TRUSTS – What are they and do I need one?

What is a trust? A trust is a planning technique where you (as the "grantor" or "donor") create a new legal entity into which you place property for the benefit of one or more individuals ("beneficiaries"). (Think of an empty box – the trust – which can then be filled with property.) A trust is established by a "declaration of trust", a legal document, in which you name someone to manage the assets placed in trust (the "trustee") and give instructions on how and when distributions of income and principal are to be made. The trustee must follow the rules provided in the trust instrument.

Are there different kinds of trusts? Absolutely. The most common is a *revocable* trust (often known as a "Living Trust") which may be changed or rescinded by the person creating it at any time. An *irrevocable* trust is one that cannot be changed after it has been created. Advanced estate planning techniques may include special trusts focusing on protection of residences, insurance, charitable giving, and business succession.

What does a trust accomplish? A trust can accomplish many goals, including:

- preservation of your financial privacy;
- uninterrupted management of your trust investments if you are incapacitated;
- avoidance of the delays and costs of probate;
- elimination or minimization of estate taxes;
- ensures that your wishes are carried out and are not subject to attack;
- asset protection from beneficiary creditors; and
- preservation of assets for a disabled family member

What can go into a trust? Assets of all kinds can be placed in trust, including bank accounts, real estate, securities, mutual funds, and personal property.

If I create a trust, do I still have any control over it? In most cases, absolutely yes, especially if the trust is revocable. As "Donor" of the trust, you typically reserve broad powers. For example, you may revoke the trust at any time, change the trust, remove or add a trustee, change the beneficiaries of the trust, and/or add or remove property at any time. If you fund the trust during your lifetime, you are entitled to request distributions to yourself of both income and principal. You own the property in the trust, and therefore you will pay any taxes owed on interest or dividends earned by the trust. You will report all gains and losses on your income tax return. The trust simply holds the property for you. And, usually, with a revocable trust, you will even be the trustee! Upon your death or incapacity, the trust can hold and/or distribute your property in whatever manner you direct. In order to enjoy all of the benefits available with irrevocable trusts, you typically have less control, but you would likely retain some significant powers.