MAKELA, TOUTANT, HILL, NARDI & KATONA, P.C.
CERTIFIED PUBLIC ACCOUNTANTS
201 West Bluff Street
Marquette, Michigan 49855
(906) 228-3600

Tax & Business Alert
MAY 2023

BOLSTER WEALTH MANAGEMENT WITH TRUSTS

Trusts can be a useful tool for affluent individuals and families when it comes to wealth management, protection and growth. But there are a wide variety to choose from, so it's important to clearly understand the benefits and limits of a trust before choosing any one type.

WHAT'S A TRUST?

A trust is a legal document (and the entity created by that document) that dictates how an individual's assets will be managed for another person's (or other people's) benefit(s). There are usually three parties to a trust: the grantor who creates the trust, the beneficiary (or beneficiaries) who'll benefit from the trust, and the trustee(s) who'll manage the assets according to the trust's terms and in the beneficiary's best interests.

All trusts fall into one of two broad categories: living trusts and testamentary trusts. A living trust is set up during an individual's lifetime to transfer property to the trust. Testamentary trusts are established as part of an individual's will and take effect after he or she dies.

Living trusts can be further categorized as revocable and irrevocable. With a revocable trust, the grantor retains control of the trust's assets and can revoke or change its terms at any time. With an irrevocable trust, the grantor no longer owns the assets and, thus, can't make changes to the trust without the beneficiary's consent.

HOW CAN ONE PROTECT YOU?

Individuals looking to manage their wealth in a patient and prudent manner can achieve various financial and estate planning goals from a trust, depending on its type. For example, many affluent individuals, professionals and business owners use a Delaware statutory trust to protect their assets from a loss resulting from a legal judgment, such as malpractice or personal injury liability. A Delaware trust also can be used instead of a prenuptial agreement by a spouse to preserve his or her assets in case of a divorce.

When establishing a Delaware trust, you transfer the assets you want to protect to an irrevocable trust. These assets can include cash, business ownership interests, real estate and securities like stocks and bonds. In general, the assets will be protected from future creditors.

A TRUST WITH A FUNNY NAME

If one of your professional advisors suggests creating a trust that's "intentionally defective," you might think "no way." However, despite its funny name, an intentionally defective grantor trust is a completely valid way to minimize gift and estate taxes when transferring certain assets, such as an ownership interest in a closely held business, to the next generation.

The key is that contributions of ownership interest to the trust must be considered gifts. This removes the assets and their future appreciation from your taxable estate. The trust's income is taxable to you, not your heirs. As a result, trust assets can grow unencumbered by income taxes, which increases the amount of wealth your heirs may receive upon your passing.

Although you must give up some control of the assets when you place them in the trust, you can retain some powers, such as the right to direct the investment of trust assets and the right to receive income and principal distributions from the trust.

WHO CAN HELP?

There are many other trust types to consider. The rules for establishing and maintaining a trust can be complex, so please contact our firm for guidance. ■

3 THINGS TO KNOW AFTER FILING YOUR TAX RETURN

Most people feel a sense of relief after filing their tax returns each year. But even if you've successfully filed your 2022 return with the IRS, there may still be some issues to bear in mind. Here are three important things to know.

1. You can check on your refund. The IRS has an online tool that can tell you the status of your refund. Go to irs.gov and click on "Get Your Refund Status." You'll need your Social Security number, filing status and the exact refund amount.

2. You can file an amended return if you forgot to report something. In general, you can file an amended tax return and claim a refund within three years after the date you filed your original return or within two years of the date you paid the tax, whichever is later. So, if you file your 2022 tax return on April 18, 2023 (the due date for 2022 returns), you'd typically have until April 18, 2026, to file an amended return.

However, there are a few opportunities when you have longer to file an amended return. For example, the statute of limitations for bad debts is longer than the usual three-year time limit for most items on your tax return. In general, you can amend your tax return to claim a bad debt for seven years from the due date of the tax return for the year that the debt became worthless.

3. You can throw out some tax records. You should keep tax records related to your return for as long as the IRS can audit your return or assess additional taxes. The statute of limitations is generally three years after you file your return.

