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Why you and your family might need a living trust

The rich and famous use trusts, and you can, too!

Remember when “hidden treasure” resided in chests buried by pirates? Today’s precious assets may be invisible to the naked eye until retrieved from a hard drive.

Case in point: *Pirate Latitudes*, an adventure yarn set in Jamaica in the 1600s, found in computer files left by author Michael Crichton.

Although Crichton is best remembered for *Jurassic Park* and other techno-thrillers, in 1975 he wrote another historical adventure, *The Great Train Robbery*. HarperCollins will publish *Pirate Latitudes* in November, reportedly with a print run of 1 million copies in the U.S.

Crichton died last fall of throat cancer. Five times married, he left a prenuptial agreement, a living trust . . . and a potential estate melodrama. More on the melodrama in “The omitted child” on page two, but first, here is what is known at this date about the John Michael Crichton Trust:

It is a revocable living trust created in May 1998.

It has been amended three times.

That’s all.

We have no indication of the size of the trust or who the beneficiaries are.

Crichton’s will was filed with the probate court, but one lawyer observed, “The main significance of this probate is really to nominate who’s going to be in charge. There are really no assets in this estate; it’s all in the trust.”

Among the many reasons for having a living trust, *financial privacy* is likely the

most important for celebrities such as Crichton. However, there are more advantages to be considered.

You remain in charge

When our clients place investable assets in flexible trusts, they give us their instructions in an attorney-drawn trust agreement. Under the terms of that agreement, they retain the right to cancel the trust or change their instructions at any time. Nothing is tied up.

From a practical standpoint, then, our trust clients maintain exactly as much investment control as they wish, just like the clients who have their personal investment accounts or IRAs with us. Typically, we provide



Living trusts, pros and cons

Although a living trust may not be right for everyone, the advantages are impressive.

Potential advantages	Potential disadvantages
Professional asset management	Planning expenses—a lawyer is required to draft the trust plan
Avoidance of guardianship	Ongoing administration expenses, though these need to be compared with other similar investment management accounts
Probate avoidance, which is especially useful if assets are owned in more than one state	Inconvenience of having a separate legal entity own and manage assets—this problem disappears if a corporate fiduciary is chosen
Financial privacy for the estate plan and the beneficiaries	
Continuity of investment management at death	
Uninterruptible financial protection at the death of the grantor	

Source: M.A. Co.

The omitted child

Michael Crichton's last will was signed in October 2007, a bit more than a year before his death. The will specifically disinherited his ex-wives and called for the enforcement of the prenuptial agreement made for his surviving spouse. The will also included a strong no-contest clause and disinherited any person who might claim to be an heir.

However, Sherri Alexander Crichton, the surviving spouse, was pregnant at the time of Michael Crichton's death. Although the will might be interpreted to disinherit that child also, California law includes special provisions for children who are born after testamentary documents are signed, and that provision may override the will.

Sherri Crichton has hired high-profile lawyers to pursue the infant's statutory claims to his father's estate. As Crichton was a prolific author, there could be enormous sums at stake. In situations such as this, the privacy seal of the living trust may be broken in a court fight.

Living trust . . . *continued*

professional management or guidance tailored to each trust client's needs and preferences.

Always, our role as trustee is to do exactly what our trust clients have instructed us to do. There is no doubt whatsoever about who is in control. If a client ceases to be satisfied with our services, he or she is free to terminate the trust or employ another trustee.

Improved control

Our living trust clients don't simply keep control. In certain respects, they gain more control than they would enjoy if they weren't taking advantage of our personal trust services.

For instance . . .

- **Greater freedom from financial chores.** As a living trust client, you can free yourself to travel (or spend all your waking hours launching your new Internet company) by arranging to have household bills paid from your trust. If you wish, we'll even see to the preparation of your annual income tax returns and pay your quarterly estimated taxes from your trust's income.

- **More effective planning.** "Keeping control" isn't an end in itself. To further your personal and family goals, you need to use that control effectively. As a living trust client, you have access to informed, responsive financial planning assistance. Whether you're looking to fund the grandchildren's college education or to support a favorite charity, we can help you select the methods that make the most sense — and perhaps improve your tax picture, too.

