MEMORANDUM

From: Law Office of Louis C. Anderson, J.D., P.L.

Subject: Benefits of an IRA Trust

If you have IRA assets that exceed $200,000, it is a good idea to consider using an IRA Trust.

Proper IRA planning is now more important than ever due to the latest IRS required minimum distribution rules. Quite often, an IRA will be one of the largest assets owned by a client and will also be heavily relied upon for future financial needs. Therefore, it is critical that the IRA be properly funded for maximum tax-deferred growth, that the necessary withdrawals be timely made and finally, the IRA owner must not only carefully determine *who* the beneficiary will be but he also now has the ability to determine *how* the beneficiary will receive the continued required distributions. If an IRA is left directly to heirs, they might withdraw and deplete the account quickly and thereby incur unnecessary income taxes and eliminate the powerful benefits and protections of long term tax deferral. Money in an IRA inherited outright might be subject to creditors and divorce proceedings- and money withdrawn from that IRA certainly may be exposed.

Fortunately however, when it comes to determining how the beneficiary will receive the account, utilizing a special IRA Trust offers several advantages. As is the case with any assets held in trust, an inherited IRA will be better protected from creditors and from reckless spending. Using a trust, then, provides greater assurance that long term tax deferral will be realized.

Moreover, leaving the IRA to a trust with a reliable trustee can ensure that only the minimum required distributions (MRDs) are taken, as long as there is no pressing need for cash. In this way, the IRA Trust will provide your heirs with extended tax deferral and the chance for superior wealth building.

Bad deal for heirs? Perhaps – but only for those who want to spend even more of the money. But an heir who does this to excess might not think a trust would have been such a bad deal after the money is gone. A trustee can be given the power to tap the IRA, if necessary, but also the ability to pay out as little as possible, so a $500,000 inheritance can wind up paying $2 million, $3 million, or more to the heirs over time. For example, a trust may provide the individual beneficiary with greatly enhanced protection against loss of the inherited IRA to a spouse after a divorce, protect against the beneficiary's own poor spending habits or money management skills, and may preserve

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a beneficiary's needs-based government benefits such as SSI and Medicaid.

A trust may also reassure the original IRA owner that the right people will eventually inherit his IRA assets, rather than simply allowing the owner's (or beneficiary's) surviving spouse to pass them on to a future spouse or children of another marriage.

There are two types of trusts that can be utilized as an IRA beneficiary: the Conduit Trust and the Accumulation Trust. The IRS defines an Accumulation Trust as any type of trust that is not a Conduit Trust. With an Accumulation Trust, the trustee is not required to immediately distribute withdrawals from the IRA; the withdrawals can be held in the trust. The advantages of accumulating the distributions instead of paying them directly are: asset protection, substance or spendthrift issues, incentive distributions and further tax planning. One possible issue with this type of trust is that the life expectancy of the oldest beneficiary is used to calculate the required minimum Required distributions (MRDs).

In order to ensure long term tax deferral, a "conduit" trust (rather than an accumulation trust) may be desirable in certain cases. Since a conduit trust has a single individual as a primary beneficiary, the trustee is required to take at least the MRD amount from an inherited IRA each year and pass that amount directly through to the trust beneficiary. With this conduit trust, the primary beneficiary's life expectancy–not the original owner's life expectancy--can be used to stretch MRDs over this younger life.

The disadvantage to the conduit trust is that distributions can't be accumulated in the trust. They must be passed through to the trust beneficiary, who may spend the money or lose it to creditors. However, the IRA principal may still be protected.

The IRA Trust complies with the IRAs regulations that make the above trusts possible.

If you have a 401(k) or other company retirement plan, you should consider and discuss with your tax and legal counsel the benefit of rolling that money over into IRA accounts in order to have non-spouse beneficiaries take maximum advantage of the income-tax stretch and asset protection of the IRA Inheritance Trust.

The IRS strictly adheres to established regulations when they review and/or audit one's estate. Therefore, expertise and great care must be exercised when planning for an asset that will be heavily relied upon by your family for future financial needs.

Please let me know if you have any questions. Thank you.

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