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# Delivering WEALTHCARE

JULY 2013

## Are Trusts Still Valid Estate-Planning Tools?

Trusts are often viewed as estate-planning tools used to reduce estate taxes. With the large estate tax exclusion amount (\$5.25 million in 2013), does that mean that trusts are no longer needed for estate planning purposes? The answer is probably not. Trusts are established for many purposes, not just to reduce estate taxes. Some of the more commonly used trusts include:

**Revocable living trust** — This trust is established for reasons other than the reduction of estate taxes. With a revocable living trust, ownership of assets is transferred to the trust while you are alive. You can keep any or all of the income, act as trustee, change the trust's provisions, or terminate the trust. A successor trustee can be named to take over if you become mentally or physically disabled. Assets in the trust are controlled by the trust agreement and are not subject to probate proceedings, which is considered one of its major advantages.

**Bypass or credit shelter trust** — Generally, this trust is used to ensure both spouses take advantage of the estate tax exclusion amount without directly transferring assets to other beneficiaries until both spouses have died. Assets equal to the estate tax exclusion amount are placed in trust after your death.

Your spouse may then use the income and, in certain circumstances some of the trust's principal, with the remaining assets transferred to your other beneficiaries after your spouse's death. Now that portability of the unused estate tax exemption has been made permanent, surviving spouses can use the

unutilized portion of a predeceased spouse's estate tax exclusion amount without a trust. However, individuals with very large estates or those who want to control the ultimate distribution of their estate may still find this trust useful.

**Qualified terminable interest**  
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## Changes in Estate Taxes and Planning

On January 2 of this year, President Obama signed into law the American Taxpayer Relief Act (TRA 2013). In addition to preserving the Bush Administration income tax rates for most people (while raising the highest rate), it also made a handful of significant changes to the federal estate and gift tax provisions. Here's a summary of those changes.

**Estate tax changes** — Without the new law, federal estate taxes were due to revert to an exemption of \$1 million — down from \$5.12 million in 2012, and the maximum tax rate was set to increase from 35% to 55%. That would have made for a larger number of estates subject to federal taxes.

Instead, TRA set the exemption at \$5.25 million (to be increased by inflation in the future), while raising the maximum estate tax rate to 40%.

**Gift tax changes** — TRA 2013

maintains the unity of gift and estate taxes. In other words, the extent to which you make tax-free gifts over your lifetime reduces your estate tax exemption. Otherwise, the new tax law made the same changes in gift taxes as it made in estate taxes. The lifetime limit on tax-free gifts is \$5.25 million per donor (\$10.5 million for married couples) in 2013, indexed to the annual rate of inflation. The gift tax rate was raised from 35% to 40%.

**"Portability" of the estate tax exemption** — TRA 2013 made permanent the "portability" of the estate tax exemption, which President Obama signed into law in 2010 and was scheduled to expire at the end of 2012. Portability refers to the automatic transfer of any portion of the deceased spouse's estate tax exemption to the surviving spouse, without the use of a credit-shelter  
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## Are Trusts Still Valid?

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**property (QTIP) trust** — This trust is typically used when the spouse wants to control the use of any remaining assets that are not placed in the bypass or credit shelter trust. Assets that are not placed in the credit shelter trust are placed in the QTIP trust. Income from the trust is distributed to the surviving spouse during his/her lifetime. This qualifies for the unlimited marital deduction, so estate taxes will not be paid after the first spouse's death. After the surviving spouse's death, the principal is distributed to beneficiaries designated by the first spouse. This trust is often used to protect children from a previous marriage or to ensure that if a surviving spouse remarries, his/her new spouse does not inherit any of the assets.

