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# Trust UPDATE

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## A guide to our trust services

At their beginning, in the 14<sup>th</sup> century, trusts were used to convey real estate, a mechanism to defeat the rigid rules of primogeniture (property passing to the oldest son), as well as the taxes then imposed when land passed by intestacy. As the nature of wealth has changed, so has the nature of trusts. Today, typical trusts are flexible tools for managing financial assets, such as stocks, bonds, mutual funds, insurance contracts, pension and annuity interests, and bank accounts.

Among the types of trusts most commonly used by affluent families today:

- **Living trusts** provide asset management and financial protection in case of disability of the grantor (and the grantor's spouse, if there is one);
- **Marital trusts** protect a surviving spouse for life and are sheltered from federal estate taxes;
- **Bypass trusts** expand family protection from death taxes;
- **Inheritance protection trusts** can be used to preserve a legacy for heirs for the long term;
- **Qualified Terminable Interest Property Trusts** (QTIP trusts) balance the interest of a surviving spouse and children in a blended family situation;
- **Charitable trusts** meet both philanthropic and private financial objectives.

See "Why use a trust?" on page 2 for more details. All of these trusts have something in common. They have assets that require careful management, and that job falls to the trustee.

### Core elements of every trust

The creator of a trust is customarily called the *grantor*. The grantor works with an attorney to prepare the trust agreement, which will give the *trustee* the instructions about the management of the trust and



the distribution of income and principal. Every trust has *beneficiaries*, for whose protection the trust has been created. The grantor may be the first and foremost beneficiary of a *revocable living trust*—or the grantor and spouse. Otherwise, other heirs are named, whose interests will vest at various times, as specified in the trust agreement. If the trust is *revocable*, the grantor may amend it at any time, even terminate it. If the trust is *irrevocable*, such as a trust created at death by a will, it normally cannot be changed without court proceedings.

Finally, there must be a trustee. That could be an individual or a corporate fiduciary, such as us.

### When should you consider a trust?

Trusts offer advantages in wealth management that are not available with ordinary investment accounts. Trusts can be used to achieve some or all of the following objectives:

- Provide lifetime financial protection for a surviving spouse.
- Establish inheritance management for minors, and incapacitated or disabled family members.
- Protect assets from creditors.
- Reduce or eliminate death taxes.
- Increase financial privacy and confidentiality regarding wealth distribution.
- Implement a program of philanthropy.
- Protect an estate plan from claims by disgruntled heirs.
- Provide complete financial management in the event of your own incapacity.

Whatever the reason for creating your trust, the next question is crucial: Whom should you choose as your trustee? Who has the qualifications to see to it that your trust plan will succeed? Where would you look for the right trustee?

### Who should be your trustee?

Typically, a trust grantor is deciding between a corporate fiduciary (a company that has been granted the legal right to act as a trustee, such as us) and an individual, such as a family member, friend, or business associate. Factors that should be considered include:

**Judgment and experience.** Inexperienced trustees may dissipate the trust assets, or make administrative mistakes that result in delay or other problems.

**Impartiality.** A trust typically has current income beneficiaries and future or remainder beneficiaries. The interests of both types of beneficiaries must be balanced carefully. Conflicts need to be resolved by a trustee that all the beneficiaries can respect.

**Investment sophistication.** The Uniform Prudent Investor Act and other laws governing the investment of trust assets must be adhered to. The trustee should be able to increase returns or reduce portfolio volatility, and must be able to diversify the portfolio.

**Permanence and availability.** Many trusts are expected to last a decade or more. Corporate trustees have the advantage of perpetual existence.

**Sensitivity to individual beneficiaries' needs.** Understanding the individual needs of trust beneficiaries is very important, and on this issue many will assume that

## Why use a trust?

Given the flexibility that comes with trust planning, no single vocabulary has emerged for describing the different types of trusts. The same trust with the same function can go by different names because different estate planners have created multiple monikers. Here is an introduction to some of the types of trust that you might want to explore.

Type of trust	Who is protected	Unique benefits
Revocable living trust	Yourself, or yourself and your spouse	Professional asset management, continuous financial protection upon incapacity
Marital deduction trust	Your spouse, after your death	Estate tax deferral; spouse receives all income at least annually
Qualified Domestic Trust (QDOT)	Your noncitizen spouse, after your death	Marital deduction; spouse receives all income at least annually
Family trust	Your children, after your death	Trustee may be given discretion over trust assets, protecting them from creditor claims
Qualified Terminable Interest Property trust (QTIP trust)	Your spouse and children from an earlier marriage	For “blended families,” preserves everyone’s inheritance
Grantor Retained Annuity Trust (GRAT)	Yourself and your heirs	Leverage federal transfer tax exemptions for larger tax savings
Special needs trust	A disabled individual	May provide for enhanced quality of life while permitting continued government benefits
Charitable remainder trust	Yourself or other individuals for some time, and a charity in the future	Income interest may be a percentage of the trust’s value or a fixed dollar amount; income and gift tax savings possible



the friend or family member has the advantage. This is not necessarily the case, but sometimes an individual will be made cotrustee to handle such decisions. Even so, a corporate trustee might be brought into the process for an objective voice and to prevent unreasonable distributions.

