FINANCIAL DECISIONS
Winter 2019
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A Primer On Setting Up a Trust Fund

Trust funds used to be the realm of the wealthy, providing a tool to pass money to heirs and charities. Nowadays, though, they are becoming a means for more people to engage in smart estate planning.

Trusts are legal arrangements allowing you to put assets into accounts that benefit another person or an organization, like a charity or college. They are often complicated and require a lawyer to draft the trust agreement.

The basic idea is to control who gets your assets, either when you're alive or afterward. A trust can help you lower estate taxes and avoid probate, the often-arduous legal procedure that proves a will is valid.

First Steps. As you set up a trust, you need to settle a few key questions:

1. What assets go into the trust: stocks, bonds, mutual funds, cash or property?

2. Who are the beneficiaries, meaning the people who receive the trust's benefits?

3. Who will be the trustee, the person who manages the assets and oversees the trust? The best thing is to appoint someone you know, who also is familiar with your financial situation and your beneficiaries. Plus, this person should be financially astute, and knowledgeable about taxes and investing.

4. How will assets be invested and managed, and when will they be paid out? For instance, you might not want your children to receive the benefits until they're 35, as an established adult.

5. What is the duration of the trust, and under what conditions will it end operations? Is it paid out over time, or all at once?

6. Can its conditions be changed? Some trusts are irrevocable, meaning they are chiseled in stone. Others are revocable, meaning for instance you can shift the beneficiary to be your daughter instead of your younger brother.

7. What stipulations do you want? Maybe the money will go to your son for everything except paying off his creditors. Or your daughter, but not your son-in-law if she should die.

Beyond these considerations, it's wise to find a good, experienced estate attorney. The lawyer will craft a document called a declaration of trust, which will set up the trust fund and establish its conditions.

Timing. Next, the trust fund is registered with the IRS, allowing it to file its own tax returns and legally open financial accounts at banks or other

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The More Things Change...

As many of you reading this already know, we have some big news to announce...

On December 31st, Linda Schoenthaler will transfer her ownership share of Financial Decisions to Florence Dupont and Kenneth Gutwillig, who will now jointly lead the company which Linda founded in 1991.

No, Linda is not going anywhere. She will come into the office three days a week, and will continue providing direction and guidance to our clients and to the FD team, just as she always has. She feels that this transaction is the timely and natural evolution of Florence and Ken's roles within the company, as both have been minority owners since 2004.

So as they say, the more things change, the more they stay the same. We look forward to seamlessly continuing to provide the same exemplary, personal level of service and expertise that our clients have come to expect.

And more big news... On January 1st, Krystina Brown will be made a Partner of Financial Decisions, in recognition of her 14 years of incredible service to our clients, our firm, and our profession. Again, you might not notice any major changes, but we expect great things from her in the future as a leader of Financial Decisions.

Happy holidays and here's to a fruitful and peaceful New Year 2020!

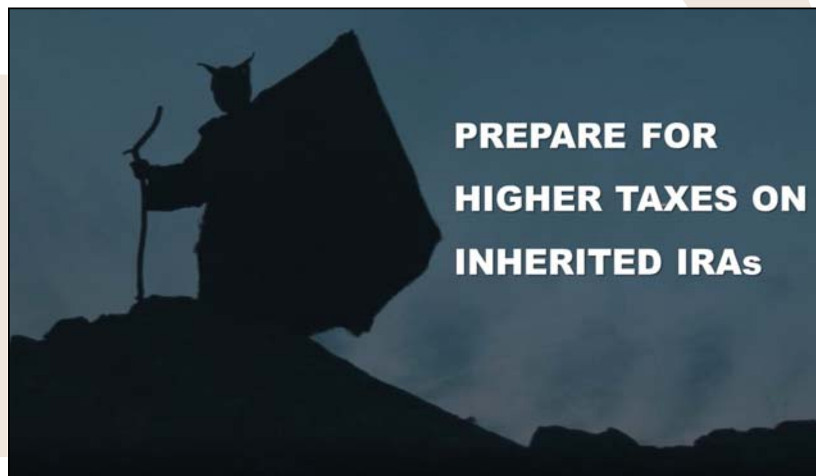
Florence Dupont, Ken Gutwillig,
and Linda Schoenthaler