No one can escape the risk of incapacitating illness or injury. In the event of incapacity, others must necessarily take control of your finances. Even so, a living trust allows you to pass control to a trustee of your choice. In your living trust agreement, you establish the ground rules concerning how you want things handled.

Without a trust and related arrangements — such as giving someone your power of attorney — it's the probate court that decides who takes over in the event of incapacity. And the only ground rules are those set forth by impersonal law.

Put our experience to work for you and your family

If you would like to learn more about our personal trust services and how they might help you do more with your financial assets, we invite you to meet with us in person.

We look forward to discussing your goals and requirements. □

401(k)s under fire

When Section 401(k) was added to the Internal Revenue Code in 1978, proponents of this new retirement plan choice thought that it would prove to be a useful “extra,” a supplement to traditional retirement plans. The 401(k) plans relied primarily on employee initiative for voluntary saving, and investment management responsibilities rested on employees as well. Thus, the 401(k) plan was a fairly low-cost add-on to employee benefits menus.

It turned out to be a very popular one. For a mobile work force, the portability of 401(k) account balances was important. Employer matches encouraged more participation. At the same time, the costs and complexities of traditional defined benefit pension plans reduced their attractiveness from the employer perspective. The result: As the graph shows, gross assets in 401(k) plans have overtaken those in traditional pensions.

Setbacks

However, making investment decisions is much more enjoyable when the financial markets are going up than when they are collapsing. By one estimate, the average 401(k) fund balance fell 31% from the end of 2007 through March 2009, when stocks reached a low point. What’s more, at least 250 companies suspended their 401(k) matching programs this year, according to a *SmartMoney* report. Of course, employees prefer to keep their jobs, even at the cost of retirement plan contributions, but it does seem like a double blow.

The result is that a number of reform proposals have been floated that could have important long-term effects on private retirement plans. Congress has plenty of other work to do as well, but 401(k) plan participants need to stay aware of political developments.



The number:
\$5,000

The additional amount that you may be able to contribute to a retirement account each year after you reach age 50.

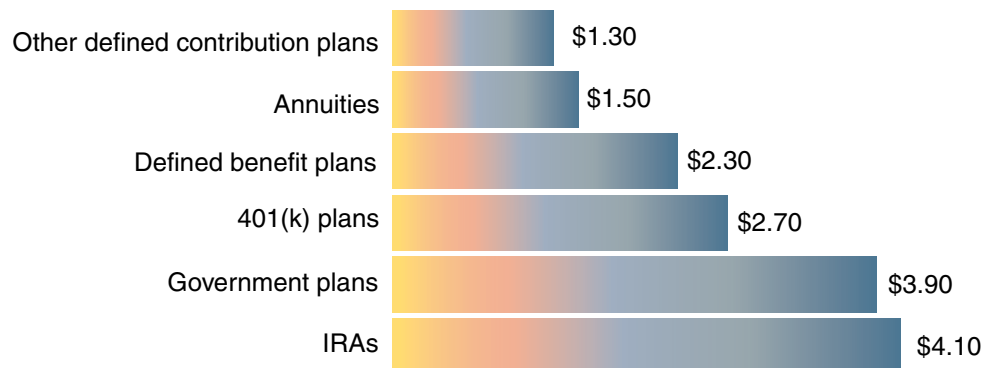
Time to save more

In the meantime, those who have the ability to save more right now for retirement may want to grab the opportunity presented by current stock prices. Both taxable and tax-deferred accounts should be considered. Some market observers believe that those who no longer have a

company match may want to shift the balance to taxable savings. If tax rates shoot up in the future, previously taxed savings will be an invaluable retirement resource.

Questions about your retirement plans? Please bring them to us. We would be pleased to share our knowledge with you. □

Retirement assets in trillions of dollars



Source: PSCA testimony to Congress

As of September 30, 2008, some \$15.9 trillion was saved in retirement plans. 95% of new IRA contributions are rollovers, overwhelmingly from employer plans.

