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Insuring Bank Accounts owned by Revocable Trusts

Many individuals know that the Federal Depository Insurance Corporation ("FDIC") insures up to \$100,000 of aggregate deposits (other than retirement accounts) held in one bank by one depositor.

As a result, if one wished to deposit significant amounts in a bank and obtain insurance protection, one had two options: (1) deposit only \$100,000 in any given bank, resulting in many banking relationships, or (2) create distinct titling on accounts to extend coverage at one bank beyond \$100,000. The Internet makes banking at multiple institutions no longer as burdensome as it once was, although the efforts to "juggle" among many banks remain. Therefore, the second option of distinct titling has become very common.

For example, a bank account in the sole name of John Smith is distinct from a bank account in the name of John Smith payable on death to Jane Smith. With these designations, Mr. Smith may deposit up to \$200,000 at one bank with full insurance protection. Unfortunately, this may frustrate one's estate planning, especially if it includes a living trust. Trust planning, if properly executed, avoids probate and provides for successor beneficiaries if the primary beneficiary does not survive. Payable on death designations seldom have successor beneficiaries, thus making them undesirable in many cases.

Fortunately, bank accounts titled in the name of a living trust can obtain FDIC insurance protection, although the protection amount is based not on the trust maker, but rather, the trust beneficiaries. For example, if Mr. Smith's trust names his wife and two children as beneficiaries, his trust may have fully insured deposits up to \$300,000, at one bank. Based on these rules, trusts can remain in the forefront of one's planning. A wealth of useful information on FDIC insurance can be found at www.fdic.gov or by contacting our office to review or update your estate plan.



Did you know...

that the federal estate tax of 45% presently applies to estates exceeding \$2 million in assets? Absent congressional action, the estate tax exemption is scheduled to increase in 2009 to \$3.5 million, with no death tax due for deaths in 2010. The law, though, in 2011 reverts back to the 2001 estate tax exemption of \$1 million with a 55% estate tax rate.

While many individuals at first glance may not be concerned about this tax, it is worth noting that life insurance is also often subject to the estate tax, meaning that the estate tax could apply in many not-so-obvious situations.

With this tax exemption amount changing over the next several months, a review of one's estate plan is certainly warranted.



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IRS Alert!

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- The IRS does not initiate taxpayer communications through e-mail. In addition, the IRS does not request detailed personal information or personal identification numbers or similar secret access information for taxpayer credit card, bank or other financial accounts through e-mail.
- The IRS recommends that taxpayers do not open any attachments to questionable e-mails, which may contain malicious code that will infect one's computer.

Taxpayers are also encouraged to report misuse of the IRS name, logo, forms or other IRS property to the Treasury Inspector General for Tax Administration toll-free at 1-800-366-4484.

Questions or comments? Please email us at: jkeleske@trustedcounselors.com or call (813) 254-0044

Saving for College with 529 Education Plans

In less than twenty years, the cost of an average four-year college education is expected to exceed \$115,000 for public schooling and \$250,000 for private schooling according to a recent poll by *College Trends*. These projections are certainly startling for most parents as they ask a common question: "How will we be able to afford a college education for our children?"

Fortunately, federal legislation has created a tax-friendly form of saving for college, commonly referred to as the 529 Plan. Every state has enacted legislation to authorize the use of 529 Plan assets in their colleges. Individuals generally may deposit annually \$12,000 (up to \$60,000 at one time to cover five years of gifts) into a special type of investment for the education of the beneficiary, typically one's child or grandchild (although the beneficiary could be any person). Most state 529 Plans allow an individual to contribute, in the aggregate, over \$200,000 per beneficiary, though consideration should be given to the federal estate and gift tax ramifications of such contributions.

529 Plans offer a number of distinct advantages over traditional forms of college savings, such as Uniform Transfers to Minors Act ("UTMA") accounts and irrevocable trusts. With UTMA accounts, when a beneficiary reaches age 21, he or she would be able to withdraw all of the funds in the account to use as he or she wishes. The possible use of custodial assets for undesirable purposes may be addressed with the implementation of an irrevocable trust. However, in either case, the funds are subject to ongoing income tax.

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By contrast, contributions to a 529 Plan grow free of federal income tax for as long as the funds remain in the Plan. Historically, these Plans were often criticized due to limited investment options that resulted in mediocre performance, thus negating the advantage of tax-free growth. Over time, though, with increased popularity and the ability for individuals to invest funds in Plans of any state (regardless of residence or desired school location), 529 Plan investment options have become much more varied, resulting in worthwhile investment returns.

A unique feature of the 529 Plan is that the account owner remains in control of the account. The owner may change the beneficiary from one person to another and may determine when withdrawals are taken and for what purpose, although such changes may be subject to tax consequences. In addition, the account owner may withdraw funds at any time for any purpose whatsoever; however, the earnings portion of such a withdrawal would be subject to income tax and an additional 10% penalty.

With the owner having control of the account while funded, one should consider naming a successor owner in the event of death or disability. A successor owner could include a revocable trust, a spouse or a trusted person capable of carrying out the owner's intentions, namely, ensuring that the Plan assets are invested appropriately and used for the beneficiary's higher education needs. In every case, the selection of a successor owner should be coordinated with the account owner's personal estate planning to ensure that his or her wishes are met.

Converting a Sole Proprietorship to an LLC

As sole proprietors, business owners enjoy the advantage of simplified tax reporting. However, sole proprietorship status exposes a business owner's personal assets to the risks and liabilities of his or her business operations.

Florida Statutes allow a sole proprietor to conduct business as a limited liability company (commonly referred to as a "single-member LLC"). LLCs generally provide for protection of the owner (or "member") for business debts and liabilities. Of course, this protection does not relieve a member of responsibility for personal actions or personally guaranteed debts. Personal assets, however, would be protected from ordinary business transactions.

A distinct advantage of using a single-member LLC is that Treasury Regulations allow a business owner to continue reporting for income tax purposes as a sole proprietor, despite forming an LLC entity under State law. In other words, the use of a single-member LLC will not require the filing of a separate tax return for the business.

The use of a single-member LLC does have its drawbacks. Aside from formation expenses, the distributive share of an LLC is "earned income" and subject to social security taxes, which is identical to the payroll tax obligation on income earned by a sole proprietor. This obligation can be reduced, although not eliminated, if the LLC member files an S-corporation election. In that event, a separate income tax return for the business becomes necessary. Finally, the State of Florida imposes modest initial and annual filing fee requirements.

A sole proprietor should consider the advantages of the liability protection from LLC status against the initial formation costs related to the conversion. For many owners, achieving a level of liability protection will likely merit the expense of converting to an LLC.



Is a Pet Trust Advisable for You?

For several years, the Florida Statutes have authorized the use of trusts to provide for the care of one's pets. The existence of a pet trust can mean the difference between life and death for a pet when its owner becomes incapacitated or dies. Because the owner knows the needs of his or her pet better than anyone else, he or she can specify in writing the type of care desired.

While a pet trust does not need to be funded during the owner's lifetime, an appointed caretaker will not be able to carry out his or her duties without funds set aside for this purpose in the event of the owner's incapacity. Therefore, the use of a pet trust during lifetime may be warranted, or at a minimum, upon death of the pet owner.

Pet trusts may be established for any animal or pet including dogs, cats, birds, horses and fish. When you meet with us to review your existing estate planning, we can discuss the best way for you to make sure your beloved pet has its needs met.