00:00:04:02 - 00:00:24:03

Speaker 1

Hello, everyone, and welcome back to another episode. Today, we're excited to explore the world of trust and estate planning with none other than Sarah Collier, our senior associate financial advisor. Sarah, it's great to have you here today. Let's get started and cover the essentials everyone should know about with their financial future.

00:00:24:03 - 00:00:55:03

Speaker 2

But before we begin, let me read our disclaimer. This podcast is being recorded on October 18th, 2024. The contents of this podcast are strictly for informational purposes only, and nothing said should be taken as investment, tax or legal advice. It is important to discuss your situation with a professional as the strategies discussed today may not be suitable for you specifically.

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Speaker 1

So, Sarah, to start things off, why don't you give us a little bit of background on yourself to our listeners? How exactly did you get into estate planning and your role at the firm?

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Speaker 3

Yeah. So I attended Albany Law School and received my juris doctor from there. Interestingly enough, I have a designated concentration in equine racing and gaming.

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Speaker 3

At that point in time I was actually interested in pursuing a personal injury. So along the lines of liability, particularly as it pertains to horse ownership, but I also wanted to build out my practice and focus on different areas. So business law and also estate planning, knowing a lot of folks that are either in the equine or ag sector are really going be focusing on that succession planning piece.

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Speaker 3

So I focus a lot on that. But transitioning to my work here when I was originally looking for jobs when I was in law school, it was very appealing to want to work for a financial firm, for working with clients for long terms as opposed to more on a transactional basis. So making that role, obviously with estate planning is a lot of what we talk about here at John G Ullman & Associates and how investments can be integrated. But that's just the one piece of working with our clients and their overall financial picture.

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Speaker 2

Yeah, wonderful. So as we get started today on the topic of trust, what is a trust? And maybe why should someone like us or any of our clients out there go get one?

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Speaker 3

Well, trust are always kind of hard to explain exactly what a trust is, because, you know, we do understand what bank accounts are.

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Speaker 3

We understand we investment accounts are. But the idea and concept of a trust to a lot of even clients or individuals in general, hard to really conceptualize. So oftentimes I'll describe it as a box, but the legal or the more legal definition is that trust is a legal arrangement where a person known as I'll just use the term grantor transfers assets and into the trustee.

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Speaker 3

And the trustee is the one that's in charge of holding and managing those funds to further the purpose of that trust. But of course, there's so many different layers within trusts themselves. And again, think of it like a box. You can put assets inside the box and depending on the type of trust, you can take assets out. But once you know someone passes away, think about that box kind of being shut and that's the end of it.

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Speaker 3

So, you know, why do individuals get interested in wanting to establish a trust? Well, there's so many different reasons. Number one tends to be along the lines of avoiding probate because it's an outside arrangement. Assets that are placed into this trust. And we'll go into all of it detailing the different types of trusts there are. But if they're created during your lifetime, for example, of assets are placed in then that typically is going to avoid the probate process, which can be quite long.

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Speaker 3

The other reasons are asset protection from creditors, putting controls around how beneficiaries have access to the funds and what the purpose of those funds are for. Just to name a couple other things as well, very classically, you'll see and what we call a testamentary trust, which are trusts that are established through a will, are trusts for minors. So you'll see that a lot with maybe young parents that have children that are, you know, a minority or maybe they're a majority, but they still want to have some constraints because maybe they're inherited large assets.

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Speaker 1

Yeah, I think that's all really great points. A lot of the basics, but also getting into what are the main fundamentals of why you would establish one. So that's great to cover. So regarding the trust, who are the key parties in a trust?

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Speaker 3

Well, there's three key parties in a trust. There is the grantor. That's the one that's going to be establishing the trust and is typically the one to funding the trusts.

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Speaker 3

There's a trustee and they actually hold a fiduciary role to manage the funds that are in the trust and make sure that the trust purposes are being fulfilled. And then you have the beneficiaries, and those are the parties that are going to be benefiting from the trust. Interestingly enough, these individuals can, these three different roles, can be with the same individual or they can be broken out.