**Irrevocable life insurance trust (ILIT)** — This trust is used to ensure that the proceeds from a life insurance policy are not subject to estate taxes. Often, the insurance policy is obtained to help pay estate taxes with the policy held by the irrevocable trust. Annually, you can make gifts to the trust so the trustee can pay the policy premium. After your death, the trust receives the insurance proceeds, distributing them in accordance with the trust's terms. With the large estate tax exclusion amount, you may wonder whether ILITs are still a valid estate-planning strategy. Even if the proceeds aren't needed for estate tax purposes, you may find other uses for the proceeds, such as leaving larger bequests to beneficiaries or charitable organizations. Deciding whether to set up a new ILIT is a tougher decision. You should first analyze all relevant factors, including your views about the future of the estate tax.

**Charitable remainder trust** — Typically, this trust is used to provide a large charitable contribution while avoiding a large capital gains tax bill. You transfer an asset to the trust, typically one with a low basis that has appreciated significantly.

## Time to Review Your Estate Plan

Estate plans should be reviewed periodically to ensure that their objectives are still being met. And now, with major changes in the tax code that affect estates, it's important that you revisit your estate plan as soon as you can.

In general, here are guidelines as to why and when you should take another probing look into how you can best pass your assets to your beneficiaries and charities of your choice.

**Tax laws change** — The tax law passed at the beginning of the year made estate tax provisions permanent, with the estate tax exemption amount set at \$5,250,000 for 2013 (subject to changes for inflation in the future) and the maximum estate tax rate at 40%. Without reviewing and redesigning your estate plan in view of these changes, it's almost a certainty that should you or your spouse die this year, there will be some unplanned consequences and missed opportunities. And none of this even takes into account any new or proposed changes in any state inheritance tax you may be subject to.

**Asset values change** — Even more dramatic than the state of the U.S. tax code, asset values have undergone their most dizzying changes since World War II. As a

result, the total value of assets in estates and funded trusts may have shrunk or expanded significantly and may now be way out of tune with the new unified credit exemptions.

**Life changes** — Are you and your spouse earning the same amount of money and in the same health as you were the last time your estate plan was finalized? Are you still married to the same person? Do you still have the same number of children and heirs? Such changes may happen as often as several times a year, and if you have a backlog of changes not yet reflected in your plan, there's no good reason to wait any longer.

**Causes change** — If charitable giving is part of your plan, there are several reasons it may need to be updated. The causes you want to support may have changed, new charities may have arisen that interest you, or the financial state of the charities you support may have become more dire or more flush.

Despite the fact that an estate plan deals with your passing, to be consistent with your wishes and concerns, the best guideline is to consider it a living document that needs periodic reassessment. Please call if you would like to discuss this in more detail. ■■■

Since the trust is a tax-exempt organization, it can then sell the asset without paying any capital gains taxes and reinvest the proceeds. You receive an immediate charitable contribution deduction equal to the present value of the property the charity will receive when the trust is terminated. You also receive the income from the trust, with the principal going to the charity after the trust terminates.

**Qualified personal residence trust** — With this trust, you place your home or vacation home in an irrevocable trust, retaining the right to live in the home for a specified

number of years. When the trust terminates, ownership passes to your beneficiaries. The gift tax value is determined on the date the house is placed in trust, by calculating the present value discounted over the trust's term. If you die before the trust ends, the home is included in your estate at its fair market value. Since present value calculations are used to determine the gift's value, this trust allows you to leverage the use of your lifetime gift exclusion.

If you'd like to discuss trusts in more detail, including how they may fit in your estate plan, please call. ■■■

## Changes in Estate

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trust (also known as an A/B or bypass trust), subject to the discretion of the executor of the estate.

For example, let's say a husband dies this year with \$6 million in assets. He leaves \$4 million to his wife and \$2 million to his children. His wife receives her \$4 million free of estate taxes, and that amount isn't counted against the husband's \$5.25 lifetime exemption; only the \$2 million he left to his children is. If his executor elects portability, the remaining \$3.25 million of the husband's exemption can be transferred to his surviving spouse's estate. That means she can pass an estate valued at \$9.0 million (the full value of her \$5.25 million exemption plus her husband's unused \$3.25 million) to her heirs free of estate taxes without the use of a trust.

