



Trust Company of Vermont

Quarterly Update

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Brattleboro ■ Burlington ■ Rutland ■ Manchester ■ Keene, NH

Employee-owned & Vermont-based

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Chris
Cassidy
CEO

WHEN I STARTED WORKING twenty years ago, one of my goals was to make smart financial choices. Consequently, I began funding a 401(k) account and a Roth IRA in hopes of being able to retire in comfort some forty-five or fifty years down the road. I wanted my 65- or 70-year-old self to be happy with the decisions I was making.

One of the documents I filled out as part of setting up these retirement accounts was a beneficiary designation form, whereby I could name individuals who would inherit the assets were I to get hit by the proverbial bus. Twenty years ago, I was unmarried with no children, and didn't think much about the beneficiary designation. I simply selected a few family members and forgot about it for many years.

In some instances, doing something and forgetting about it can work out. When Warren Buffett took control of Berkshire Hathaway in 1965, the shares were valued at about \$19 per share. At the time of this writing, Berkshire Hathaway Class A shares trade for around \$608,130 per share, which represents a return of 3,200,684%. That means \$100 invested in 1965 would now be worth roughly \$3.2 million. Investing \$100 and forgetting about it for 60 years would have paid off handsomely.

In fact, DALBAR produces an annual QAIB (Quantitative Analysis of Investor Behavior) Report that measures retail investors and how their buy and sell decisions impact their investment performance. The report finds that, by buying high and selling low, on average, these investors cost themselves between one-sixth and one-fifth the return they would have

earned if they adopted a buy-and-hold approach. Sometimes inactivity works.

In contrast, with beneficiary designation forms, it is best to review them frequently. When I got married in 2019, I neglected to do this. Thankfully, in 2020, our internal 401(k) administrator brought to my attention that my beneficiary designation form hadn't been updated in more than a decade. This prompted me to review my Roth IRA beneficiary designation, which was also not updated. I quickly did new forms naming my spouse as my primary beneficiary, and then forgot about it again for a few more years.

Thankfully, internal conversations about this topic prompted me to review my beneficiary designations this spring. Upon doing this, I realized that I had neglected to name a contingent beneficiary for any of my retirement accounts. A contingent beneficiary inherits the funds if the primary beneficiary predeceases the retirement account owner. I am now in the process of updating my designations again to include my daughter.

I am a walking example of why beneficiary designation forms need to be considered and reviewed frequently. Jeanne and Kasey have written an article this month that explores all the intricacies of beneficiary designations and why they are such an important part of an estate plan. If anyone has questions about beneficiary designation forms, Trust Company of Vermont has a knowledgeable staff of Trust Administrators, IRA professionals and in-house attorneys to help answer any questions. ■



ONE OF TRUST COMPANY OF VERMONT'S core services is helping clients implement basic estate plans. Typically, a basic estate plan includes a revocable trust to provide for the disposition of assets on death. Revocable trusts are popular because they are useful for estate tax planning in the case of married couples, they allow for creative structuring of dispositive provisions, and they are not subject to probate administration if properly funded during the client's lifetime. This article focuses on an important aspect of funding a revocable trust: *beneficiary designations for retirement accounts*.

Funding a revocable trust is fairly straightforward: the title of a client's assets is changed from his or her name to the name of his or her trust. For example, to title an investment account or a piece of real estate in trust, the legal ownership would be changed from Jane Doe to Jane Doe, Trustee of the Jane Doe Trust. The process would require new account paperwork or a new deed. Once an asset is titled in a trust, the client can be sure that, on his or her death, the successor trustee can immediately administer that asset in accordance with the terms of the revocable trust without the delay

of probate administration. Unfortunately, certain types of assets, such as retirement accounts, cannot be titled in trust. Retirement accounts, including 401(k) plans, 403(b) plans, and all types of IRAs, may only pass by beneficiary designation. For this purpose, a beneficiary designation is an agreement between the custodian of a retirement account and the client that, on the client's death, the custodian will distribute his or her retirement account in accordance with the instructions contained in the beneficiary designation. As such, it is important to make sure that beneficiary designations are in place and up to date.

