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## Willing to Trust?

New estate-tax laws have many considering the living trust.

BY SHERYLL ALEXANDER

**T**hinking about death isn't high on anyone's list of things to do. But 2006 marks a new era in estate taxes so even those afraid of their imminent demise are re-thinking what will happen to their assets when they die.

In fact, the federal government has increased the amount an estate is exempt from taxes to \$2 million (or \$4 million per married couple). By 2009, this exemption is expected to rise to \$3.5 million. You may miss out on this tax cut, however, if you die after 2010 – when the law is expected to be repealed altogether, says Suzanne Rehmani, a senior associate with Kring & Chung LLP.

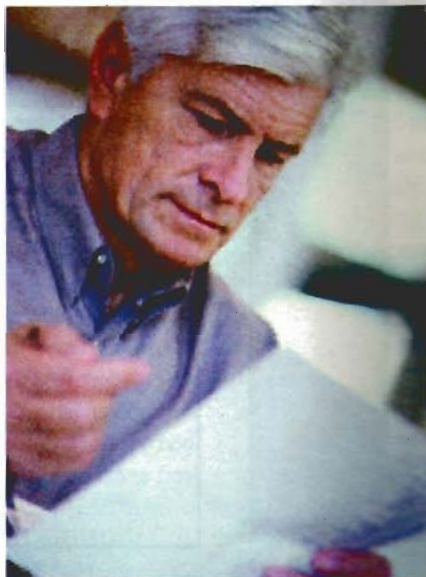
Yes, death and taxes are inevitable. So, how can your beneficiaries keep more of your hard-earned assets? The answer is a living trust.

"Assets transferred to a living trust are not considered as part of the probate estate and are not subject to probate proceedings," says Keith G. Bremer, founding partner at Newport Beach-based Bremer Whyte Brown & O'Meara.

Bremer says a living trust not only provides tax advantages, but also gives the trustee more flexibility and creativity when deciding how assets will be dispersed.

Simply put, living trusts avoid the expensive and slow California probate process and make it harder for people to argue about the terms of your estate plan, says Mark Powell, an estate planning attorney from Snell & Wilmer's Costa Mesa office. "(Trusts) can provide several advantages (like creditor and marriage protection) to your beneficiaries and they also allow you to establish a structure with checks and balances, which help reinforce your own values and provide incentives for your beneficiaries to be productive."

However, one big reason why people



avoid creating a living trust is the price, which can range from \$2,000 to even \$10,000. Gordon Schaller, managing shareholder of GreenbergTraurig LLP, says the costs depend on the size and complexity of the estate and the expertise of the attorney performing the work.

"Even a basic estate plan can involve complex estate tax and generation-skipping transfer tax considerations and coordination with income tax planning, which may involve the services of a tax accountant," says Schaller.

And if spending thousands of dollars now isn't agonizing enough, some people find that choosing a trustee is extremely troublesome. "It is important to choose a trustee who is competent, who possesses fiscal responsibility, who shares your values, who understands financial transactions, and who is well versed in investments, among other important characteristics," counsels Bremer.

Some people today, however, choose a "corporate trustee" or a company hired to administer all aspects of an estate. "The

ongoing accounting and reporting requirements and the duties may overwhelm individual trustees and leave them feeling resentful of their involvement, instead of feeling cherished as a reminder of their involvement with the family or valued for their skills as teachers," says Powell. "Consequently, corporate trustees should be considered, especially if (trustees) are saddled with all of the administrative responsibilities."

While corporate trustees have experience in administering trusts, some experts believe that individual trustees should not be ruled out altogether. "Individual trustees are usually knowledgeable regarding the personal aspects of your family or other beneficiaries," says Schaller. "Individual trustees can hire the services of experts to provide legal, tax and financial advice that corporate trustees include in their services." And here's something nobody wants to think about: What if you die before your children are adults? When is the best age for them to receive their inheritance?

"There is no one answer to this question," says Rehmani. "Rather, the answer is very personal and depends on the maturity of the children."

Even though the minimum legal age to receive an estate is 18, many experts believe teenagers are not wise enough to own substantial wealth. "It may be wise to distribute a portion at each of several different ages, allowing a trusted person to retain management and control of the balance of the assets," says Rehmani.

She adds that you can also put additional prerequisites on bequests, such as college graduation, drug-free testing, non-participation in certain religious groups or any other matters. OCM

*Sheryll Alexander is a lifestyles writer based in Costa Mesa. She is a regular contributor.*