

**Estate planning**

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for estate planning

# Trust UPDATE

**Stillman**  
BANK

March 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 compensation 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

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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.

### 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.

### 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

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.

### 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, invest-

able 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.

# Estate planning for art

According to a recent item in a professional publication [LISI Estate Planning Journal #3180], fine art is a major wealth component for ultra-high net worth individuals. The value of privately held art is estimated to be \$2.17 trillion, and it is projected to grow to \$2.86 trillion by 2026. The federal estate tax cost of keeping all this art in the family would be upwards of \$868 billion. Those with fortunes of \$50 million and up have an average of 25% of their wealth in their art collections, so estate planning for these assets is very important.

## Four key steps

The usual steps in developing a wealth management plan apply to art collections, but the stakes are much higher.

**Inventory.** A catalog of holdings is the essential first step to protecting an art collection's value. The catalog should identify the artist, the title of the artwork, the date it was created, and the date and how it was acquired. A description of each artwork, together with a photo of it, will help to identify each piece. Acquisition costs and the tax basis of each piece will be useful in financial planning.

**Appraisals.** A value must be placed upon each item in the collection. An appraisal should include the provenance of the piece, as well as its rarity, condition, and title. The appraiser selected for the job should have expertise in the type of art being evaluated. The appraisals must be well documented and defensible because the IRS has its own Art Advisory Panel to review the value of artworks worth more than \$50,000.

**Protection.** Specialized property and casualty insurance must be obtained for the collection, which

needs to be safeguarded from environmental risks, physical damage, and theft. Proper storage of the art may require temperature and humidity controls, as well as protection from light and dust. If restoration or cleaning is required, expert conservationists will need to be employed.

**Transfer.** These are the hardest questions for many collectors, who hope that their collections will be preserved and appreciated indefinitely. Who will receive the art collection in the future? Will it stay in the family or be donated to a museum? Or will the collection be sold? When will the transfer take place? What are the tax consequences?

## What about your estate?

Have you attended to planning for the disposition of your property after your death? If so, how long has it been since you reviewed those plans, adjusting them to meet changing

circumstances? If not, what are you waiting for?

The most difficult aspect of estate planning is not knowing what the future may bring, how the tax laws may change, what may happen in the economy and financial markets, or the path of family dynamics and circumstances. That's why estate plans should be reviewed periodically for their adequacy.

Estate planning is done by attorneys, not bankers or trust officers, yet we have considerable expertise in this area. Our job is settling estates, and in that role we have encountered a wide range of problems and solutions. If you have questions about estates and wealth management, we would be pleased to share our knowledge with you. Call for an appointment at your earliest convenience. □



## 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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