

Your Masthead

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 Title

Conserving and Controlling Your Estate with Trusts

Help Preserve Privacy, Avoid Probate, Manage Estate Tax Liability

Dealing with the financial matters relating to your estate is hardly a pleasant task, but it's usually necessary to consider — or reconsider — what might happen to your loved ones and/or your property after you are gone.

If the instructions you leave behind are outdated or unclear — or assets such as a home or business must be sold to pay estate taxes — your heirs could pay a price.

One way to help manage your estate is through the use of trusts. A trust is a legal entity structured to hold assets that are transferred to it, and designed to control the distribution of the proceeds according to guidelines established by the trust grantor. Assets placed in a trust may avoid probate, a legal process that can be costly and time-consuming. The contents and conditions of a trust are also kept private, unlike a will, which is often made public after probate.

Despite what you may have heard about the privileged lifestyles of trust-fund babies, some

Federal Estate Tax in Flux

Year	Exemption amount	Top tax rate
2007–08	\$2 million	45%
2009	\$3.5 million	45%
2010*	\$0 or \$5 million	0% or 35%
2011–12	\$5 million	35%
2013**	\$1 million	55%

*The federal estate tax was repealed in 2010 as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001. The 2010 Tax Relief Act reinstated the federal estate tax retroactively to January 1, 2010, for taxable estates over \$5 million at a 35% rate. The estates of people who died in 2010 could choose to calculate federal estate taxes using either the 2001 or the 2010 tax laws.

**Assumes the federal estate tax reverts to pre-2001 levels in 2013.

trusts are not only for the wealthy. Here's a closer look at how trusts work and how some common trust arrangements could help with estate conservation.

MEET THE PLAYERS

Several parties are usually involved in a trust. The person who owns the property and sets up the trust is the *grantor* (or *trustor*). The person or institution designated to manage and distribute the assets is the *trustee*. The person or institution for whom the trust operates is the *beneficiary*.

In certain cases, it is possible for a person to be the trustor, the trustee, and the beneficiary of a trust simultaneously.

DIFFERENT STROKES

When deciding on a trust strategy, it's important to take your personal and financial circumstances into account.

Some key factors you may want to consider:

- How you want to provide for a surviving spouse, children, or other heirs
- The overall value of your estate

- Whether your estate could be subject to federal or state taxes upon your death
- The desire to preserve a family business

OPEN TO CHANGE

A properly structured **revocable trust** may replace a will as a family's primary estate distribution document. It can usually be amended or revoked by the grantor, as long as he or she is competent.

Because it is revocable, this type of trust generally cannot be used to reduce exposure to estate taxes or protect against creditor claims. It may be used to help maintain privacy, avoid probate costs (which may consume as much as 5% of an estate's value), place conditions on inherited assets, help provide for a person with special needs, and for other purposes.¹

FIXED FOR A REASON

Assets held in an **irrevocable trust** are typically removed from the grantor's estate and thus are not included when calculating estate tax liability. This type of trust may also help protect against creditor claims.

Ownership of property placed in the trust must be relinquished permanently, although the grantor may continue to benefit from it. One drawback is that once an irrevocable trust is in place, it usually cannot be amended or revised, except in rare circumstances.

Certain types of irrevocable trusts can be used to help enhance the benefits of charitable giving.

Most types of assets can be owned by a trust, including real estate, investment accounts, life insurance policies, and valuable personal property such as jewelry, art, and antiques.

WHAT'S NEXT?

Setting up a suitable trust may help prevent family strife and preserve the wealth and privacy of your heirs during a stressful time.

Because the use of trusts can involve a complex web of tax rules and regulations, you should consider the counsel of an experienced estate planning professional before implementing a trust strategy.

1) *2011 Field Guide*, National Underwriter

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