TRUST ARTICLES

Country Club Trust COMPANY

Ask a Trust Officer – Incentive Trusts

DEAR TRUST OFFICER:

The opioid crisis just hit a bit closer to home. Some friends of ours have a 20-something child who has an addiction problem. They are trying another round of rehab; maybe this time it will work. But they've confided in me that they don't know what to do about an eventual inheritance for this child. They worry that a financial windfall might be very bad, the money wasted on drugs. Do you have any thoughts on this?—

ASKING FOR A FRIEND

DEAR ASKING:

In situations such as these, we recommend looking into a fully discretionary trust for inheritance management. Some may call this an "incentive trust," because trust payouts may be tied to successful life achievements, such as sobriety for a certain period. Your friend will work with an estate planning attorney to craft the trust, providing specific instructions for the trustee regarding the circumstances that will call for distributions of income or principal. An incentive trust may last for a set number of years, until a certain age is reached by the beneficiary, or it could provide financial support for life. It will also protect those financial assets from the claims of the child's creditors.

Who should be the trustee of the incentive trust? This is not so simple to answer, as family dynamics will come into play. But a professional trustee, such as us, should be under consideration.

Do you have a question concerning wealth management or trusts? Send your inquiry to trust@countryclubtrust.com

Investment Outlook

Here's an interesting nugget that was buried on page R5 of the October 1, 2019, Wall Street Journal: If you invested just $1,000 in the S&P 500 index on January 1, 1970, today you would have $138,908. That's the power of long-term compounding. Of course, you would have needed considerable courage to not sell that holding during the several market corrections that have occurred since 1970. The Journal also revealed that if you missed only the 15 best trading days of that 49-year period, your accumulation would be cut by well over half, to $52,246.

Stock prices have been quite volatile recently. Happily, much of the volatility in 2019 has been on the up side, as the S&P 500 rose 19% through the first three quarters of the year. The question investors must reckon with is how much upside is left? The cyclically adjusted price-earnings ratio calculated by economist Robert Shiller stands at 28.95, quite high by historical standards. The ratio peaked at 32.56 in 1929, before the great crash, and at 44.20 in 1999 before the bursting of the dot-com bubble. P/Es this high don't necessary mean that a correction is coming, but they do suggest that there is not much room left for price growth absent some remarkably good earnings news.

Interest rates are falling, thanks to two rate cuts from the Federal Reserve. One wonders just how far they may fall. Some $15 trillion of government debt now has negative yields—that means lenders are paying borrowers to take the money. That is not a sign of a healthy global economy. Yields on U.S. government debt remain positive, but they have been falling. The benchmark 10-year Treasury note yield, which was at 2.0% at the end of the second quarter, fell to 1.675% by the end of the third quarter. Investors looking for more yield have to turn to riskier securities, such as corporate bonds or high-risk municipal bonds.

Somehow, there never seems to be a moment when investing is easy and the choices obvious. If you would like help with your portfolio management, call on us!

Evaporating Estate Remains Fully Taxable

Francis Roper's estate consisted largely of $17.6 million worth of Colonial Bancgroup stock. She died in 2007. Unfortunately, the value of the stock sank like a stone, and it was worth only $8.5 million on the alternate valuation date, six months later. That was the value used on the estate tax return filed in 2008. But in 2009 the federal government undertook a fraud investigation that, upon its resolution in 2010, rendered the bank stock completely worthless. The estate asked for a refund in 2013 of the estate taxes that had been paid on the now valueless stock.

No refund is allowed, the District Court ruled. In the first place, the refund request is so late that the Court no longer has jurisdiction over it. The taxpayer-executrix claimed that the tardiness was due to her disability, and she had the medical documentation to back up the assertion. Unfortunately, while that excuse may be available to individuals, it is not permitted for estates. But even if the Court looked at the case on the merits, no refund would be allowed. The market for the bank stock had not yet collapsed on the alternate valuation date, even if the stock would have been worthless based upon nonpublic information. It is valued on the date of death and alternate valuation dates that must control the determination of tax obligations.

The amount exempt from federal estate tax was far lower in 2007 than it is today—an $8.5 million estate would owe no federal estate tax at all. Still, today's higher exemptions are set to expire in 2026. Some estate planning experts have suggested that the expiration could come sooner if control of the levers of power in Washington, D.C., changes hands before then.

Target: Elder Financial Abuse

The U.S. Attorney's Office and the FBI announced a major sweep of elder fraud cases last March. The cases involved more than 260 defendants from around the world, with total alleged losses of over $750 million. The action follows a similar fraud sweep last year. This year's action involved twice as many fraud victims, 28% more criminal defendants, and 28% more in losses than last year.

As welcome as this development is, it may only be the tip of the iceberg. Many seniors are reluctant to report when they have been victimized, for fear that family members may conclude that their competence has been impaired.

Don't do these things

Some commonsense tips on how to avoid becoming a victim:

- Don't share personal information with anyone you don't know.
- Don't pay a fee for a prize or lottery winning.
- Don't click on pop-up ads or messages.
- Delete phishing emails and ignore harassing phone calls.
- Don't send gift cards, checks, money orders; or wire money; or give your bank account information to a stranger.
- Don't fall for a high-pressure sales pitch or a supposedly lucrative business deal.
- If a scammer approaches you, take the time to talk to a friend or family member.
- Keep in mind that if you send money once, you'll be a target for life.
- Remember, it's not rude to say, "NO."
- A good rule of thumb is, if it's too good to be true, it's likely a scam.

A cornucopia of scams

Fraudsters are very resourceful in trying to separate seniors from their money. Examples of actual financial frauds:

- Lottery phone scams. Callers convince seniors that a large fee or taxes must be paid before they can receive lottery winnings.
- Grandparent scams. Seniors are told that their grandchildren are in trouble and need money to make rent, repair a car, or even pay bail.
- Broken computers. Caller claims that a problem has been detected on the victim's computer, but that repair is possible over the internet upon payment of a fee.
- Romance scams. Victims are lulled into believing that their online paramour needs funds for a U.S. visit or some other purpose.
- IRS imposter scams. Fraudsters pose as IRS agents and claim that victims owe back taxes—in some cases demanding to be paid in gift cards!
- Sham business opportunities. Victims are persuaded to invest in business opportunities or investments that turn out to be bogus or Ponzi schemes.

When a fraudster makes contact you can report an attempted scam at 1-877-FTC-HELP (1-877-382-4357), or you can file a report online by clicking here (Note: by clicking this link you are leaving the Country Club Trust website).