Reasonable excuses

Taxpayers are free to move money from one IRA to another, as long as they complete the transaction within 60 days. If they hold on to the funds for 61 days, they have a taxable distribution on their hands, and possible penalty taxes as well.

However, the IRS is authorized to waive the requirement if there is a good reason.

Situation 1. Taxpayer 1 withdrew funds from his IRA, intending to roll them over, but was hospitalized during the subsequent 60 days and couldn't complete the transaction within the time frame. In fact, he died soon after. Taxpayer 1's executor now has asked the IRS to waive the 60-day requirement so that she can complete the rollover (avoiding significant income taxes on Taxpayer 1's final return).

Situation 2. A CD in Taxpayer 2's IRA matured, and she put the funds into her checking account, intending to deposit them into another IRA that she owned. However, Taxpayer 2 was the sole caregiver for her husband, who suffered from a heart attack, a hip replacement, a series of seizures and a stroke. Because of this, she had trouble staying focused on financial issues. During the 60-day period, Taxpayer 2's daughter also fell ill, was hospitalized and subsequently died. Taxpayer 2 also has asked the IRS to waive the 60-day rule.

In private advice, the IRS has granted both requests.

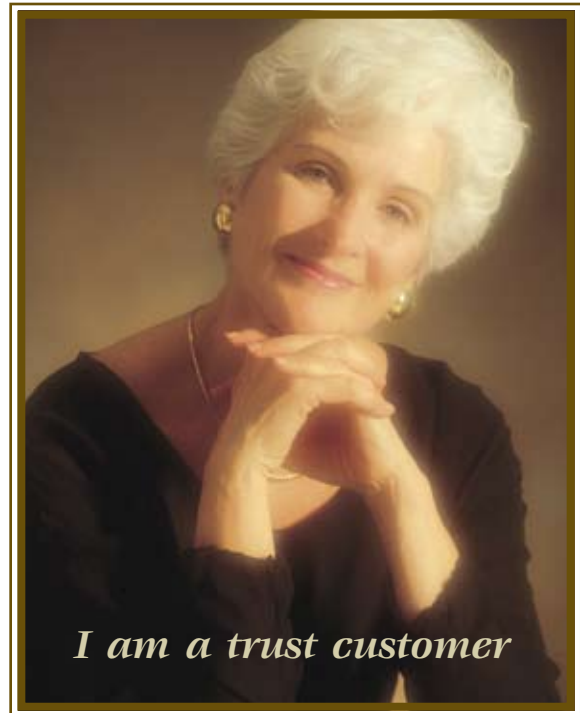
The elements that the IRS takes into consideration when waiving the 60-day rule are outlined in *Revenue Procedure 2003-16*. Factors other than medical developments that may come into play include postal errors, errors by a financial institution, what was done with the money, and how much time has elapsed since the IRA withdrawal. Also, the IRS notes, the waiver does not apply to required minimum distribution amounts.

New car tax deduction

For this year only, taxpayers are permitted to take an "above-the-line" deduction for the sales taxes incurred in the purchase of a new car. That means that they get the tax benefit whether they itemize or not.

What about people who live in Alaska, Delaware, Hawaii, Montana, New Hampshire or Oregon? Those states do not impose a sales tax. However, in June the IRS announced that in those states, other fees or taxes that are assessed on the purchase of a vehicle will qualify, if they are based upon the vehicle's sales price or as a per unit fee.

The deduction is limited to the first \$49,500 of vehicle value, and it is phased out for higher-income taxpayers (\$125,000-\$135,000 for singles, \$250,000-\$260,000 for marrieds filing joint returns). □



"I need unbiased investment advice, geared to my personal circumstances."

We know that your personal goals, tax profile and risk tolerance make you unique. We will work with you to develop an investment program that addresses your requirements. If you are tired of being treated as just another "average" investor, it's time that you talked to us.

Why not schedule an appointment this month?

Call our trust professionals for an appointment.

Randy J. Dickinson
Vice President
& Trust Officer

Michelle Mease
Assistant Vice President
& Trust Officer

Miles Coffland, CPA
Trust Officer



Phone: 989-772-9471 Fax: 989-773-3735