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PremierBank
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Beyond the ordinary investment account

Have you explored what you can do with a living trust?

In some respects, our personal trust service actually allows our clients to take BETTER CONTROL of their finances—more control than they could achieve without a trust.

Flexible living trusts are extraordinarily useful. The estate planning benefits, which generally include privacy and probate avoidance, are reasonably well known. As we see it, there's no better way to manage and conserve one's assets.

What a shame, then, that so many people fail to take advantage of trusts because of a fundamental misconception.

"I know I probably ought to set up a living trust," people will tell us. "But I don't want to lose control of my assets."

They're genuinely surprised when we show them how readily they can gain the benefits of a trust without any "tying up," and without any loss of control.

In some respects, our personal trust service actually allows our clients to take better control of their finances—more control than they could achieve without a trust. And we're talking about real living trusts, not the print-out-a-set-of-forms-and-do-it-yourself variety that so often prove inadequate or useless.

Let's start with the matter of keeping control.

You remain in charge

When our clients place investable assets in flexible trusts, they give us their instructions in an attorney-drawn trust agreement. Under the terms of that agreement, they retain the right to cancel the trust or change their instructions. Nothing's tied up.

From a practical standpoint, then, our trust clients maintain exactly as much investment control as they wish, just like the clients who have their personal investment accounts or IRAs with us.

Continued on next page

Typically, we provide professional management or guidance tailored to each trust client's needs and preferences.

In some cases, clients start off by managing their trust investments themselves—instructing us what they wish to buy or sell from time to time—while reserving the right to delegate this responsibility to us in the future.

Always, our role as trustee is to do exactly what our trust clients have instructed us to do. There's no doubt whatsoever about who's in control. If any client ceases to be satisfied with our services, he or she is perfectly free to terminate the trust or employ another trustee.

Which brings us to our second point . . . .

Improved control

Our living trust clients don't simply keep control. In certain respects they gain *more* control—greater control then they would enjoy if they weren't taking advantage of our personal trust services.

For instance . . . .

- ***Greater freedom from financial chores.*** As a living trust client, you can free yourself to travel (or spend all your waking hours with your new grandchildren) by arranging to have household bills paid from your trust. If you wish, we'll even see to the preparation of your annual income tax returns and pay your quarterly estimated taxes from your trust's income.

- ***More effective planning.*** "Keeping control" isn't an end in itself. To further your personal and family goals, you need to use that control effectively. As a living trust client, you have access to informed, responsive, financial planning assistance. Whether you're looking to fund the grandchildren's college educations or to support a favorite charity, we can help you select the methods that make the most sense—and perhaps improve your tax picture too.

- ***A strong adjunct to your will.*** A living trust may provide for beneficiaries just as a will does. The will may direct estate assets be added to the trust; outright gifts may be made from the trust; or assets may be held in further trust for certain beneficiaries. Thus, the living trust enables more flexible estate planning strategies. And trusts have another important advantage over wills—they are harder to attack by disappointed beneficiaries.

In case of a medical setback

No one can escape the risk of incapacitating illness or injury. In the event of incapacity, others must necessarily take control of your finances. Even so, a living trust allows you to pass control to a trustee of your choice—us, we hope. And in your living trust agreement, you establish the ground rules concerning how you want things handled.

Without a trust—and related arrangements, such as giving someone your power of attorney—it's the probate court that decides who takes over in the event of incapacity. And the only ground rules are those set forth by impersonal law.

Like to learn more?

We've heard people who like to stay on top of things referred to as "control freaks." Well, as you've just seen, control freaks will find a lot to like in a well-planned living trust. If you would like to learn more about our personal trust services and how they might help you do more with your financial assets, we invite you to meet with us in person.

We look forward to discussing your goals and requirements. ☐

Five reasons to take advantage of our living trust service

Planning to set up a living trust? Already have a trust of the self-trusteed variety? Here are good reasons to place your trust in our care:

1. Reliability. We understand the special responsibilities of a trustee. All trust funds in our care are safeguarded by both internal and external audits.

2. Experience. Trusteeship is our business.

3. Responsiveness. Financially successful individuals and their families expect personal attention and responsive service. We deliver.

4. Objective investment guidance. Unlike investment advisors who are compensated mainly by sales commissions, we earn our reasonable trustee's fee by providing our trust clients with unbiased, personalized guidance.

5. Convenience. From bill-paying to retirement planning, we can provide or obtain just about any convenience or special service that our trust clients desire.

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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 more formally known, 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. John will instead receive cash equal to the value of 100 shares of IBM.
7. Grandfather's will provides "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.

A *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 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 paid according to the policy terms, not a will that was made later.
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. ☐

Fraud and taxes

Dennis Gomas inherited a pet food business from his brother in 2010. Dennis lived in Florida, and the business was in New York, which made supervision difficult. When a key employee was discovered stealing inventory and selling customer lists to a competitor, Dennis fired her and moved the business to Florida in 2014. He then put his wife's daughter from an earlier marriage, Suzanne Anderson, in charge of the business.

Dennis and his wife retired in 2016, turning over all the business assets to Suzanne. She began to operate the business out of her home.

In 2017, Ms. Anderson reported to Dennis that his former New York employees had committed frauds using his personal information, and that he needed to hire a lawyer right away to avoid being arrested. She recommended Attorney Anthony Rickman, who needed $125,000 to start working on the case. Dennis agreed, and gave her the money. And then still more money. He overlooked the red flag that he had never met the attorney personally, that all communications ran through Ms. Anderson. Ultimately, some $2 million was withdrawn from the Gomas' retirement accounts for the purported attorney's fees, and income taxes on the withdrawals were paid in full.

In 2019, six friends of the Gomas family alerted them to the fraud. Attorney Rickman was contacted, and confirmed that he was not involved in any way. The police were called; Ms. Anderson was arrested after an investigation; she was convicted and sent to prison for 25 years.

Tax consequences?

To mitigate the loss, Mr. and Mrs. Gomas filed an amended tax return for the 2017 tax year. They sought to remove from their income the $1,174,020 in IRA and pension distributions that were transferred to Ms. Anderson, and asked for a refund of the $412,259 in income taxes that they had paid on the distribution.

They lost again.

A deduction for a loss due to theft has been allowable in the year the loss was discovered. However, that rule was suspended for the period from 2018 through 2025. Accordingly, the couple offered alternate theories for excluding the distributions from income. They argued that the payments were for business expenses—but there was no business; they were already retired. Had Ms. Anderson forged their names on the distribution checks, they might have had a chance, but they willingly turned the money over to her.

The Court concluded: "In view of the egregious and undisputed facts presented here, it is unfortunate that the IRS is unwilling—or believes it lacks the authority—to exercise its discretion and excuse payment of taxes on the stolen funds. It is highly unlikely that Congress, when it eliminated the theft loss deduction beginning in 2018, envisioned injustices like the case before this Court." ☐

Protect Your Legacy

Our wealth management experts are here to serve you. Learn about the ways **PremierBank's** seasoned wealth management professionals can take the stress and worry out of the equation by becoming your trusted advisors. Contact us for an appointment today.

- Trust and Estate Administration
- Investment Management
- Financial and Retirement Planning
- Estate Probate
- Will and Trust Safekeeping
- Retirement Accounts for Individuals & Small Businesses

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