

ALPINE PERSPECTIVES

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ALPINE FINANCIAL ADVISERS, LLC

Utilizing Trusts To Optimize Your Financial Planning.

True or False: the best estate planning advice is to die before your last check bounces.

This maybe true for those who choose to spend every last penny , but for most of us estate planning is an important and necessary exercise. Utilizing trusts is the “estate planning” subset of providing you with comprehensive financial planning. Your financial planner should have a general grasp of the concepts of using trusts for estate planning purposes, and he/she should know when to bring in an estate planning attorney to advise on the technical, legal, and tax aspects of trusts. Trusts can be used to protect wealth by legally deferring taxes as assets are passed from one generation to the next, and can also be used to efficiently distribute wealth to heirs.

Here are some general rules to be followed when creating a trust in the U.S.

- The purpose of the trust must be legal.
- There must be a subject of the trust, i.e. an asset.
- There must be a person that establishes the trust—usually called a settlor or grantor.
- There must be a trustee who is willing to assume duties assigned to him/her.

Simply stated a trust is a legal arrangement where the legal ownership of assets are separated from the beneficial enjoyment of the assets. The legal ownership is vested in the trustee and the beneficial ownership is conveyed to another—usually

the beneficiary. The beneficiary can be the settlor of the trust or a third party. It is not uncommon for the settlor of the trust to name herself as trustee of the trust, maintaining legal ownership of an asset she already owned but for the benefit of another individual. Trusts created while the settlor is living are called living trusts, or inter vivos trusts, while trusts set to begin upon death of the settlor are called testamentary trusts usually established by the settlor’s will. One of the most useful aspects of a trust is that it creates legal obligations that are well understood by law, while allowing the settlor flexibility in setting how those obligations will be carried out as per the trust document. As long as the basic legal requirements are meant, there are virtually no limits as to what the terms of the trust document can dictate. Upon the execution of a trust, possibly many years after its creation, courts will attempt to determine what was the intent of the creator of the trust, and then enforce these desires. Trustees have a fiduciary relationship with both the trust and the beneficiaries. Trustees must place the interest of the trust above their own as well as the named beneficiaries. It is not unusual for litigation to result in disputes between trustees and beneficiaries, while the courts will generally side with the trustee unless beneficiaries can clearly demonstrate an abuse of discretion.

Trusts have widely been used by the insurance industry. Trusts have been created to be legal owners of life insurance policies for the purpose of shifting the ownership of highly valued assets. By removing these assets

from a decedent’s estate, the tax impact can be mitigated for the benefit of the estate’s heirs.

While the alphabet soup of trusts: GRITS, GRATS, GRUTS, QPRT, (metaphors), can be intimidating, the primary focus of these estate planning strategies are to reduce or defer estate and or gift taxes. The small scope of this newsletter prevents a thorough discussion of these estate planning strategies, but if you have, or will have significant wealth and wish not to see Uncle Sam seize a large portion of your hard earned capital, engaging with your financial planner as well as qualified professional estate planning attorney can result in a significantly reduced tax liability.

Recently there has been an increase in the use of trusts by business entities. Several advantages in organizing a business as a trust versus a corporation are: lower organization fees, a higher degree of privacy, the avoidance of probate and double taxation.

Estate planning is an exercise for individuals of nearly all income levels...it is not restricted to only high net worth individuals. Nobody should have to pay too much tax to soon.

The Tax Man

If you drive a car, I’ll tax the street

If you try to sit, I’ll tax your seat

If you get too cold ,I’ll tax the heat

If you take a walk, I’ll tax your feet

Roth IRA Conversion—Is It Appropriate For You?

If you currently have a regular IRA, the IRS has opened a limited time window in which individuals can convert a regular IRA to a Roth IRA. Many taxpayers have been able to convert their traditional IRA to a Roth IRA since Roth IRAs were created in 1998. However, income limits and other restrictions have kept many taxpayers from converting. The overwhelming reason to convert a regular IRA to a Roth IRA is if you believe your tax bracket will be higher in the future. What events could make you pay higher taxes in the future? The following is non-comprehensive list:

- You will pay off the mortgage on your home and lose this interest tax deduction.
- You will lose the yearly federal tax credit when your children become independent.
- When you retire you will lose the interest deduction on contributions to your employers defined contribution plan, 401(k), 403(b).
- The U.S. Government (as well as state and local governments) increase income taxes to pay for fiscal irresponsibility.

To qualify for a Roth conversion in 2009, your adjusted gross income can't exceed \$100,000, whether you are single or married. If your income is too high, be patient. Income limits on Roth IRA conversions disappear in 2010, so anyone can convert to a Roth IRA. Better yet, if you wait until then, you can spread the tax bill over two years, splitting it between your 2011 and 2012 tax returns. The Roth IRA also gives you more flexibility than you'll have with a traditional IRA. Notably, you won't be required to take mandatory distributions from a Roth at age 70 1/2, as is the case with traditional IRA assets. That's a huge boon if you don't expect to need your IRA assets during retirement; you can allow

those investments to grow and pass on a greater amount to your heirs. And while it's never ideal to tap your retirement savings prior to retiring, the Roth is a much better option than a traditional IRA should you need to do so. If you convert to a Roth and five years have elapsed since you made the conversion, you can withdraw the converted amount, plus any additional contributions, prior to age 59 1/2 and you won't have to pay taxes or penalties. The other compelling argument for an IRA conversion is that you may take less of a tax hit by converting within the next year or two than you might when the market goes back up. That's because you'll pay tax on any deductible contributions and any investment earnings. If your portfolio has taken a big hit over the past year, the investment-earnings component of your IRA is way down, which in turn reduces the taxes you'll owe. If you have a loss in your IRA, it's possible to claim a loss, but it's not the same as taking a loss in your taxable accounts. You must withdraw all assets from that IRA type, and IRA losses can't be used to directly offset ordinary income or capital gains. Instead, IRA losses are part of the miscellaneous itemized deductions you claim on schedule A of your form 1040. These deductions must amount to 2% of your adjusted gross income or they won't be usable.

Prime candidates for conversion:

1. In general, the younger you are, the more beneficial a conversion will be. That's because you'll have more years to recoup the tax hit. That's not to say a conversion should automatically be off the table if you're nearing or even in retirement, though. If it's fairly early in your retirement, longevity runs in your family, and you won't need to put your hands on your IRA assets for five years or even more, a conversion may well

be worth it because you'll have a good shot at recouping the tax hit. Moreover, if you're already retired and taking Social Security, converting to a Roth could reduce the tax you pay on your Social Security income. Although the conversion could bump up the amount of Social Security benefits that are taxable in the year you do the conversion, the conversion could reduce your Social Security tax in subsequent years. That's because Roth distributions don't factor into the calculation that the IRS uses to determine which Social Security benefits are taxable.

2. You're also a good candidate for a Roth conversion if you've primarily made non-deductible contributions in the past, because you won't owe taxes on those non-deductible contributions--only your investment earnings and deductible contributions will be taxed upon conversion.
3. You should also look at an IRA conversion if you have amassed a large estate. There are a few reasons why. First, as I noted earlier, the Roth doesn't require mandatory distributions, thereby allowing your assets to compound and increasing the amount you can pass to your spouse or heirs. The second key reason relates to estate tax. Because you've already paid tax on Roth assets, the overall nest egg that you pass to your heirs will be smaller under the estate tax system, and therefore could help to reduce your estate-tax liability. The traditional IRA assets, by contrast, will be included in your estate-tax liability, even though your heirs will have to pay taxes on those assets.