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Speaker 3

Now, you might think, well, why are you going to establish a trust if you are going to be the grantor, the trustee, and the beneficiary of that trust? Well, you'll see that sometimes with the what we call revocable trust grantor trusts. So you're just instead of going the route of establishing a will during your lifetime, you're putting everything all together, this neat little bow or a neat little package and getting that right.

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Speaker 3

So when you do pass away, you know, right now you have access to the funds, you have full control, you're the beneficiary so obviously, you can have full use of those assets, you the trustee, so you're managing everything. But when you pass away, you then have those contingent beneficiaries that then those assets per the trust go to the next generation.

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Speaker 1

Great point. And I think that you would agree too, that when you're choosing these individuals, you really want to take the time to carefully select who you're putting in those roles. Is that right?

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Speaker 3

Correct. You want to If so, if you're the grantor and you're looking to name a trustee, you want someone that is going to be responsible.

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Speaker 3

Some individuals like to name a particular and a particular person, which we like to always think of. It's good to name in a warm body because they're going to be the ones that are really taking on that responsibility. But in certain circumstances, you may want to look to a more hiring a financial institution to take over that role of being trustee because it is a big responsibility as a fiduciary role.

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Speaker 3

And of course, with that becomes, you know, some legal ramifications if the trustee does not fulfill the trust as appropriate.

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Speaker 1

Yeah, that's a great point.

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Speaker 2

So, Sarah, what should you consider putting in a trust?

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Speaker 3

Well, in theory, you can put just about any of your personal assets inside of a trust. Anything that you can retitle.

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Speaker 3

Of course, some assets are going to be easier to rename in retitle in the name of a trust. You know, bank accounts are a great example, investment accounts. But so your retirement assets though you would never want you can't retitle them but you can name a trust as a beneficiary. Of course we always caution against doing that unless there's particular reasons why you want to attach safeguards to the distribution of those assets, because there is the compressed marginal tax rates associated with trusts and they would be distributions if they're usually the if the trust is named as a beneficiary is over five years opposed to over the ten years.

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Speaker 3

So you can imagine that it can be a huge tax hit if someone is leaving the trust as the beneficiary. But aside from that, you want to try and stay away from vehicles as well. The reason behind that is insurance is very difficult to obtain insurance in the name of a trust for automobiles. And so clients that are looking to, for the most part, avoid probate.

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Speaker 3

You can do that pretty easily just transferring over titles, especially if it's between spouses and their surviving spouse. So if that's honestly the only thing that has to go through probate, it’s pretty straightforward and worst case scenario end up having to put together a small estate if needed. But aside from that real estate property, lake houses, they can all be retitled in the name of a trust as can sometimes business interests.

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Speaker 3

Sometimes you want to have conversations with attorneys about that though, because if you're looking at your overall plan, maybe it's a little redundant to have a trust, have in the business interests inside of that trust.

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Speaker 1

Great points. I think that it's always crucial too to make sure you take the time to either meet with the estate planning attorney or meet with your financial advisor to go over these specific retitling of the accounts like you were just talked about, because you want that to align with your certain circumstances and your goals like you mentioned before.

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Speaker 3

Right. And often times, you go, you meet with the attorney, you pay your bill to get this great trust all put in place, and then a lot of the ownership falls back on you to do the retitling. And that's where you know us as financial advisors. we kind of take the lead on that implementation part and help them with that retitling, making sure everything is taken care of.

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Speaker 3

And of course, years later maybe circumstances change, they open up a new account, a new investment account, maybe with a different broker, whatever the case may be. And we have to then you know, remind them that they have to make sure that those are retitled in the name of the trust if they want to still continue on with the plan that they put in place some years before.

00:10:38:00 - 00:10:47:09

Speaker 1

So oftentimes when we encounter estate planning, you'll hear the terms revocable trust or irrevocable trust as more commonly known. What exactly are the differences between these?