**Accounting and recordkeeping.** Detailed trust records are required, and few individuals are equipped to handle this chore properly.

**Fees.** There is a chance that the fees charged for trust administration will be lower when a friend or family member is named as trustee. However, when a trustee is serving for little or no compensation, it becomes hard to give the trust the attention that it deserves.

In the usual case, the trust assets consist of ordinary investment assets, such as stocks, bonds, or mutual funds. In that situation, a corporate trustee is likely to be a very cost-effective alternative.

### **Would you like to know more?**

The central features of today's trusts are professional asset management, conducted under fiduciary safeguards, in a segregated vehicle, which is bankruptcy-remote from the manager. This is what we do. How could a thoughtful trust plan improve the financial security of you and your family? We'd be pleased to explore that important question with you in more detail at your convenience. □

## Funerals go digital

Digital technologies have found their way into more and more parts of our lives. The latest area to benefit, according to a recent report in *Wired* magazine, is funerals. The ceremonies may be livestreamed to the internet, and a record may be stored online for later viewing.

The idea is not so very new, as livestreams of funerals reportedly began as early as 2010. However, as costs have come down and quality improved, the popularity of the idea has gone up dramatically. *Wired* reports that an estimated 20% of funeral homes now offer a livestreaming option. When the choice is available, some 85% of families choose it. With that kind of public acceptance, we may expect many more funeral homes to come on board with the technology.

The livestreams and subsequent recordings may be posted openly to the general public, or the family may be given a code for providing access.

### **Why stream?**

The obvious utility of livestreaming a funeral is to permit the participation of distant friends and relatives who can't be there in time to attend in person. The expense of travel can be a burden, and older folks may have mobility issues to overcome. With a livestream, the issue becomes having the internet savvy to find and open the stream.

The less obvious utility of livestreaming is as an aid in grieving. Very often the close family is in a difficult emotional state during the funeral, and the details may not be absorbed. After a few months, they may want to view the funeral ceremonies afresh.

One funeral director in the *Wired* report commented that they are getting tens of thousands of views of their streams each month, with thousands who are rewatching a funeral that they attended or a stream they already viewed.

### **Buried issues**

However, livestreams of funerals can run into copyright problems if recorded music plays a part in the ceremony. A livestream is a broadcast, and so the music may be subject to different, higher royalty fees for usage. The funeral industry is still coming to grips with that issue.

Planning one's own funeral may seem rather macabre. But the more the details of funeral planning can be handled in advance, the less emotional burden there will be on the surviving family members. □



## Tax fallout for muni bonds

The Tax Cuts and Jobs Act of 2017 (TCJA) has been characterized by some as a “tax cut for the rich.” Although some wealthy families may have benefitted, not all of them did, especially those who live in high-tax states. According to the Institute on Taxation and Economic Policy, the richest 1% of families in California, New York, New Jersey, and Connecticut had a tax *increase*, on average, ranging from \$77,900 in New York to \$37,710 in Connecticut. In all four states, the top 1% are those who have annual income over \$1 million. The biggest reason behind the tax increase was the \$10,000 limit on the deduction for state and local taxes.

Perhaps in response to the increased tax burden, the demand for tax-free municipal bonds has boomed, especially in those high-tax states. Municipal bond interest is generally not taxed at the federal level and is tax free in the state where the bond was issued.

*The Wall Street Journal* reported that inflows to municipal bond funds jumped early this year as high income taxpayers reviewed their tax returns and saw the full effect of TCJA (“New Tax Laws Help Spark Push Into Muni Bonds,” August 8, 2019). Mutual and exchange-traded funds had inflows of \$6.5 billion through the first seven months of this year, the most for a seven-month period since 2014.

### Other effects

Increased demand raises the prices of existing bonds and drives down yields for new issues. For example, in August the Bay Area Rapid Transit System in San Francisco was able to sell new bonds with a yield of just 1%. Muni bond prices also rose in recent months in anticipation of the interest rate cut from the Federal Reserve, which happened as expected at the end of July.

Two other factors have led to a shortage of new muni bonds available to investors. First, some state and local governments rushed to issue extra debt in 2017 because of uncertainty over the emerging tax rules. That has led to a lull in issuance during the past year. Second, the tax exemption has been ended for muni bonds that are refinanced early, and that change also has reduced new issues.

With yields at historic lows, the tax freedom that munis provide needs to be weighed against the opportunities for bond investors. Some are recommending Treasuries instead to provide greater safety of principal and comparable after-tax yields. For higher payouts, one needs to look to the corporate bond market. □

Why am I  
a trust  
customer?

“Once I understood ‘fiduciary duty,’  
I couldn’t settle for less.”

See one of our trust officers to learn more.



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