Prepare For A Sweeping New Law On Retirement Account Taxes

A sweeping new law changing retirement investing tax rules was passed by the House of Representatives on May 29th. It's expected to be passed by the Senate and has the support of President Donald J. Trump. Although the legislation has not yet been signed into law, individuals with retirement accounts should consider how its enactment will affect them and their beneficiaries. Here's what you need to know now:

Secure Act Misnomer. The legislation is referred to as the Secure Act. Often buried or unmentioned in coverage is the full name of the legislation, "Setting Every Community Up for Retirement Enhancement Act of 2019."

Kills Stretch IRAs. A popular strategy for stretching tax deferral would be eliminated by the proposed law. The legislation's sweeping changes would kill stretch IRAs and represents a move to higher taxes on IRA beneficiaries. Non-spouse beneficiaries of Individual Retirement Accounts (IRAs) would no longer be permitted to defer taxes on payouts of inherited IRA over their expected lifetime. Under current rules, you could leave an IRA to your children and your heirs who can take distributions from that IRA based on their life expectancy. This allows those inheriting IRAs to stretch deferral of taxes over many decades, and the IRA account compounds without being taxed in this period. Under the proposed change, heirs would be required to distribute an inherited IRA over 10 years.



Exceptions. The proposal carves out an exception for minors — 18 or 21 in most states — until they reach the age of majority, and then they would be required to distribute the assets in the IRA over 10 years. A surviving spouse, those who are chronically ill or disabled are among those not affected by the new 10-year payout rule.

Beginning Date Of Required Minimum Distributions (RMDs). The new law would push back the age at which you must begin withdrawing money from an IRA. Under current law, you are required to begin taking distributions on the 1st of April following the year you turn age 70½. Under this new statute, that's going to be pushed back to age 72.

Stay Tuned. Waiting till the legislation is signed into law may not leave enough time to adjust your plans and minimize taxes for yourself and loved ones, and the legislation makes changes so sweeping and so new that its effects on long-term financial plans are still being researched. Please watch this space to learn details about ways to shield yourself and your beneficiaries from higher taxes on IRA payouts. Tax planning requires a qualified tax professional and personal attention. This is an early warning about an important issue affecting strategic long-term tax planning and not intended as tax or legal advice. ●

What's The Step-Up In Basis Worth?

When you're developing an estate plan for your family, several elements factor into the equation, including a lot of tax ramifications—which may include both estate taxes *and* income taxes. They're not mutually exclusive and, in fact, they're often intertwined.

A case in point is the so-called "step-up in basis" on inherited assets. That can be a reason to keep some assets in your estate rather than trying to reduce the estate's value.

Slimming down an estate, particularly by making gifts to family members during your lifetime, is often a good idea. However, there's a marital deduction that normally allows you to leave unlimited assets to your spouse free of estate tax, while transfers to other heirs are sheltered by a generous individual estate tax exemption that's inflation-indexed. Each person can shield $11.58 million from estate and gift taxes in 2020, from $11.4 million in 2019.

Meanwhile, if you sell real estate or other assets before you die, you'll owe capital gains tax on your profits. The maximum tax rate on a long-term gain (on assets you've held longer than a year) is 15%, or 20% for investors in the top ordinary income tax bracket. In addition, you may be liable for a 3.8% surtax on net investment income (NII), including capital gains, that exceeds an annual threshold. That adds up to a possible effective tax rate of 23.8% on capital gains at the federal level.