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Speaker 3

Right. So I would even take that a step further because there's really inter vivos trusts, which are living trusts. And then there's testamentary trusts. Testamentary trusts, those are going to be, like we mentioned before, trusts that are established through select language in a will.

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Speaker 3

So of course that's subject to probate. But once the once the will has been subject to probate, the trust kind of come to life depending if there is applicable reasons to establish the trusts. So like I mentioned before, trusts for minors are typically seen as testamentary trusts, but those are irrevocable trusts. And then you have living trust with your trust that are created during your lifetime, which can be irrevocable or revocable.

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Speaker 3

So revocable trust is a trust that the grantor can establish and find. But it is it can always be evolving. The grantor can decide to take assets out, change assets, etc., change beneficiaries. An irrevocable trust though, you're just like the name sounds. As soon as the revocable irrevocable trust is established and funds have in place in the grantor does not have the ability to change and move those assets out. Unless continue to follow the lines of the terms of the trust.

00:12:14:10 - 00:12:25:13

Speaker 2

So you mentioned a will a little bit in there. How important is it or maybe not important to have a pour over a will alongside a trust?

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Speaker 3

It’s extremely important, because as much is even outside of us as advisors try and make sure that all of our client's assets, if that's their wishes, are in the trust, things happen, things maybe are left out and what the pour over will does is yes, it's still pushed through probate, but anything that may be as left outside and is subject to probate will then automatically get dumped into the existing trusts.

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Speaker 1

So, Sarah, now that we have discussed what a trust is and what options there are for different trust, do you feel that a trust is always essential, or is there sometimes when it's not going to be essential?

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Speaker 3

Well, it really depends on the individual, what their goals are. But I would default to saying it's not always essential, you know, especially when you're looking at from a generational, younger folks like us, we might not have a need for a trust and just putting the bare bones to an estate plan, health care proxy, power of attorney and a will is going to be, you know, the most important as folks are maybe aging, aging in place.

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Speaker 3

There's different concerns and planning goals that then may pivot towards more complex planning. But even then, depending on the client's assets, it still might not be necessary. And we certainly have some clients who even have some significant assets, and they just don't want to go through the whole process of establishing a trust. And so it can definitely help streamline the whole estate planning process.

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Speaker 3

It can make things very smooth the transition and offer a lot of structure, even offering that control for that with the next generation and how they use those assets, because oftentimes if they're going to be receiving a significant amount of assets, the biggest concern is going to be, you know, how are they going to utilize those funds and are they going to be making wise decisions about those funds.

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Speaker 3

But of course, then the question becomes, what assets are you going to be using to fund, like we talked about before, retirement accounts are not a good way to fund a trust, at least not all the time. And because of that, most folks, most of their assets tend to be in retirement accounts. So if most of your assets are in retirement accounts and maybe you have a small modest home and, you know, modest bank account, well, maybe trusts aren't right for you, but that's for the discussion with your financial planner and your attorney.

00:15:05:09 - 00:15:28:02

Speaker 1

Yeah Sarah, you've made some really great points today. Thank you so much for joining us today and sharing all of your insights regarding the trusts. Now, as we wrap up our discussion on securing your legacy and the power of trusts, we want you to remember that trusts provide a structured way to manage your assets, protect your loved ones and ensure that your wishes are fulfilled long after you've passed away.

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Speaker 2

Exactly, Leyah. They aren't just for the wealthy. They're powerful instruments for anyone to really want to leave a well-planned legacy.

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Speaker 1

We hope you found this episode on securing your legacy and the power of trust packed with valuable information for your future. Be sure to tune in for more episodes. And as always…

00:15:48:03 - 00:15:49:00

Speaker 2

Don't forget…

00:15:49:00 - 00:15:50:20

Speaker 1, Speaker 2, Speaker 3

Share the Wealth!

Speaker 1: Leyah Dauber

Speaker 2: Lyndsey Payne, MBA

Speaker 3: Sarah E.J. Collier, JD