Trust UPDATE

CITIZENS BANK
A Bank Built For You

November 2021

Wealth management power tools

" FOCUSING ON PROBATE AVOIDANCE sells revocable trusts short. Their true benefit is as a means of managing finances during life and, critically, during incapacity."

—Brent Nelson, Rachel Sass, and Deborah Plum, "Revocable Trusts for Changing Times," Probate & Property, *September/October 2021.*

The monthly magazine Probate & Property is an essential information platform for attorneys who specialize in estate planning and real estate issues. The most recent installment verified the continuing importance of trusts for sound asset management by families of all wealth levels.

Trusts are not as mysterious as most people seem to think, and technological advances have made trust-based wealth management accessible to more and more families.

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.

What trusts can accomplish

In the last century one key motivator for trust planning was the management of federal estate tax exposure. While that objective is less important today for most families, that shifts the focus to the many other trust applications and benefits.

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.

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But that is just the start of potential benefits. Among the other objectives that trusts may target:

- 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.

Revocable living trusts

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.

The *Probate & Property* article noted above suggested that a simple revocable trust will provide valuable benefits at even modest wealth levels. "A trust provides a means of financial management that is not available in any other legal form in most states." With a living trust, a conservatorship or guardianship may be avoided. Financial institutions are more comfortable dealing with trustees than with the holders of powers of attorney. A trust may provide for a method of appointing successor trustees. Finally, the living trust generally avoids probate, which may greatly simplify estate administration and improve family financial security during a difficult time.

For additional trust approaches, see "Power Tool Inventory" below.

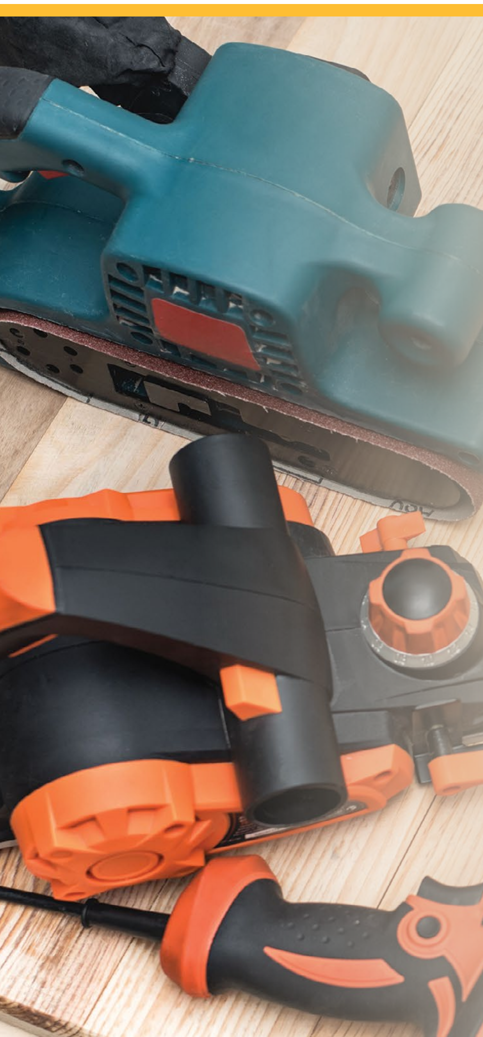
Work with the right trustee

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. ☐



POWER TOOL INVENTORY

Given the flexibility that comes with trust planning, no single vocabulary has emerged for describing the different types of trusts, but here are the generic descriptions. You need not choose only one. Wealth management plans with multiple trusts are becoming the norm.

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; professional asset management; 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
Dynasty trust	Descendants	May continue for generations; Avoids federal estate and gift taxes indefinitely
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

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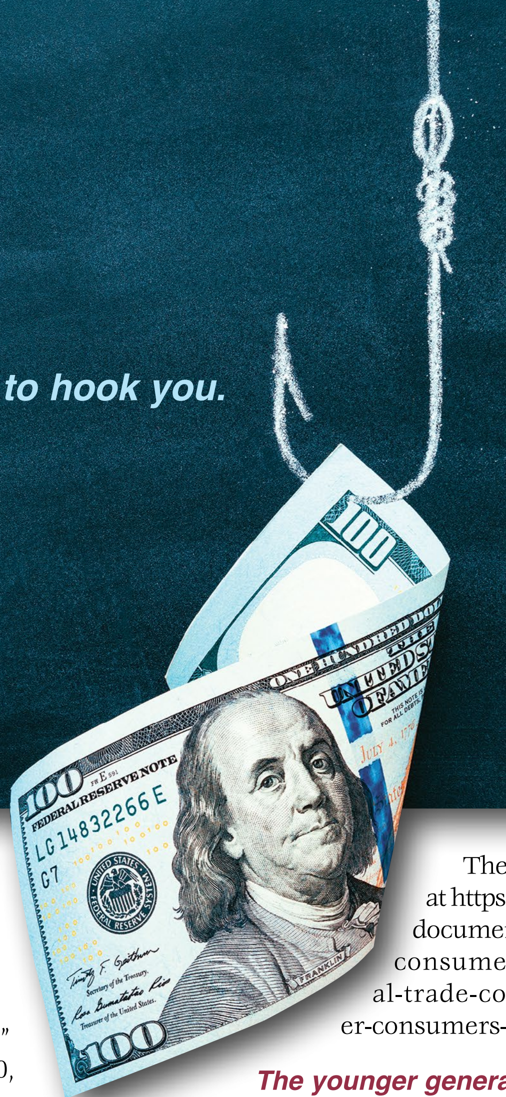
KEEP YOUR GUARD UP!