But if you bequeath appreciated assets to your heirs, they can largely avoid capital gains taxes. Those taxes are calculated according to how much the price has gone up from your "basis" in the asset—basically what you paid for it, subject to adjustment. When you die, the basis of the assets your heirs receive is "stepped up"—increased to their value on the date of your death. That eliminates tax liability on the appreciation of the assets

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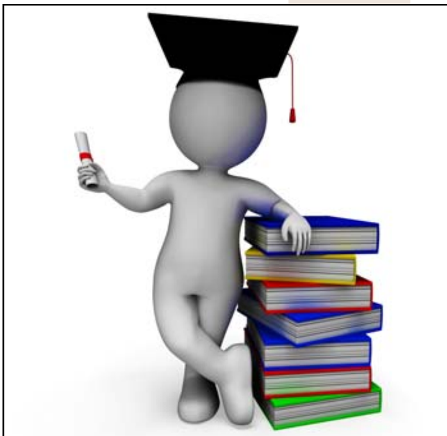
HSA Or FSA: Which Is Better For Medical Savings?

Health insurance deductibles and co-payments, plus uncovered items like your child's braces, can put a dent on your bank account.

That's why flexible spending and health savings accounts, where you put money away tax-free to pay for out-of-pocket health-care expenses, are generally good ideas. What's better, the saved money from an FSA and an HSA lowers your reported taxable income, just like contributing to a retirement account. Which is the best for you, though, an FSA or an HSA?

First let's look at how they are constructed. You sign up for these health accounts during your employer's open enrollment period. You also can enroll if you have a "qualifying life event," such as a change in marital status, a new child, or the death of a spouse or dependent. And if you take a new job, you can sign up within 30 days.



Not all employers offer both an FSA and an HSA and, usually if they do, you can't get into both. If you have a choice, knowing the differences is important. Among other things, you can put more money into an HSA and roll it over into a new year. But an FSA lets you take money out even before you have contributed it.

Flexible spending accounts. For 2019, the maximum contribution you can make is $2,700, and this rises to $2,750 in 2020. That's not a lot, but if your spouse has health coverage, he or she can take out another FSA.

A big downside is the use-it-or-lose-it rule. Should you fail to spend all the money in your fund by year-end, you lose it. As a result, you have to estimate how much you'll need to set aside in the coming year.

Companies do have the option of giving employees until March 15 to spend leftover money or even keep up to $500 for the next year. Many don't do that, though.

The good thing is that you can start spending the whole sum you designated for the year ahead on Jan. 1, even though your contributions are spread over the coming 12 months. Leave the job and you can't take the money with you, as you would with a retirement account—or an HSA.

Health savings accounts. The advantage here, of being able to sock away more money and not forfeiting the unused amount on Dec. 31, is considerable.

In 2019, a single person can save $3,500 in an HSA and in 2020, $3,550; a family $7,000 and $7,100. Further, if you're 55 and older, you can put in an extra $1,000 as a catch-up. In addition, self-employed people can create an HSA for themselves, but not an FSA.

But HSAs have their weaknesses. To set one up in 2020, your health plan needs to have a yearly deductible of $1,400 for an individual and $2,800 for a family. That's a bit steep.

Regardless, either plan can be a boon tax-wise. Utilizing FSAs and HSAs are best considered within a strategic tax plan, which is technical and depends on your personal circumstances. We're here to help with any questions. ●

during the time you owned them. Of course, those assets have to be in your estate to qualify for that benefit, but the generous exemptions for estates will help your heirs avoid estate taxes, too.

Consider this example. Tom, a resident of Florida, bought an apartment building for $900,000 that is currently worth $2.2 million. If Tom sells the building now, he must pay an effective tax rate of 23.8% on a $1.3 million capital gain, or $309,400 (23.8% of $1.3 million). But what if he keeps the property and leaves it to his heirs? The basis of the property is stepped up to the full $2.2 million, and they'll owe capital gains taxes only if it appreciates further before they sell it. What's more, the estate tax exemption means they won't owe estate taxes on their inheritance.

Note that Florida doesn't have a state income tax. If Tom resided in a high tax state, such as California or New York, the savings would be even more pronounced. ●

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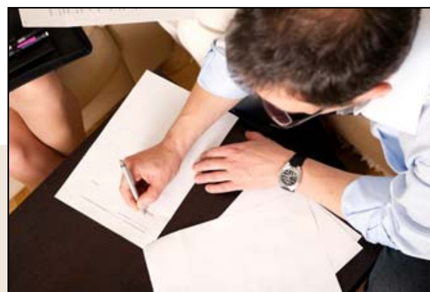
Why Turn Down An Inheritance?

