Standalone Retirement Trusts: A Crucial Component of Estate Planning

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For many of our clients, the majority of their wealth is held in IRA's and other retirement accounts. When it comes to inheritance and estate planning, special considerations are necessary to ensure that these assets are protected, distributed according to our clients' wishes, and income taxes are minimized. It is critical to have knowledge of all the options available for retirement asset transfer, in order to best serve your client's needs.

As you know, retirement assets are typically passed via beneficiary designation to named individuals outright. In certain scenarios, however, it is advantageous to name a trust—rather than a particular individual—as the designated beneficiary. Once retirement accounts become inherited by a non-spouse beneficiary, the IRS treats this inherited retirement account differently.

Specifically, once inherited, the beneficiary is obligated to begin taking required minimum distributions (RMD's) from such funds within a more immediate time horizon of either five years or over the beneficiary's life expectancy (known as the "stretch"). The goal in planning for inheriting retirement assets is to maximize the stretch so that the tax-deferred, long-term growth benefits of retirement accounts are maximized. Trusts can serve as an appropriate conduit to protect and preserve these assets.

Not all trusts are created equal, and naming a living trust as the beneficiary of these accounts may have drawbacks, including a more fixed distribution schedule and the lack of creditor protection. Even worse, the IRS may disallow the stretch, resulting in the assets becoming immediately taxable income. Enter the standalone retirement trust (SRT).

The SRT is a specific type of trust that, upon the death of the account holder, is designed to allow retirement assets to grow tax-deferred while also protecting the inheritance from future creditors of the beneficiary. Thus, when considering an SRT, we should keep three main goals in mind:

1. We want to "maximize the stretch" and allow for the tax deferral that retirement accounts provide. The primary benefit of these accounts is that they can grow tax-free. When these assets are transferred to a beneficiary, special planning is needed to preserve this tax-deferred status. Otherwise, assets will be taxed upon transfer and remove the primary

growth benefit of such savings. This also keeps the assets within the realm of professional management, rather than being dissipated by beneficiaries.

2. We want to provide creditor protection. In light of the recent Supreme Court case, Clark v Rameker (2014), inherited assets are not shielded from creditor claims in bankruptcy proceedings. Rather, they may be treated as income and assets of the beneficiary, and thus, may be claimed by creditors. To protect these assets from creditors, SRTs provide a wall of separation between trust assets and a beneficiary's creditors.
3. We want to provide structure for how retirement funds may be used. Naming a beneficiary directly limits this structured distribution option, as the beneficiary will have full rights over and access to the funds, inheriting them as income. If one names a trust as beneficiary, the trust can contain stipulations concerning disbursements.

Anyone whose clients have retirement accounts should be aware of the benefits of SRT's. The standalone retirement trust can have a large, foundational role in their estate plan- along with a will, revocable living trust, power of attorney, and health care documents.

In whatever way you choose to address this sensitive subject with your clients and their families, remember that we are here to help, from a full review of their current estate plan to offering guidance on how to include their loved ones in a family vision for their estates.

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For more on information on how we can help, or to schedule a meeting with our attorneys, please contact Beth Wurtmann, Marketing Director, at 518-459-2100.