Despite portability, in some cases a credit shelter trust may still be beneficial. For example, if there is a long period of time between the death of the husband and that of the surviving spouse, it's possible that the value of the husband's assets could grow to an amount that exceeds the combined exemptions. Creating and funding a credit shelter trust with some or all of the husband's assets would provide greater assurance that the wife could pass on her entire estate with minimal or no federal estate taxes.

It's a good idea to review your estate plan for any amendments you might need to make in view of these changes. It's also important to remember that inheritance can trigger additional taxes at the state level and these often change independently of federal changes. What's more, with the federal government's fiscal condition as the focus of contentious debates in Washington, it's possible Congress and the president will make more changes to the tax code this year that could affect estates.

Please call if you'd like to discuss this topic in more detail. ■■■

## What to Do When You Have Your, My, and Our Children

It's not news that American families don't look like they did on 1950s sitcoms: a mother and father who married for life and raised their two and a half biological children to adulthood. With our divorce rate at 50%, remarriage by half of those, and a growing number of same-sex parents, the "typical" family includes a mix of biological children of both spouses.

This new "typical" family creates challenges to estate planning. Not only does it involve delicate issues as to who gets whose assets and how much, but it can also entail unwinding prior estate entanglements. Here's a checklist of steps you should take.

- **Create a new financial plan.** Estate plans are only as good as the financial plan they're based upon. A financial plan establishes your goals for all members of your immediate family. It also requires you to take full inventory of all your assets — what kind they are, their current value, and in whose name they're held. You also need to create a "plan within a plan" that takes into account assets held by or for the benefit of all your children from all your marriages.
- **Confirm prior beneficiary decisions.** Review what your obligations and wishes are to support your ex-spouse and any of his/her children or any of yours who you still want to remain as beneficiaries of your estate.
- **Update your current beneficiaries.** If you participate in a company retirement plan, own an IRA or annuity, or are covered by a life insurance policy, you need to add as beneficiaries any recent additions to your family. You also need to subtract any who no longer apply, like your ex-spouse. If your ex-spouse remains the owner of an insurance policy, be sure that it was stipulated that way in your divorce decree (if

not, fix it).

- **Close or retitle any preexisting joint accounts.** Be sure that any bank, brokerage, or mutual fund accounts you held jointly with your ex-spouse are appropriately retitled.
- **Decide who will get what from whom.** Do you and your current spouse agree to provide joint assets to either set of children from a prior marriage? Neither of you may want to pass on significant amounts of your own assets to the other's children, especially if they're independent, mature adults. It's essential that both you and your new spouse are fully comfortable with your joint decisions.
- **Create a new will and trusts.** These are your most important estate documents; and once you've remarried, you need to revisit them. A new will is essential, as is the replacement or recreation of trusts. You're stuck with any irrevocable trusts you established that named your prior spouses and your children from that marriage. But if you've created any revocable trusts to provide for your ex-spouse and children from another marriage, now may be the time to undo them and replace them with trusts for your new family. For people in their second (or later) marriage, there can be advantages to creating a qualified terminal interest property trust. Called a "QTIP" trust, it was specifically designed for couples in their second or later marriages. It enables you to designate assets your current spouse can tap into for income while he/she is alive, but avoid passing on to his/her children by a previous marriage after he/she dies.