Sometimes you just have to say no, even when saying yes might benefit you financially. Suppose you're in line to receive an inheritance —shouldn't you welcome it with open arms? In some cases there can be good reasons to turn down the money, using a "qualified disclaimer."

Why would you ever *not* take an inheritance? The best reason is to save your family money on taxes. By using a qualified disclaimer, the assets bypass your estate and go to the next beneficiary or beneficiaries. This enables you to preserve your personal estate tax exemption to use in other ways. In addition, in many states a disclaimer may be used to avoid claims of creditors.

The combined personal exemption for estate and gift taxes is $11.58 million in 2020, an amount that is indexed to inflation and normally increases every year. That gives most people plenty of wiggle room. But for those whose wealth exceeds that amount or who have already used up part of the exemption, estate and gift taxes may still be a major concern. In addition, most money you might want to transfer to grandchildren will be subject to the generation-skipping transfer tax (GSTT). The GSTT exemption is the same as the estate and gift tax exemption.

If you were going to pass along assets you've inherited to the younger generation at some point anyway, the disclaimer expedites matters. The money ends up with the contingent beneficiaries named by the person who was leaving you the inheritance without ever touching your hands.



To qualify under the strict legal definition of a qualified disclaimer, the document must meet these requirements:

- It must be made in writing and signed by the disclaiming party.
- It must identify the property, or the disclaiming party's interest in the property, that is being disclaimed.
- It must be delivered, in writing, to the person or entity charged with the obligation to transfer the assets (i.e., the executor).
- It must be written less than nine months after the date the property was transferred or the transferor's date of death.

Note that you can't alter who will receive the property you're disclaiming. For instance, if the contingent beneficiaries are your nephews and nieces, you can't redirect the money to your own children. The designations made by the person who made the bequest control where the money goes.

Also, you can't disclaim property once you've accepted it. For example, if you receive money and use a small portion to pay for funeral arrangements for the decedent, you can't disclaim the inheritance afterwards.

Although future changes in the tax code might discourage the use of disclaimers, for now this is still a viable technique. Be sure to consult with your legal and financial advisors about any inheritance you may receive. ●

Setting Up A Trust Fund

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institutions. Then, you transfer the assets into the trust, a process called retitling.

Do you want the trust to take effect now or at your death? And should it be revocable or irrevocable? The argument for revocable is that you can alter the agreement if circumstances change for you or your beneficiary. The case for irrevocable is if you want to earmark the assets to support an activity whose necessity won't likely change, such as educating a child or supporting a charity.

The question of how long the trust will stay around, before its last assets are paid out, is a tricky one. Common law is structured against letting trusts persist indefinitely. But many states let you get around that by setting up a so-called dynasty trust, which permits the wealth to grow for a long time without being taxed.

Types of Trusts. Aside from whether the trust is revocable or not, its structure can be very complex and carry advantages and disadvantages. Some examples:

- Generation-skipping trust, aka a dynasty trust. This lets you transfer money tax-free to beneficiaries who are two generations younger than you. The goal is to avoid the assets being taxed twice: once when they go to your grown children, and again when that generation passes the assets along to their own kids — namely, your grandchildren.
- Bypass trust. Here, you bequeath an amount up to the estate tax exemption (in 2020, that's up to $11.58 million from a single giver or double that from a couple). The rest goes to your spouse tax-free. After your spouse dies, you can stipulate that what's left goes to the kids.
- Qualified terminal interest property (QTIP) trust. This is best at singling out which particular relatives to direct your largesse to. A QTIP is often helpful in families where there are divorces, remarriages and stepchildren. Your surviving spouse can receive income from it, and once that spouse dies, the remaining principal goes to specific younger relatives.

For you, the donor, creating a trust fund gives you peace of mind that the legacy you want to leave is well-constructed and wisely directed. This article is not intended as personal advice, but rather as an educational resource about planning techniques available when working with a financial professional. ●

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