That means you can probably dispose of most tax-related records for the 2019 tax year and earlier years. (If you filed an extension for your 2019 return, hold on to your records until at least three years from when you filed the extended return.) However, the statute of limitations extends to six years for taxpayers who understate their gross income by more than 25%.

You'll need to hang on to certain tax-related records longer. For example, keep actual tax returns indefinitely so you can prove to the IRS that you filed legitimately. (There's no statute of limitations for an audit if you didn't file a return or you filed a fraudulent one.)

Keep records associated with a retirement account until you've depleted the account and reported the last withdrawal on your tax return, plus three (or six) years. And retain records related to real estate or investments for as long as you own the asset so you can prove your tax basis, plus at least three years after you sell it and report the sale on your tax return. (You may want to keep these records for six years if you want to be extra safe.)

ALWAYS AVAILABLE

Contact us if you have further questions about your refund, filing an amended return or record retention. We're here all year! ■

BUSINESS BARTERING IS TAXABLE

During these times of high inflation, many cash-challenged businesses have bartered for goods and services instead of paying dollars for them. If your company gets involved in such transactions, remember that the fair market value of goods that you receive is taxable income. And if you exchange services with another business, the transaction results in taxable income for both parties.

A COUPLE OF EXAMPLES

Let's say a computer consultant agrees to exchange services with an advertising agency. Both parties will be taxed on the fair market value of the services received. This is the amount they'd normally charge for the same services. If the parties agree to the value of the services in advance, that will be considered the fair market value unless contrary evidence exists.

In addition, if services are exchanged for property, income is realized. Say a construction company does work for a retail business in exchange for unsold inventory. The contractor will incur income equal to the inventory's fair market value.

BARTER EXCHANGES

Many businesses join barter clubs that facilitate these transactions. Generally, these clubs use a system of "credit units" that are awarded to members who provide goods and services. The credits can be redeemed for goods and services from other members.

Bartering is generally taxable in the year it occurs. If you participate in a barter club, however, you may be taxed on the value of credit units at the time they're added to your account — even if you don't redeem them for actual goods and services until a later year.

By January 31 of each year, a barter club will send participants a Form 1099-B, "Proceeds from Broker and Barter Exchange Transactions," which shows the value of cash, property, services and credits that they received from exchanges during the previous year. The IRS will also receive this information.

If you join a barter club, expect to provide your Social Security number or employer identification number. You'll also be asked to certify that you aren't subject to backup withholding. Unless you make this certification, the club will withhold tax from your bartering income.

POTENTIALLY BENEFICIAL

So long as you're aware of the federal and state tax consequences, business bartering transactions may be beneficial. Contact us if you need assistance or would like more information. ■

CAN INDIVIDUAL TAXPAYERS DEDUCT VEHICLE EXPENSES?

It's not just businesses that can deduct vehicle-related expenses on their tax returns. Individuals also may be able to deduct them in certain circumstances, if they have a business-related purpose. However, under current law, non-military members can no longer deduct expenses for job-related moves and employees can no longer deduct business driving expenses for which they're not reimbursed. And, due to the high price of gas, the IRS has increased the amount per mile that is deductible for eligible business driving.

Rather than keeping track of your actual vehicle expenses, you can use a standard mileage rate to compute your deductions. Here's a list of the rates for different types of 2023 driving:

- **Business.** 65.5 cents per mile (up from 62.5 cents for July 1 to December 31, 2022).
- **Medical.** 22 cents (unchanged from the second half of 2022).
- **Moving for active-duty military.** 22 cents (unchanged from the second half of 2022).
- **Charitable.** 14 cents (unchanged from 2022) if you itemize.

If you're self-employed, business mileage costs can be deducted from self-employment income. For all types of eligible driving, you may also be able to deduct parking fees and tolls. Keep in mind that the burden of proving mileage that you claim is on you. You'll need to keep contemporaneous records of trips you want to deduct, the number of miles driven and the business purpose of each trip.

GET HELP

Do you have questions about deducting vehicle-related expenses? Contact us. We can help you with your tax planning. ■