

## Estate planning

Should you consider a living trust?

Checklist of living trust benefits

Seven factors for successful trusteeship

Accidental estate planning

2025 could be a major year  
for estate planning



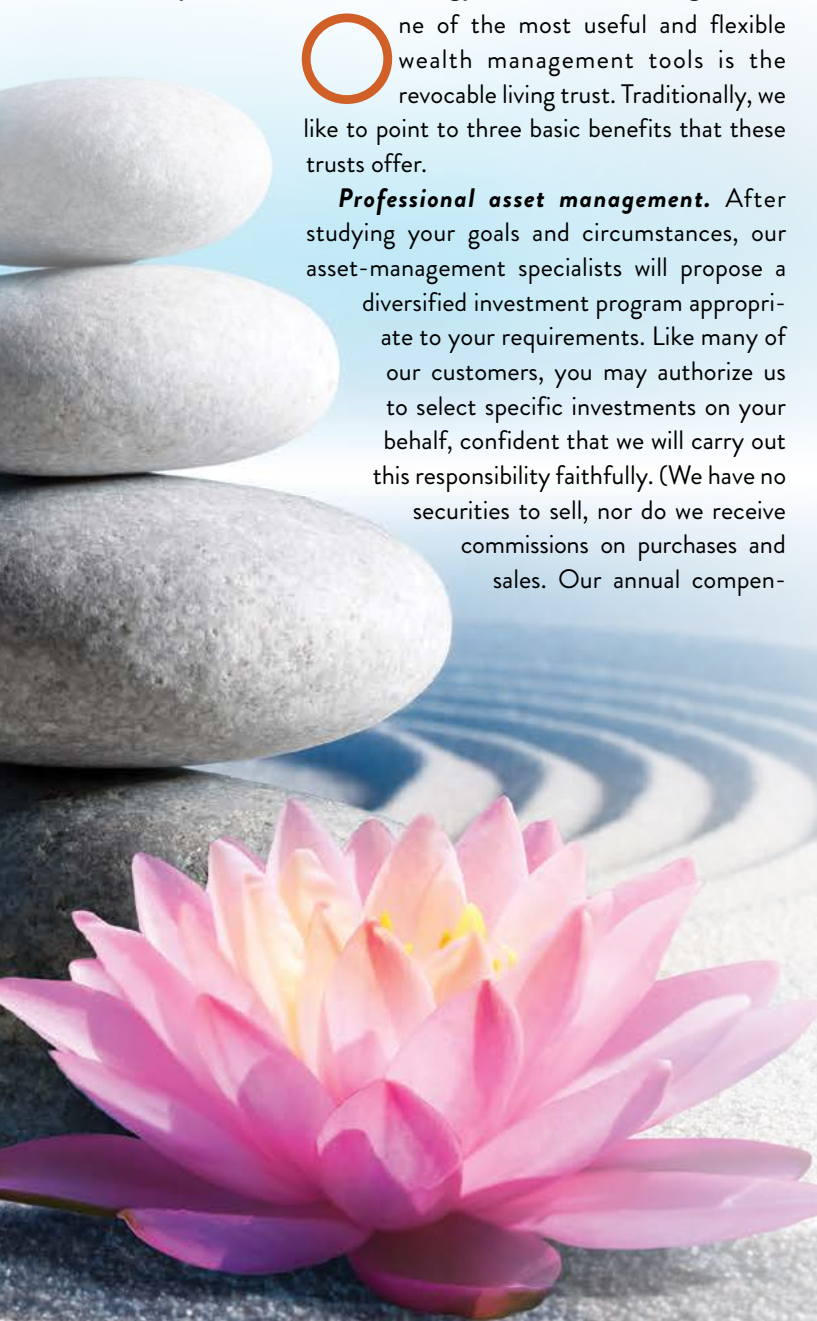
WE OFFER *Peace of Mind*

# WEALTH MANAGEMENT

Spring 2025

## Should you consider a living trust?

### The “peace of mind” strategy for wealth management



One of the most useful and flexible wealth management tools is the revocable living trust. Traditionally, we like to point to three basic benefits that these trusts offer.

**Professional asset management.** After studying your goals and circumstances, our asset-management specialists will propose a diversified investment program appropriate to your requirements. Like many of our customers, you may authorize us to select specific investments on your behalf, confident that we will carry out this responsibility faithfully. (We have no securities to sell, nor do we receive commissions on purchases and sales. Our annual compen-

sation is limited to the moderate fees that we charge as trustee.) Our objective is not only to add to your financial security, but also to give you more opportunities to enjoy it.

