary. This is particularly helpful when dividing highly desirable items or those with sentimental value.

Solve tricky family situations.

Trusts offer more control than wills in complex family situations. For example, you could protect assets from a beneficiary's spouse or create an incentive trust whereby the beneficiary must meet certain criteria in order to receive funds (i.e. graduate with a specific GPA, start a business, etc.).

Make it hard to refute your wishes.

Trusts are difficult to contest. They provide greater protection than a will against legal action from persons or organizations unhappy with the distribution of assets. Generally, the only way to successfully contest a trust is to demonstrate that its creator was mentally incapacitated or under duress at the time the trust was established.

Protect assets.

Asset protection trusts allow you to transfer a portion of your assets into a trust managed by an independent trustee. The assets held by the trust are out of reach of most creditors. In most cases, you can take distributions from the trust during your lifetime.

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Prepare for worst-case scenarios, like incapacitation.

A trust can provide protection in the event you become incapacitated. In this type of scenario, you would name yourself as the trust beneficiary, and you would also serve as trustee along with someone else. If you became incapacitated, the other trustee would manage the assets for your benefit and distribute those assets in your best interest. Once you pass away, the same trust can control how, when, and to whom your assets will be distributed.

Maintain control.

Trusts offer flexibility so that you may control the distribution of your wealth after death. The trust can specify whether assets get distributed in lump sums or at regular intervals. You can also specify that the beneficiary reach a pre-determined age before receiving distributions and how the funds can be spent (i.e. rent, health care, etc.).

Distribute hard to divide property.

For vacation property owners or people who want to ensure that their real estate stays in the family, a trust can prove beneficial. The trust can describe who is to inherit the property, who can use it, and under what circumstances people can use it.

Create a legacy with charitable giving.

Trusts are commonly used to donate to charity. Charitable trusts provide you with both income and estate tax benefits while also allowing you to donate to your favorite charity or charities.

Receive full value of death benefits.

If you own a life insurance policy outright, your beneficiaries will have to pay estate taxes on the death benefit proceeds. A policy owned inside an irrevocable life insurance trust for at least three years is not included in your estate and, therefore, not subject to estate taxes. The three-year transfer rule prevents terminally ill insured people from changing ownership of their policies to willfully avoid estate taxes.