

Trusts

A guide to our trust services

Wealth management

Are you qualified to settle an estate?
Links between politics and gifts

WEALTH MANAGEMENT



Orange Bank & Trust Company
Trust Services Division
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A guide to our trust services

To get the most out of a trip to a ski resort, you need to look at the trail map. You will want to match your choice of runs with your abilities and your objectives for enjoying the mountain.

Here is an overview of trust service, for those who would like to see how they may achieve family financial security.

● Green circles

Trusts are not as mysterious as most people seem to think, and technological advances have made trust-based financial planning accessible to more and more families. That's one reason why discussions of trusts seem to be popping up in the popular press more and more.

The basics of a trust arrangement are not hard to follow:

1. You, the grantor, or donor, transfer money and/or property to the care of a trustee.
2. The trustee takes legal title to the money or property but receives none of the privileges or benefits of ownership.
3. The trustee is required to invest, manage, and distribute the trust assets for the beneficiaries whom you name, according to your instructions. You and your attorney spell out those instructions in a formal trust agreement—or, if you're leaving your assets in what's known as a testamentary trust, in your Last Will and Testament.

A trust can do almost anything that you want it to. Perhaps that's what makes trusts so mystifying to most people. There's no such thing as a "typical trust."

Living trust. A revocable living trust provides asset management and financial protection in case of disability of the grantor (and the grantor's spouse, if there is one). This may be the easiest way to "try out" trust service, to see how it may work for you and your family. If it doesn't work out, the arrangement may simply be cancelled at any time.

TRAIL MARKINGS

● EASIEST

■ MORE DIFFICULT

◆ MOST DIFFICULT

■ Blue squares

Several types of irrevocable trusts have become routine elements of the wealth management arsenal.

Gifts-to-minors trusts. Set aside funds for heirs that they will receive when they become adults. These trusts typically have been used to take advantage of the annual exclusion from the federal gift tax.

Marital trust. Provide lifetime financial security for a surviving spouse. For most families, this trust's marital deduction from estate taxes is no longer needed. Rather, such a trust is useful because it provides the surviving spouse with a lifetime of professional investment management.

Continued on next page

What trusts can accomplish

The most important thing that a trust does is make financial resources available to beneficiaries when needed. When a corporate fiduciary such as ourselves is trustee, another automatic benefit is professional investment management. But that is just the start of potential benefits. Among the other objectives that trusts may target:

- income tax savings;
- estate tax savings;
- gift tax savings;
- creditor protection;
- probate avoidance;
- implementation of philanthropic initiatives;
- education funding.

Trust services . . . continued

Q-TIP trust. For blended families, a Qualified Terminable Interest Property Trust will provide a life income for a surviving spouse and an inheritance for others at the survivor's death (typically children of an earlier marriage).

Family trust. As recently as a decade ago, a "credit shelter trust" might have been used in order to maximize the amount that a family could shield from federal and state death taxes. With the enlarged federal exemption, most families no longer need such protection. Hence, these trusts have been renamed "family trusts," and they provide for flexible management and distribution of family wealth over time.

Testamentary trust for heirs. Providing an inheritance in an irrevocable trust adds an element of creditor protection, as well as expert asset management for the bequest. With such a trust, a windfall may be transformed into a life-long source of financial security.

Special needs trust. With proper planning (qualified legal guidance is a must), a trust can provide extra support and some of life's comforts without disqualifying a disabled person from receiving government assistance.

◆ **Black diamonds**

When taxes are on the line, we go to the more complex types of trusts.

QDOTs. Anything that a married person leaves directly to his or her spouse will qualify for the estate-tax marital deduction—unless that spouse is not a U.S. citizen. In that event, a special marital trust (the Qualified Domestic Trust) is required to preserve the marital deduction.

Charitable remainder trusts. Life income may be provided to a private beneficiary, either in the form of an annuity or a unitrust interest. A qualified charity receives

the trust property when the trust ends. Income, estate, and gift tax deductions are available.

Charitable lead trusts. Flip the roles in a charitable remainder trust, so that the charity receives an income for a term of years, and the assets revert back to the family when the term expires. Similar tax savings are possible.

GRITs. A grantor-retained income trust may be used to apply leverage to the federal gift tax exemption, for families with larger amounts of wealth.

Dynasty trusts. To avoid the federal generation-skipping transfer tax, a dynasty trust may be used for multi-generational protection from transfer taxes. Many states have modified or abolished the rules against private perpetual trusts.

Work with the right trustee

The most important factor affecting the success of any trust arrangement is the choice of trustee to implement the plan. This is a core part of our business. We are a "corporate fiduciary." That phrase means that we are a business organization that is permitted, under the law, to serve as trustee and administer investment programs for individuals, families, businesses, and endowments.

For this service we are compensated by reasonable annual fees, tied to the market value of the funds in our care. Our operations are subject to a variety of internal and external audits and oversight.

Most importantly, we enthusiastically accept and operate under a code of fiduciary responsibility. That means we must, by law, put the interests of our customers ahead of our own.

For more information about how trusts may help you to make the most of what you own, please schedule a free consultation with one of our officers. □



Are you qualified to settle an estate?

Estate settlement involves a great range of technical knowledge and skill. Think you might have what it takes to be an executor (or, as the job is sometimes called, personal representative)? See if you can answer these true-false questions about estate settlement.