**Uninterrupted family financial protection.** A living trust agreement can instruct us to perform a wide variety of special tasks when the need arises. These tasks might be as simple as paying a world traveler’s quarterly estimated taxes while he or she is out of the country . . . or as complex as handling all household financial matters for a customer who has suffered a stroke and needs a housekeeper and nursing home care.

Older men and women often find this “future protection” aspect of our services especially attractive. With proper planning, living trusts can do much to avoid the financial management problems that arise during a prolonged period of incapacity—problems that might otherwise have to be dealt with by a court-appointed conservator or guardian of the estate.

**Probate avoidance.** Assets placed in a living trust are said to avoid probate because these assets are removed from your “probate estate”—the property controlled by your will. Trust assets are distributed to beneficiaries, or held in continuing trust, as you direct in the trust agreement. Thus, using a living trust as the core of an estate plan may lead to reduced settlement costs.

More important, delays are avoided.

For example, a married person’s living trust can simply keep operating, uninterrupted by estate-settlement procedures, for the benefit of the surviving spouse. Living trusts also help to keep estate plans private. Unlike probated wills, provisions for the distribution of assets contained in living trust agreements do not normally go on public record.

*Continued on next page*

## New perspectives

But living trusts can do more. Among the emerging benefits that have appealed to many:

**Minimizing identity theft.** The problem of identity theft has exploded in recent years. A funded revocable trust may have its own tax ID number, rather than using the settlor's Social Security number. In the event that the settlor's Social Security number is compromised, the trust assets will still be protected.

**Protecting aging retirees.** More and more retirements are lasting longer than 20 years, and more and more elderly are developing some level of cognitive impairment. A living trust can provide for successor trustees as the beneficiary's abilities decline. Checks and balances can be built into the plan, in the form of co-trustees or trust protectors. A care management plan might also be included, to provide annual or quarterly assessments of how the beneficiary is doing.

**Serving disabled loved ones.** A revocable trust may contain special-needs language to provide for an ill relative or incapacitated adult child. The trust may also provide for successor trustees should a caregiver become incapacitated.

**Asset protection in divorce.** If gifted or inherited assets are segregated into a trust, they won't be commingled with other marital assets. As such, those assets won't be vulnerable in a subsequent divorce proceeding.

Notwithstanding the decline in estate planning attributable to the increase in the federal exemption from estate taxes, the traditional and emerging benefits associated with revocable living trusts will make them an essential part of late-stage life planning for years to come.

## Checklist of potential living trust benefits

- ✓ Professional asset management
- ✓ Uninterrupted family financial protection
- ✓ Potential probate avoidance
- ✓ Family financial privacy
- ✓ Minimizing identity theft
- ✓ Protecting aging retirees
- ✓ Serving disabled loved ones
- ✓ Potential asset protection in divorce

## To get started

To set up a living trust with us, you give us your instructions in a trust agreement, prepared by your attorney, and transfer the stocks, bonds, investable cash, or other assets that you wish to place in your trust. Because the trust agreement is revocable, you can cancel the arrangement if you ever find it unsatisfactory. You also remain free to add assets, withdraw assets, or modify the terms of the trust.

Can resourceful management and responsive financial services eliminate

all threats to financial security? Not quite. There always remains an element of luck. But as a wise person has said, you can't just hope to be lucky. You have to prepare to be lucky.

We look forward to assisting you in your preparations.

## Seven factors for successful trusteeship

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.



# Accidental estate planning

## Beneficiary designations operate independently of wills or trusts

**P**robate is the process of winding up an individual's financial affairs. Retirement plans and life insurance policies usually operate outside the probate process because they have named beneficiaries. This is generally considered advantageous because it avoids delays for beneficiaries. However, just as the terms of a will should be reviewed from time to time for fidelity to the wishes of the owner, so should one's beneficiary designations. Overlooking outdated beneficiary designations creates "accidental" estate planning, and in many cases, leads to litigation. Here's a true recent example.

### The old girlfriend

Jeffrey Rolison was living with Margaret when he joined P&G in 1987 and began saving in the company's 401(k) plan. He named Margaret as his plan beneficiary in the enrollment papers. Two years later the couple broke up, reportedly because she wanted children and he didn't.

Jeffrey remained unmarried and childless throughout his life. He lived with a different girlfriend, Mary Lou, for several years, until 2014. During that time, he designated his mother and Mary Lou as beneficiaries of his life insurance. After his mother died, Mary Lou was the sole beneficiary.