A simple scam could be waiting to hook you.

Con artists keep on coming



13 common scams monitored by the FTC

- Identity Theft
- Imposter Scams
- Charity Fraud
- Health Care Scams
- "You've Won" Scams
- Tech Support Scams
- Grandkid Scams
- Online Dating Scams
- IRS Imposter Scams
- Unwanted Calls
- Home Repair Scams
- Work-at-Home Scams
- Money Mule Scams

Source: https://www.ftc.gov/system/files/documents/reports/protecting-older-consumers-2020-2021-report-federal-trade-commission/protecting-older-consumers-report-508.pdf

Despite many years of publicity about scams, fraudsters show no sign of retreating. The Federal Trade Commission receives fraud complaints, and provides annual summaries of their responses. The agency's recent report, "Protecting Older Consumers 2020–2021," revealed that 4.8 million reports were filed in 2020, costing consumers $3.4 billion. However, the agency cautioned, because the majority of frauds are never reported the actual losses are likely far higher.

A few interesting take-aways from the report:

- Older adults (ages 60 and over) were the least likely of any age group to report losing money to fraud, as they were 48% more likely to file a no-loss report about a fraud they had spotted.
- Older adults continued to be much more likely than younger people to report losing money on tech support scams, prize, sweepstakes and lottery scams, and family and friend impersonation.
- Reports by older adults of losses to online fraud were the most frequent, but reported median individual losses were highest for frauds that started with a phone call.
- Online shopping frauds increased sharply during the pandemic, often from bogus online offers to sell N95 masks.

There were 26,528 reports of COVID-related frauds in 2020, with $104 million in reported losses. The most frequent type of COVID fraud involved online shopping, but the average losses for those were low. The costliest were the romance frauds, in which the scamsters explained their need for funds and their inability to meet in person by pointing to the COVID restrictions.

The full report is available online at https://www.ftc.gov/system/files/documents/reports/protecting-older-consumers-2020-2021-report-federal-trade-commission/protecting-older-consumers-report-508.pdf.

The younger generation is not immune

In another report, the FTC noted the sharp rise in cryptocurrency frauds. They received nearly 7,000 cryptocurrency scam reports in the last quarter of 2020 and the first quarter of 2021, 12 times the number reported over the same period a year earlier. The primary target was adults age 20 to 49, who had five times the reports of older age groups.

The average loss reported to the FTC is about $400. For cryptocurrency frauds in early 2021, the average was $1,900, a huge jump compared to a year earlier. Total losses reported by consumers were $80 million.

Scams include websites offering cryptocurrency investments that turned out to be false, as well as using cryptocurrency as the method of payment in more traditional cons. Celebrity impersonators have been used to lure the targets. Some $2 million was lost just to impersonators of Elon Musk.

About 20% of the money lost through the romance scam through October 2020 was paid in cryptocurrency, according to the FTC. Scamsters have also tied payment in cryptocurrency to the Social Security fraud. The targets are told that their Social Security card will be suspended because of some criminal activity or other reason unless a cryptocurrency payment is made.

The weapon that seems to be most effective in many of these scams is FOMO—the fear of missing out. But when it sounds too good to be true, it isn't true. ☐

Guidance on COVID retirement plan relief

A public school system has a pension plan that does not provide for in-service distributions, that is, one must be retired to begin receiving benefits. A number of individuals retired before the COVID pandemic began. Now the school system is experiencing a serious labor shortage as a result of the pandemic. Some of those individuals are willing to return to work at the school to help out, but they don't want to give up their pension payments. The school system would like to rehire those people to mitigate the labor shortage, but they are concerned about the possible effect on the tax status of the pension plan. The question is whether the earlier retirements were bona fide, because if they were not there will be an ERISA problem with the plan.

Good news for all parties may be found in an IRS FAQ released on October 22, 2021. A facts and circumstances test is used to determine whether a retirement is bona fide. According to the FAQ, "A rehire due to unforeseen circumstances that do not reflect any prearrangement to rehire the individual will not cause the individual's prior retirement to no longer be considered a bona fide retirement under the plan." If the plan terms permit, benefits may continue to be paid after the rehire. However, the plan sponsor should conduct a review of the plan to determine whether plan amendments might be needed to achieve the intended result in specific cases.

Cryptocurrency crackdown

The IRS is stepping up its efforts to address noncompliance related to cryptocurrency holdings and transactions. Financial interests in cryptocurrencies must be reported on Form 1040. An estimated 10 million to 15 million taxpayers are thought to have reportable transactions, but the Form 1040 reports fall well short of that.

Ryan Korner, the special agent in charge of the IRS Criminal Investigation division's field office in Los Angeles, spoke on the subject at the UCLA Extension Tax Controversy Institute on October 21. He reported that as of August 31, the IRS had seized $3.5 billion from cryptocurrency investigations, which represented 90% of all IRS seizures for the year. Of the 150 new cyber cases initiated in fiscal 2021, 80 are directly related to cryptocurrency.

The key question for deciding which cases to investigate, according to Korner: "Is the taxpayer's intent to hide assets or income using crypto, or does the taxpayer have some sort of legitimate purpose for their crypto holdings, such as investment?"

The IRS has issued John Doe summonses to cryptocurrency exchanges to obtain user records. This data is compared to Bank Secrecy Act databases and tax return filings to determine who is not filing as required, and who may be hiding assets. The Service is also working to identify anyone using cryptocurrency to buy gold or real estate. ☐

Utilizing life insurance, revocable living trusts, investment management accounts and more products, our Trust Division has a variety of options to help you preserve your assets for the next generation.

For more information, call (870) 793–4441.

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