1. The federal estate tax is due exactly one year after death.
2. The executor must pay death taxes (estate and/or inheritance taxes), not income taxes.
3. The marital deduction always permits property to pass to a surviving spouse free of federal estate tax.
4. An executor has no personal responsibility for making tax payments. The obligation is on the estate.
5. If an estate does not owe estate tax, the estate administration expense is wasted.
6. A will leaves “my 100 shares of IBM stock to my son John.” However, the estate does not include any shares of IBM. Instead, John will receive cash equal to the value of 100 shares of IBM.
7. Grandfather’s will provides that “All the rest and residue of my estate shall be divided among my grandchildren *per stirpes*.” A son had one child, and a daughter had three children. The four grandchildren will share the “rest and residue” equally.
8. An investor’s estate consists largely of stocks. Unfortunately, the market tumbled 25% shortly after the investor’s death. Nevertheless, the estate tax will be due on the value of the shares on the date of death.
9. An insurance policy taken out in 2005 lists the policyholder’s daughter as beneficiary. Years later he included a will provision that a son should get the proceeds. The son will be entitled to the insurance money.
10. A business owner’s will divided his business between his three children and left \$150,000 to a longtime friend. Unfortunately, the business went bust before the owner died, and he never changed his will. The children will at least share the \$150,000.

Answers

Although every estate presents different challenges, and probate laws vary from state to state, each of the above statements is generally *false*. Here are the correct answers:

1. The federal estate tax is due nine months after the date of death, not one year.
2. The executor is responsible for paying fiduciary income taxes, estate and inheritance taxes, gift taxes due and unpaid before death, and, in certain large estates, the generation-skipping transfer tax.
3. One restriction on the marital deduction is that the spouse must be a U.S. citizen, or else the property must be placed into a Qualified Domestic Trust.
4. An executor is personally liable for making estate tax payments until formally discharged of that obligation by the IRS.
5. Estate administration expenses are deductible against the estate tax or the income tax, at the executor’s option.
6. When property specifically mentioned in a will is not present in the estate, the bequest fails. John will receive nothing under this will provision.
7. The child of the son will receive half of the balance of the estate. The children of the daughter will share the other half. For them to share equally, the will must state *per capita*, not *per stirpes*.
8. The executor has the option of using the alternative valuation date, six months after the date of death.
9. Insurance proceeds are made according to the policy terms, not a later-made will.
10. Specific bequests are made before residuary bequests. The friend will receive his \$150,000 even if the children receive nothing.

If you answered “true” just once in taking this quiz, the job of estate settlement may not be for you. A single mistake by an executor can lead to costly litigation and delays for beneficiaries.

By the way, could the executor named in your will score a perfect 10? If not, you should consider naming us instead to serve in that capacity. □

Links between politics and gifts

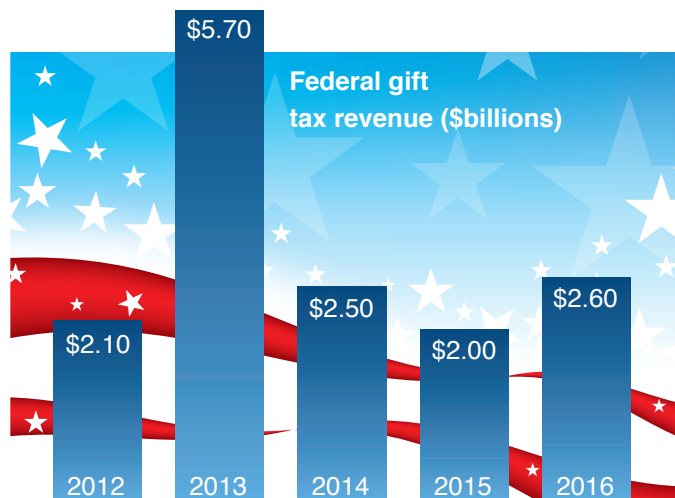
The latest *Statistics of Income Bulletin* from the IRS reports a roughly 20% surge in gift tax collections in 2016, to \$2.457 billion, up from \$2.069 billion in 2015. The number of taxable gift tax returns rose to 2,719 from 2,515 the year before.

Part of the increase may be attributed to the increase in total household wealth, which reached \$91.7 trillion in the fourth quarter of 2016, according to Federal Reserve data. But there also may have been an expectation that in the event Hillary Clinton became President, she would follow through on her promise to decrease the amount exempt from federal transfer taxes to \$3.5 million, while boosting the tax rate to 45%. Gifts made in 2016 would have “locked in” the larger exemption, while avoiding a higher tax rate.

An even larger spike in gift tax collections was observed in 2013, reporting on gifts made in 2012. That year \$5.778 billion in gift tax was collected, because some gifts were made in 2012 out of fear that the exempt amount might fall to \$1 million in 2013, as called for in the tax law. As it turned out, the \$5 million exempt amount was made permanent as 2012 came to a close.

Nontaxable gifts also soared in 2012, as more than 350,000 such returns were filed for that year. Nearly \$400 billion in nontaxable transfers was reported.

Those who had “used up” their lifetime exclusion from federal gift tax may be expected to make additional nontaxable transfers in the coming years. The phenomenon may peak in 2025, the final year before the exclusion is scheduled to drop back to \$5 million (plus inflation since 2011). □



Source: IRS Databook

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