The most difficult part about putting a beneficiary designation in place is not the paperwork; it is deciding how to structure the beneficiary designation. Often a client designates a spouse as primary beneficiary and children as contingent beneficiaries. This way, on a client's death, his or her retirement account passes to the surviving spouse or, if the surviving spouse is deceased, to children. However, many clients designate their revocable trust as primary or contingent beneficiary for a variety of reasons. If a client is unmarried and/or does not have children, this is an easy way

to pass retirement accounts to the beneficiaries named in the trust. Or a retirement account can be used to fund a credit shelter trust if there are not enough non-retirement assets for that purpose, or to fund a marital trust if the surviving spouse is a second spouse. A client might designate his or her revocable trust as beneficiary in the event a child predeceases and leaves a minor child, or if a child has a continuing trust established under the revocable trust. Some clients have complex beneficiary designations if there are many continuing trusts for family members, or a combination of different types of retirement accounts, or they have a complicated dispositive scheme. In short, while there are common patterns to beneficiary designation structures, all clients have different circumstances, and it is possible to structure beneficiary designations to accommodate a wide variety of fact patterns.

Once a client settles on the structure of the beneficiary designation, it is necessary to make sure it dovetails with the rest of the client's estate plan, that the paperwork is correctly completed, and that the custodian will respect it. For example, if a trust is designated as beneficiary, the trust agreement must contain certain language to avoid adverse income tax consequences and must also clearly indicate what dispositive provisions apply to the retirement accounts for which the trust is designated as beneficiary. If the retirement account is a 401(k) plan or other type of ERISA plan account, the spouse (if any) must consent if he or she is not designated as the primary beneficiary. When completing the beneficiary designation paperwork, the beneficiaries must be properly identified. If a trust is designated as beneficiary, the paperwork must indicate the correct trust name and date and, if applicable, the correct internal reference

for any sub-trust that is designated as beneficiary. If a beneficiary designation form cannot accommodate a complex designation, it may be necessary to attach a statement with a detailed explanation.

In all cases, it is important to receive a written confirmation from the account custodian that the custodian will respect a beneficiary designation on the client's death. When a beneficiary designation fails, whether because it is out of date or rejected by the custodian or just never done, the consequences can be significant. The best case is that the retirement account is unavailable to the client's intended beneficiaries while the account goes through the probate administration process. The worst case is that the client's heirs litigate over who inherits the retirement account because probate will produce a different result than what the beneficiary designation appeared to intend.

A majority of Americans age 40 and above have at least one retirement account, and many of those Americans hold a significant amount of their personal wealth in retirement accounts. As such, it is quite important to attend to beneficiary designations with care. Here at Trust Company of Vermont, we are happy to assist clients to structure their retirement account beneficiary designations as part of our overall service offerings, regardless of whether those accounts are in custody with us. ■

Please be in touch if you have questions about your beneficiary designations.



**Jeanne
Blackmore
Esq.**



**Kasey
Franzoni
CISP**





KEEPING ASSETS SAFE

ONE OF MY FAVORITE THINGS to do in this line of work is help people, whether it means helping a colleague learn about irrevocable trust tax returns, walking a client through a complicated financial plan, or just giving general advice to someone who asks. One area in which, unfortunately, we are finding we need to help out more and more often is protecting clients and those we love from scams.

When I first started in the trust world, it was easy to spot a scammer. An email would come through with grammatical errors, saying a long-lost relative was leaving you money, and all you had to do was send them some money. Most people are familiar with this type of scam, and that is why you typically do not see it occur anymore. Instead, scammers have had to become more sophisticated in their ways, and it is becoming harder and harder to identify them. Below I am going to give a few examples of recent scams we have seen, as well as ways to protect yourself and loved ones from them.

"Too good to be true investment!"

This may be one of the hardest to spot, as many times, it is a friend or loved one who introduces you to the investment. They have given a scammer funds and in return have received a "statement" showing returns often two to three times the original investment. They then are asked to invest a little more and a little more over time. Each time, they see a crafted statement with fake returns. The scammer then asks if you have any family or friends who would be interested in investing and asks for the contact names of a few people. Soon, each investor has now lost, at times, tens of thousands of dollars. We have seen this type of scam happen with cryptocurrency as well as a start-up business investment.

"Send me a deposit and..."

Social media can be great for keeping in touch with loved ones and even finding advice for questions you have. The issue is that you don't always know 100% who is answering you. As you all know, the real estate

market is tight. It is harder and harder to find a new home if you are looking to move. You post something online about looking for a home or place to rent and people have asked you to make this “shareable” so more people will see it. Soon, you start a conversation with a lovely person who tells you all about how they have a parent who is moving into assisted living and tells you all about the home that you can buy or rent before it is listed. ... You just need to send a small, completely refundable, deposit. The person sends you pictures and it looks like your dream home. You don’t want to lose the opportunity so off goes the deposit. Soon after, the social media account is closed and you are out your deposit.