Please call if you'd like to discuss this issue in more detail. ■■■

## Business Data

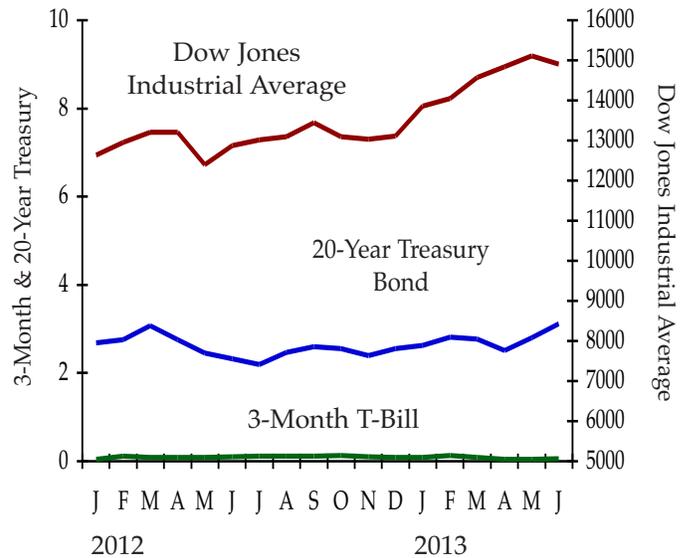


Indicator	Month-end				
	Apr-13	May-13	Jun-13	Dec-12	Jun-12
Prime rate	3.25	3.25	3.25	3.25	3.25
3-month T-bill yield	0.05	0.05	0.06	0.09	0.10
10-year T-note yield	1.73	1.99	2.33	1.80	1.64
20-year T-bond yield	2.51	2.80	3.11	2.56	2.32
Dow Jones Corp.	2.44	2.67	3.18	2.70	3.14
GDP (adj. annual rate)#	+3.10	+0.40	+1.80	+0.40	+1.90

Indicator	Month-end			% Change	
	Apr-13	May-13	Jun-13	YTD	12 Mon.
Dow Jones Industrials	14839.80	15115.57	14909.60	13.8%	15.8%
Standard & Poor's 500	1597.57	1630.74	1606.28	12.6%	17.9%
Nasdaq Composite	3328.79	3455.91	3403.25	12.7%	16.0%
Gold	1469.00	1394.50	1192.00	-28.3%	-25.4%
Unemployment rate@	7.60	7.50	7.60	-2.6%	-7.3%
Consumer price index@	232.80	232.50	232.90	1.2%	1.3%
Index of leading ind.@	94.40	95.10	95.20	1.9%	-0.6%

# — 3rd, 4th, 1st quarter @ — Mar, Apr, May Sources: *Barron's*, *Wall Street Journal*  
Past performance is not a guarantee of future results.

## 18-Month Summary of Dow Jones Industrial Average, 3-Month T-Bill & 20-Year Treasury Bond Yield January 2012 to June 2013



## News and Announcements

We have been actively working with the Ronald McDonald House over the past few years, providing meals at both their Denver and Aurora locations. We would like to continue that tradition in 2013 and are once again looking to you, our valued client, for a helping hand. Beginning on the first Saturday in July and continuing every month after that, we will be hosting a meal at one of the Ronald McDonald Houses. For the past 30 years, the Ronald McDonald House has provided a second home for families of children being treated at area hospitals. Providing a home-cooked meal is just a small way that we can help those families in need.

We would like to invite you, your family, and friends to come and help us serve that meal. Julie and I will do all of the planning and shopping. Preparation for dinner begins around 4:30 and breakfast at 8:00. We will serve the families "buffet style" and then cleanup usually takes less than thirty minutes to finish and begins after an hour of serving.

We have reserved the following dates:

### Aurora House Dinner –

**Preparation at 4:30, Dinner at 6:00**

Saturday, July 6

Saturday, August 3

Saturday, September 14

Saturday, October 12

Saturday, December 7

### Aurora House Breakfast –

**Preparation at 8:00, Breakfast at 9:00**

Saturday, November 2

If you wish to join us, please let us know which of these dates would be more convenient for you. We will also post the schedule on our website at [www.stordahlcapital.com](http://www.stordahlcapital.com).

We thank you in advance for your help and support of these special families. We feel like this is a small but wonderful gesture to help those going through extremely difficult times.

We look forward to hearing from you.