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Trust UPDATE

Stillman
BANK

How a living trust makes retirement easier

Delegate, delegate, delegate.

To illustrate the benefits that a living trust may deliver over the course of a retirement, we will take the hypothetical case of a couple on the verge of retirement. Sam and Janet have enjoyed successful careers. They have two homes, significant tax-deferred retirement benefits, investment real estate, and a substantial portfolio of stocks and bonds.

Asset management

The first order of business for Sam and Janet is to get organized, to develop a plan for asset management as well as a strategy for generating income during their retirement years. A living trust is an excellent tool for assembling assets and developing a coherent, consistent investment plan.

When a corporate fiduciary (a bank trust division or trust company) is the trustee of a living trust, investments receive continuous professional supervision in accordance with the trust terms. We use asset allocation planning to help clients balance investment risks and rewards, in good markets and bad.

Sam and Janet will have the peace of mind, as their retirement begins, of knowing that their financial resources have been skillfully deployed to provide for their financial independence.

Freedom

Three years into retirement, Sam and Janet had some happy news. A grandson who had moved to Europe decided to marry there. Janet had long wanted to travel to Europe. She prevailed upon Sam to expand a week-



long visit for the wedding to a three-month tour of the continent.

But what about the investments back home? A word to the trust officer was all that was needed. The couple's living trust continued without interruption, under the trustee's watchful eye.

Backup plan

Sam had 15 good years in retirement, then three very bad ones. Fortunately, when his Alzheimer's became severe, there was no need to go to court to appoint a guardian for Sam to manage his financial affairs. The trustee of his living trust was already empowered to handle that.

Continuity

Becoming a widow was hard on Janet; her life together with Sam had been long and happy. Generally, one is advised not to make any important financial decisions for several months after the death of a spouse in order to avoid the possibility of grief clouding one's choices. Janet didn't have that worry. With the living trust in place, she already had continuous financial management in place, unaffected by Sam's death.

In many cases, a living trust will convert into one or two irrevocable trusts when a spouse, dies. This approach can create significant savings in estate taxes and inheritance taxes, depending upon one's state of residence. At Sam's death, the terms of the couple's living trust converted into a marital deduction trust.

Privacy

Janet lived for eight years as a widow. The marital deduction trust provided for her financial needs, even as the trustees continued to manage its assets on her behalf. When Janet died, her will was published in the course of the probate process. The terms of the marital deduction trust were not made public. No one would ever learn how Sam and Janet's wealth was to be distributed, unless

they chose to reveal that information (perhaps through philanthropy).

Would you like to learn more?

We believe that our personal trust service makes living trusts economical and practical for a wide range of individuals and families. If you are not already among our clients, we invite you to put us to the test. If you are a client, please tell your friends about us.

We are at your service. □

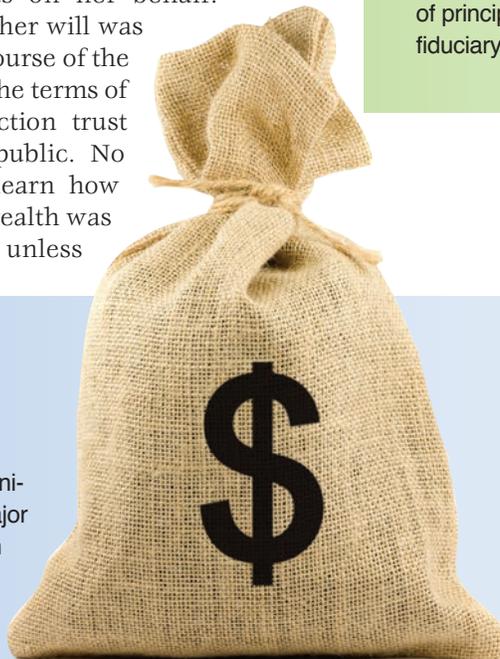
Choice of trustee

To unleash the power of a living trust as a wealth management tool, you need to select the best trustee for your family. Here are seven good reasons to place your trust in our care.