“Quickly send me money or give me information!”

You receive a phone call and on the other end is a person from a bank, credit card company, or the like saying that they have noticed some suspicious activity. They need you to verify your bank name, account number, address, DOB, etc. ... Many times this comes with much

urgency. They tell you that your account is down to \$100, and they are seeing funds being withdrawn currently. The only way for the bank to put a hold on your account and begin the process of refunding you the funds is for you to verify your information immediately! Soon, you have given the scammer all the information they need to access your account or open accounts in your name.

Scams and scammers will continue to evolve, but there are a few simple things that you can do to protect yourself. You should always remember to keep your information and data protected. This includes keeping antivirus active on your computers, using strong and unique passwords for all accounts, and always remembering to think before clicking on any links, emails, or text messages. In addition, be sure to review your privacy settings on all your social media accounts. Review who can see what you are posting and who can share that information.

If you receive a call, we also recommend calling the person or institution directly. Find the number that you know is for them and use that to verify what the original caller discussed. Doing a quick search yourself can also help verify what someone is saying. Getting as much information as possible about an investment, or the person contacting you, and verifying what you are being told will go a long way in keeping your data and assets safe. It is also important to discuss circumstances with family, friends, and trusted advisors.

If you do happen to find yourself in one of the above or another situation, don’t be afraid to ask for help. You should contact your financial institutions to let them know what happened. This way, there can be added checks on your account to review for fraudulent activity. You should also contact your local law enforcement officials. At TCV, we unfortunately hear more and more about these circumstances and are always here to give you our perspective. Always remember the adage – if it sounds too good to be true, it probably is. ■



**Angela
Bowman**





KEEP CALM AND REPLY ON

Few experiences are as jarring as receiving correspondence from the Internal Revenue Service (IRS).

Here are some tips on how to prepare an appropriate response and what to expect along the way if you get an IRS letter in the mail.

According to a report given to Congress on January 10, 2024 by National Taxpayer Advocate Erin M. Collins, as of October 2023 taxpayer correspondence more than doubled from 2019 levels, which equates to 4.3 million pieces of mail, and nearly 70% of pending cases exceeded normal processing times. In fact, the IRS decided to prioritize answering telephone calls over processing amended returns and correspondence. Clearly, the IRS resource allocation choices will have an impact on the public when it comes to an orderly settlement of a particular person's tax issue.

The first thing to keep in mind is that your correspondence doesn't necessarily mean you or your tax preparer did something wrong or you have a problem. However, you should absolutely take the notice seriously and assume there may be a time-sensitive reply needed after you have examined the document. Clients will often suggest calling the IRS first rather than taking the time to formulate a written reply. It doesn't hurt to try to resolve the notice by calling the number listed. Unfortunately, however, resolving the issue that triggered a notice often requires written correspondence and a bit of patience as the IRS reviews your response. This is because there are limited issues that IRS customer service representatives may resolve over the telephone. Please also keep in mind that many notices are computer-generated and are unlikely to have been reviewed for accuracy before mailing. Also note that the IRS will send duplicate notices to both members of a married/joint household, but you do not need to reply twice.

When writing back to the IRS, here is how to organize your reply and what to include:

- Always send a full copy of the IRS notice along.
- Include your letter (or that of your preparer) indicating any relevant evidence you/your preparer believe will support your position, usually addressed to IRS at the mailing address found at the top left corner of the notice (respond to the service center that wrote to you).
- If the notice is a proposed assessment of additional tax, for example, you may need to include a copy of the pages of the return you filed if you believe you did report the income that the IRS is not recognizing.
- In your letter, ask the IRS "to please place a 90-day hold on any collection to allow time for this response to be reviewed and evidence considered."
- Include copies of earlier responses if you have been communicating about the same matter in earlier letters to other service centers.

Once you send your reply, you can expect to wait up to 60 days to get a letter in the mail that says "we received your letter, but give us 60 or 90 days to get back to you." This letter doesn't require a reply, but should be retained as it is evidence that the IRS received the initial correspondence.