P&G had moved the 401(k) plan online, but it did not transfer the beneficiary designations from the paper files. Instead, the company repeatedly asked participants to complete an online form to confirm or change beneficiaries. Jeffrey never completed the form. When he died in 2015, a few months before his planned retirement, his 401(k) account was worth \$754,006.56.

A contest ensued for that money. Margaret's claim was based on the original paper beneficiary designation. Mary claimed she had become Jeffrey's common-law wife and should inherit as a spouse, even though the relationship had ended before Jeffrey's death. The executors of Jeffrey's estate argued that because he had no relationship with either woman when he died, the money should go to his estate.

Last year, some nine years after Jeffrey died, a court ruled that Margaret was entitled to the money as the named beneficiary. Jeffrey had many opportunities to change that outcome, but for whatever reason, he never did.

### Points to remember about beneficiary designations

Whenever there is a major life change, such as a death or divorce, it is appropriate to review beneficiary designations, changing them as needed. Keep in mind:

**Backup beneficiaries.** Generally, one should name a contingent beneficiary (or beneficiaries) if the primary beneficiary dies prematurely, or if a beneficiary declines to accept the property for some reason.



**Takers in default.** In the absence of a valid beneficiary, the plan or other instrument may provide a default beneficiary, which may not prove appropriate in some circumstances.

**Estate taxes.** Assets such as retirement plan benefits are subject to federal estate tax even though they don't pass through the probate estate. If your estate will be large enough to owe federal estate taxes, it is important to consider how those taxes will be paid on non-probate property.

**Income taxes.** Making one's estate the beneficiary may have adverse income tax consequences. For example, when an individual inherits retirement assets, the income tax deferral ends ten years after the owner's death. If an estate inherits that same asset, the tax deferral ends after five years.

**Coordination with wills and trusts.** Each element of an estate plan must be evaluated in the context of the full inventory of assets.

Jeffrey died without making a will. A will provision generally will not override a valid beneficiary designation anyway, but if Jeffrey had consulted an estate planning attorney, the lawyer likely would have advised him to take steps to remove all ambiguity about his wishes. Perhaps he really did want Margaret to have this money; perhaps he thought his original paperwork should be sufficient. There was evidence that Jeffrey checked his 401(k) account several times in the months before his death, which persuaded the court that this was his intended outcome.

What about *your* beneficiary designations? How long has it been since you last reviewed them? Are they still optimal? Will your executor be able to quickly identify and notify those beneficiaries after your death? Checking up on beneficiary designations is a critical element of routine will review.



## 2025 could be a major year for estate planning

The year 2025 was destined to be one in which the federal estate tax was reviewed by Congress, given the looming expiration of the doubled exempt amount from 2017's Tax Cuts and Jobs Act. Most assumed that the debate would be whether to extend the current exemption of \$13.99 million per person. Instead, the debate may become whether to keep the federal estate tax at all!

### Could the federal estate tax be repealed?

On February 13, 2025, the Death Tax Repeal Act was introduced by Republicans in the House and Senate, with more than 200 supporters. The bill would entirely eliminate both the federal estate tax and the generation-skipping transfer tax. In the current draft, the federal gift tax would be retained and the current lifetime exclusion extended, so as to limit the opportunity for income shifting within a family. The gift tax rate would fall to 35%. Step-up in basis at death would be retained.

Despite the significant support for repeal in Congress, the prospects for the legislation are very uncertain. Federal transfer taxes do not raise much net revenue, but repeal would have to be seen as a "tax break for the rich." It would have to be evaluated in the context of additional tax measures under consideration. Many questions are yet to be resolved, including:

- Would death be a realization moment for capital gains?
- What effect would repeal have on existing formula clauses in marital and charitable bequests? Could surviving spouses be inadvertently disinherited?
- What effect would repeal have on existing Qualified Domestic Trusts and Qualified Terminable Interest Property trusts?
- What happens to dynasty trusts?
- The largest imponderable in repealing the federal estate tax might be projecting what happens if a future Congress decides to bring the estate tax back.

### An intermediate step

The Republican Chairman of the House Budget Committee, Rep. Jodey Arrington, has introduced the Estate Tax Reduction Act, which would cut the tax rate for the federal estate and gift tax in half, to 20%. Given the other tax cut promises made by President Trump during his campaign, might this approach be a useful compromise?

### NOTABLE

Let me rephrase the \$26.8 billion in taxes we paid last year.

If Berkshire sent a \$1 million check to the Treasury every 20 minutes throughout 2024—imagine 366 days and nights, since 2024 is a leap year—we'd still owe the federal government a substantial tax bill at the end of the year.

—Warren Buffett's 2025 letter to shareholders of Berkshire Hathaway

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