- 1. Group judgment.** Our trust investment committee monitors the investments in the trusts in our care.
- 2. Reliability.** We understand the special responsibilities of a trustee. All trust funds in our care are safeguarded by both internal and external audits.
- 3. Experience.** Trusteeship is our business.
- 4. Responsiveness.** Financially successful individuals and their families expect personal attention and responsive service. We deliver.
- 5. Objective investment guidance.** Unlike investment advisors who are compensated mainly by sales commissions, we earn our trustee's fee by providing our trust clients with unbiased, personalized guidance.
- 6. Convenience.** From bill paying to retirement planning, we can provide or obtain just about any convenience or special service that our trust clients desire.
- 7. Neutral arbiter.** When trust provisions permit discretionary invasions of principal in specified circumstances, our neutral judgment in exercising fiduciary powers may help smooth disagreements among beneficiaries.

Cognitive dissonance

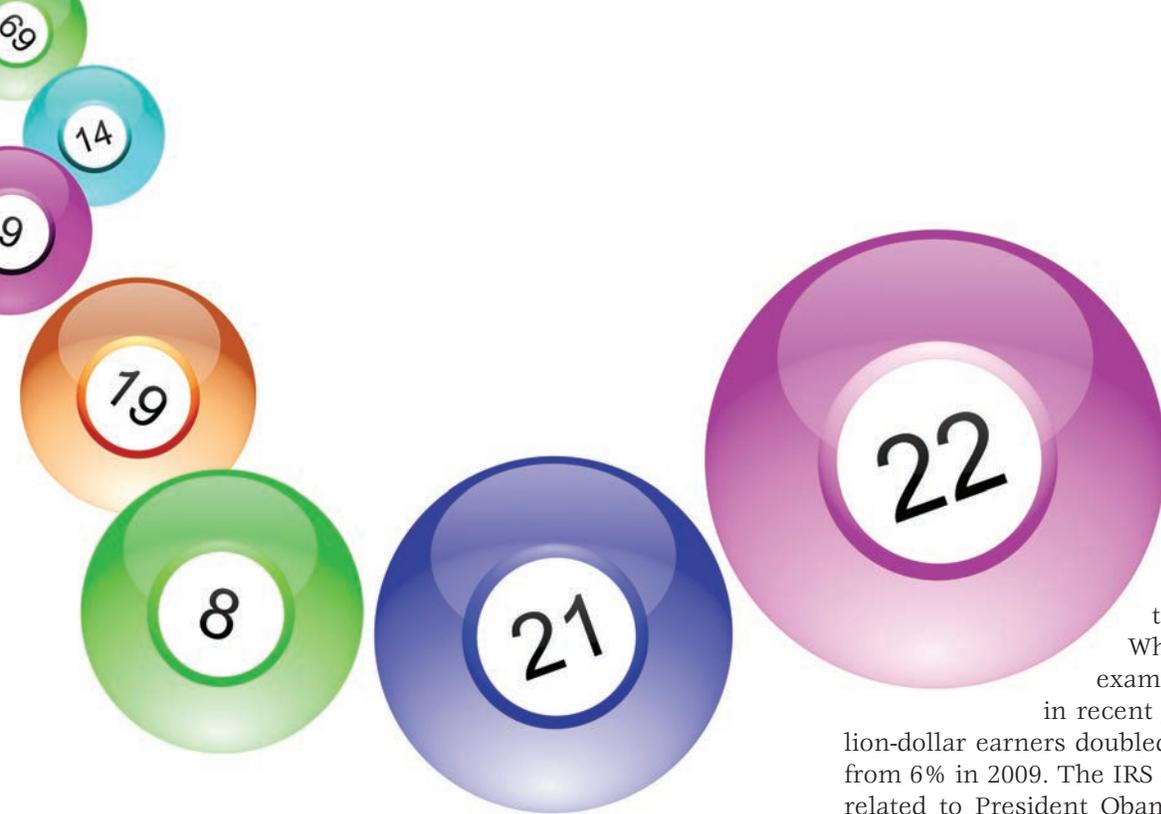
\$675,000. The minimum savings one major financial services firm suggests is needed for retirement.



\$250,000. The savings most Americans think they will need for retirement, according to an Employee Benefits Research Institute survey in 2010.



\$10,000 or less. Again, according to the Employee Benefits Research Institute, the amount of actual retirement savings owned by 43% of American workers.



Playing the audit lottery

The “tax gap” is defined by the IRS as the amount of tax liability that is not paid on time – or not paid at all. Estimates of the tax gap were updated early this year, following an extensive study. The overall estimated compliance rate has held steady at 83%. Given that the IRS collects more than \$2 trillion annually, that 17% theoretical shortfall represents a lot of money. The net tax gap for 2006 (the most recent year available) was estimated to be \$385 billion.