During the 60-day (or 90-day) period after you first write to the IRS, if the matter involves a potential additional tax, the

IRS will continue to bill you which is perhaps the most frustrating part of the process. These bills are computer-generated, and are not an indication that the IRS disagrees with your original response. Rather, the bills simply get mailed out while the IRS considers your first letter. Often we advise clients to reply to these letters with a copy of the first correspondence, but that can be optional.

Presently, we are finding it's taking the IRS up to 9 months to provide a satisfactory response to the initial letter and evidence we provided, but it's not uncommon that we must write to the IRS two or three times throughout as we respond to multiple bills.

Here are a few tips to reduce the risk of a notice in the first place:

- Electronically file tax returns as often as possible.
- We recommend that all correspondence and tax filings be sent via certified mail.
- Keep very good records of estimated tax payments to be sure you are claiming the correct payment on the correct return, as a large percentage of IRS correspondence deals with misapplication of estimated payment or payments claimed on the incorrect year's return.

Be aware that the IRS has an independent arm called the Taxpayer Advocate Service (www.taxpayeradvocate.irs.gov) which is tasked with helping out taxpayers whose resolution has been lost in the shuffle, or where wait times are even greater than 9+ months. While not a guarantee of a positive outcome, it is easy to engage their help and saves paying the tax preparer to keep checking in with the IRS.

So, if you receive an IRS notice, don't panic, but do start planning an effective response. While your tax preparer is always your first line of defense, as your trusted advisors we are happy to take a look at any correspondence you do not understand or offer some guidance as to the best way to formulate a reply. ■



**Nathan
Alexander**
CPA, CFP®

TRUST COMPANY OF VERMONT would like to alert you to the *new* **Corporate Transparency Act (CTA)**, which went into effect on January 1, 2024. This law was enacted to provide law enforcement with beneficial ownership information for certain business entities. It requires millions of companies to report information about the individuals who ultimately own or control such business entities.

CLIENT ALERT

Corporate Transparency Act

of a business entity (such as an LLC, or another domestic or foreign privately held company operating in the US), or if you **form a new business entity** in 2024, you likely must comply with the CTA. In this case, you will be required to file a *“Beneficial Ownership Information Report”* (BOI Report) online with the Financial Crimes Enforcement Network (FinCEN), which is a bureau of the U.S. Department of the Treasury. Companies subject to reporting requirements under the CTA are known as “reporting companies.” Reporting companies likely also have a filing requirement any time there is a change in beneficial ownership for the business entity, a change in address of the entity or of anyone who owns or controls it, or other substantive changes to the entity and/or information of the underlying individuals who own or control it.

For reporting companies already in existence prior to January 1, 2024, the initial report is due by January 1, 2025. For reporting companies created or registered on or after January 1, 2024, the initial report is due **90 calendar days** after the entity is created or registered. For reporting companies created or registered on or after January 1, 2025, the initial report is due **30 calendar days** after the entity is created or registered. Please note that, if a reporting company is owned by a trust, the beneficial owners about whom beneficial ownership information must be reported may include the Grantor or Settlor, the Trustee, and certain types of beneficiaries.

Trust Company of Vermont will not be preparing CTA filings, but we want you to be aware of the new requirement due to its broad scope and the potentially severe penalties for noncompliance.

To determine if you must comply with the CTA, refer to the following website for information: fincen.gov/boi or contact the attorney who helped form your entity or your current attorney.

If you do not have an attorney and need help to locate a qualified attorney, please be in touch. If Trust Company of Vermont, as Trustee, is a beneficial owner of a reporting company for which you must file a BOI Report, we will provide our FinCEN Identifier upon request. ■

The scope of the CTA is surprisingly broad. If you own even a small or inactive business entity, the CTA may apply to you. Failure to meet CTA reporting requirements may result in serious civil and/or criminal penalties.

More specifically, if you are **currently a partner, member, owner or manager**

ANNOUNCING

TCV's Website Refresh!



We are excited to announce the launch of our newly redesigned website!

We hope that you will take some time to browse the new site, now filled with photos and bursting with information. Not only can you explore our services, our people, our story, and our fees, but you can easily access your account online and eMoney platform. You will find direct links to our current newsletter and our newsletter archives. Many thanks to the committee of employee-owners who worked closely with our web designer to create what we think is a beautiful and user-friendly site. We hope that you enjoy the site as much as we do and, if so inspired, share it with your friends and family!

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