

Beneficiary Maintenance Program ACM Outline
November 8, 2023

1. Overview of what we will discuss/housekeeping
 - a. Welcome to our third BMP ACM!
 - a. We will be Recording and Post
 - b. We will be monitoring the questions text box. We will try to answer the questions today but we may follow up with you after the program.
 - b. Overview of Trust Protections – NEW ONE!
 - c. Review of Trust Protector
 - d. Distribution Protector
 - e. Disbursement Process
 - f. Tax Discussion/Update
 - g. Updating Your Inherited Trusts/Legal Update
 - h. Funding Reminders
 - i. Your own personal estate planning
2. Quick Review of Trust Protections – why we are all here!
 - a. Your Inherited Trust is a closed lid box – we all know this!
 - b. If the assets are taken out of the box – all of the protections are lost. It's a one way street!
 - c. What are those protections again?
 - a. Creditor – lawsuits
 - b. Divorce
 - c. Remarriage
 - d. Long term medical costs/Medicaid
 - e. NEW ONE – ESTATE TAX PLANNING – which we will go more in depth in a few moments. Last year, Clients updating received this language. Clients updating this year will be getting this language in their Trust.
 - f. Any creditor or predator attempting to separate you from your money
 - g. “gifts” to family members/friends and “scams” – with a 2nd set of eyes on distributions – this can help
 - h. Inherited Trust Review Worksheet or Client Response Form - If you have any concerns about any of the above-mentioned protections - make sure you check that box so that we can discuss further with you on an individual basis.
3. Funding New Assets
 - a. Are you allowed to open up new accounts with the assets in your Inherited Trust?

- b. Yes – as long as you are only using the monies that are already inside the Inherited Trust
- c. Reminder – cannot co-mingle assets because that would potentially “pop” the closed lid of the Inherited Trust. We do not want to do that!
- d. We are in development for a “Funding-At-A-Glance” tool for your Inherited Trusts.
- e. As you change assets, it is important that our office is receiving verifications of how the assets are titled.
- f. Your Inherited Trust has a EIN – we need to confirm that the accounts are titled properly.
- g. CALL THE FIRM – we are here to help with this.
- h. You will be receiving and updated WAC Team Directory because anyone can help with funding questions.
- i. REMINDER – Asset Review Reports (ARR) - you will be receiving an ARR in February to return by March.

4. Moving

- a. If you move, it is important that you let us know.
- b. You will need a new Certificate of Trust created showing your new address.
- c. We can also help contact your financial companies to update your contact information.
- d. CALL THE FIRM

5. Disability Situation

- a. What happens if you become mentally disabled? (Marbles Test)
- b. There is a process in your Inherited Trust about how you are determined to be disabled and who becomes Trustee during this time.
- c. During your update year, we will be taking a closer look at this language with you.
- d. Adding a Disability Panel to determine when you are no longer able to handle your finances.

6. Trust Protector:

- a. Your Inherited Trust is a subtrust created out of a Trust after one of your loved ones passed away.
- b. What happens when there needs to be an update (i.e. tax law change) to your Inherited Trust?
- c. Disinterested and Independent Third Party appointed by Trustee to make changes to Inherited Trust Document
- d. Can modify language to reduce taxes, maintain creditor & divorce protection or modify trust provisions
- e. IRS has challenged this concept but has repeatedly lost
- f. Trust Protector can make changes consistent with Trustmaker’s intent
- g. Usually one of the attorneys here is asked to be the Trust Protector to update the Trust documents.

7. Distribution Protector - **It's the process that provides the protections we previously discussed.**

- a. If you as the beneficiary are the sole Trustee – you can be forced by a court to withdraw assets from an Inherited Trust
- b. Our solution – it takes two keys for all Distributions
- c. Beneficiary is sole Trustee
- d. Distribution Protector is a Trust Protector responsible for saying “NO” to forced distributions.
- e. Law firm is the Distribution Protector over your Inherited Trust

8. Disbursement Process -

- a. Expenses – cost for maintaining the trust. Tax prep, BMP enrollment, etc.
- b. Withdrawal – legal right given to you to remove the income from the trust. This ensures income is taxed on your personal 1040 tax return. We are going to discuss the Limited Power to Vest in a few minutes as an alternative to Withdrawals.
- c. Distribution – outright distribution to you. Remember – it is a one way street. Once out – all protections are lost.
- d. Loan – instead of an outright distribution – requires a promissory note that can be repaid to the Inherited Trust.
 - a. Please check **Inherited Trust Review Worksheet or Client Response Form** with any disbursements that were made so that our records match yours.
This will also trigger any Promissory Note that need completed.
- e. **This process is what helps us prove that we are truly serving as the Yes and No person to your distributions.**

9. Tax Discussion/Update

- a. IT Tax Webinar – **THURSDAY 1/12/23** – even if you attended last year – this is still important to attend. Lynda Doland from Corrigan Krause will be co-presenting with us again. **Please invite your CPA/Tax preparers!**
- b. IT requires 1041 every year – make sure 1041 is done prior to 1040.
- c. Your IT has language called “Limited Power to Vest”
 - a. This enables the income that is generated in your IT to be attributed to your personal 1040 but not distributed out of the IT (and then losing the protections)

- b. Here's the 'catch' – the IRS requires that you elect the LPV the year prior to the tax year. For example – you need to elect to sign the LPV by the end of the year 2023 for it to be applied to 2022.
- c. We will be sending you those LPV documents to sign after this program. If you do not want to exercise your LPA – please contact our office so we can discuss.
- d. Federal Estate Tax Exemption Status
 - a. \$12.9 – 2026 reverts back to \$5M with inflation
 - b. What is included in your Federal Taxable Estate?
 - 1. "Everything!"
 - c. Are the assets in your Inherited Trust counted in your personal taxable estate? It depends on the legal language in your Inherited Trust.
 - d. General Power of Appointment (GPA) v. Limited Power of Appointment (LPA)- Broad in Inherited Trusts
 - 1. For those of you that were given a GPA – we will be updating your Inherited Trusts to now have LPA Broad for you and your beneficiaries.
 - 2. Additionally – there will be added a Formula General Power of Appointment for second step in original basis when you pass.

10. Updating Your Inherited Trusts/Legal Update

- a. Process:
 - a. If it is your year to update, you will be receiving an Inherited Trust Review Worksheet (ITRW) or Client Response Form
 - 1. Please complete all sections.
 - 2. Return by November 30, 2022.**
 - b. Also sending Limited Power to Vest and updated Authorization for Release of Information and Records for fresh dates
 - c. ITRW/Blue Group – we will send you Trust Protector Appointment and Power of Appointment Documents with further instructions
 - d. All clients – if you need additional documents based on your changes – we will reach out to you individually.

11. Your own estate planning

- a. Especially in light of possible changes in Estate Tax - we wanted to remind you that your Inherited Trust should be coordinated with your own personal planning documents.
- b. If you work with another estate planning attorney or live out of state and we can't draft your estate planning documents – we are more than happy to discuss your IT with them so that everything works together.

12. As always – we are here to help and answer any questions you have!