The best known strategy for closing the gap is the tax audit.

Growth in audits

Back in 2001, only 0.6% of tax returns were audited. More than 1% received an examination last year, 1.6 million of the 141 million tax returns filed. Only about a quarter of audits require face-to-face meetings with IRS agents, as most examinations are handled through the mail.

What were the odds of an audit in 2011?

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| Income over \$1 million | 12.48% |
| Income below \$200,000 | 1.02% |
| Income between \$200,000 and \$1 million | 3.93% |
| Corporation with less than \$10 million in assets | 1.02% |
| Corporation with more than \$10 million in assets | 17.64% |
| Corporation with more than \$250 million in assets | 28.00% |

Source: IRS; M.A. Co.

Like Willie Sutton, the IRS directs most of its efforts to where the money is. The audit rate for higher-income taxpayers is more than 10 times the average rate; for larger companies it's nearly 28 times higher than for small companies. What's more, the emphasis on examining the wealthy has grown in recent years. The audit rate on million-dollar earners doubled, to more than 12% in 2011, from 6% in 2009. The IRS denies that this is in any way related to President Obama's proposals to boost taxes on the rich.

Overall, the auditing efforts raised some \$55 billion in 2011, down more than \$2 billion from 2010. The IRS attributed the falloff to the absence of an estate tax in 2010 and the fact that many corporations suffered losses during the recession. The cost of staffing for the audits came to just over \$22 billion, so the net revenue came to \$33 billion. That's just a drop in the \$2 trillion ocean of tax revenue.

Other items of interest from the IRS report:

- Information provided by the IRS to taxpayers over the phone was accurate 93% of the time.
- 70% of taxpayer phone calls to the IRS got through, down from 74% the year before.
- 77% of returns were filed electronically last year, up from 69% the year before.

If you are audited

IRS Publication 1, *Your Rights as a Taxpayer*, includes a section on your rights during an audit. These include:

- A right to professional and courteous treatment by IRS employees.
- A right to privacy and confidentiality about tax matters.
- A right to know why the IRS is asking for information, how the IRS will use it, and what will happen if the requested information is not provided.
- A right to representation, either by oneself or by an authorized representative.
- A right to appeal disagreements, both within the IRS and before the courts.

Unless the amount in controversy is nominal, professional representation by an experienced tax lawyer or accountant during an audit is highly recommended. □

IRS goes fishing for gift taxes

Under California's famous Proposition 13, property tax increases are limited to 2% per year, unless the property is sold. This can be a valuable benefit to long-term homeowners. Under some circumstances, and pursuant to Propositions 58 and 193, the tax protection may be extended to children, even grandchildren, through gratuitous transfers. Extensive paperwork needs to be filed to obtain the relief.

There's a pretty good chance that if such an intra-family transfer is made, a federal gift tax return will be required, and gift taxes could be due. That was the thinking behind an IRS request for access to the records of California's Board of Equalization, which had the necessary information. A federal District Court initially denied an IRS "John Doe" subpoena request on privacy and sovereign immunity grounds. Upon a rehearing, however, the Court was satisfied, and the inquiry is going forward.

Although California may be the most fertile area for the IRS to seek unpaid gift taxes, given its high prices for residential real estate, it is not the only state under scrutiny. According to reports in *Forbes* magazine (March 24, 2011; December 18, 2011), 15 states already have provided the IRS with data on related-party transfers: Connecticut, Florida, Hawaii, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, Washington, and Wisconsin. In some states there has been no gift tax compliance at all; overall, the noncompliance rate is projected to be above 60%. The program has yielded 323 audits, with another 217 examinations in progress and 250 identified for future action.

Tax deductions for car usage

If you use your car for business, the costs are deductible business expenses. You have a choice between keeping records of your actual costs of the vehicle, allocating them between business and personal use, or simply using the IRS-supplied mileage allowance of 55.5 cents per mile of business use. See IRS Publication 463 for more information.

The standard mileage rate for using your car for medical care or moving is 23 cents in 2012, according to the IRS. Charitable use of your car may generate a deduction at the rate of 14 cents per mile. □



What's the best age to receive an inheritance?

If you have children or grandchildren to provide for, come talk with us. With gifts or inheritances in trust, we can help you provide for long-term financial security.

Learn why a thoughtfully planned trust may be the best possible way to safeguard a young beneficiary's financial future.

Our experience is at your service.



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