NEWSLETTER

JAN-MAR 2016
FIRST QUARTER
Vol. VI, Issue 1

Connecting the members of the Association of Trust Organizations

Let's Stay Connected!

Dear ATO Member,

As your 2016-2018 ATO President, I want to share with you how important connections truly are, both in our businesses and in our association. The single biggest catalyst for success is interaction. While it is important to stay connected with your company and employees, it is also vitally important to cultivate professional and personal relationships.

You are a member of a strong professional community that grows larger every year. I invite you to engage with fellow trust providers by attending our annual meeting this fall in Portland, Oregon. You can also grow your professional network by joining ATO's social media community — Facebook, LinkedIn or Twitter — there are many ways to connect.

Connections are the primary reason we decided to host ATO's Annual Meeting in Portland, Oregon, this year. By reaching westward, our goal is to extend ATO's reach to trust providers who haven't typically participated in our annual meeting, while introducing our traditional attendees to new, geographically-diverse resources.

We hope that these increased connections will make ATO a broader and stronger organization that better serves the industry.

I feel honored to have the opportunity to lead our organization this year, but also a responsibility to serve our members well. I encourage you to stay connected with each other and to reach out to me with any feedback that will benefit our members.

On behalf of the entire membership, I would like to welcome all new members and hope that, with your help, our association will shine brighter than ever. Thank you for your membership and participation, as ATO cannot be successful without your loyal support.

Best Wishes for Continued Success,

S. Bond Payne, Jr.
President, Association of Trust Organizations

2016 ATO Leadership

ATO OFFICERS

PRESIDENT

S. Bond Payne, Jr.
Heritage Wealth Management
Oklahoma City, Oklahoma

TREASURER

Tony Guthrie
Retired
St. Simons Island, Georgia

SECRETARY & GENERAL COUNSEL

Tom Blank
Shumaker, Loop & Kendrick, LLP
Toledo, Ohio

BOARD OF DIRECTORS

Stuart B. Allen
Allen Trust Company
Portland, Oregon

Daniel K. Carter
The Trust Company
Knoxville, Tennessee

Bruce Hastings
Federated Investors, Inc.
Pittsburgh, Pennsylvania

John C. Jansing
ProxyTrust
Islandia, New York

Jeffrey C. Kanaly
Kanaly Trust LTA
Houston, Texas

Douglas Nunn
The Trust Company of Virginia
Richmond, Virginia

Greg Osko
Trust Company of Illinois
Downers Grove, Illinois

John Seidl
Indiana Trust & Investment Management Company
Mishawaka, Indiana

Arthur P. Sims
D.A. Davidson Trust Company
Great Falls, Montana

EXECUTIVE DIRECTOR

Somerlyn Cothran
Ada, Oklahoma

ATO Member News

Argent Property Services and Heritage Mineral Management combine

January 4, 2016

Argent Financial Group announced Jan. 4, 2016, that its combination with Oklahoma City-based Heritage Trust Company and its subsidiaries continues with the combination of two subsidiaries focused on the management of client oil and gas interests. Heritage Mineral Management and Argent Property Services will join together to form Argent Mineral Management.

The combined firms will be responsible for more than two million acres in client mineral assets in 27 states served by a staff of more than twenty professionals.

David Luke, Managing Director of Heritage Mineral Management, will continue in that role for Argent Mineral Management, providing leadership to the combined groups. Clients of the combined entity will benefit from a deeper professional staff, additional service offerings, and expanded geographical reach.

"Choosing to partner with the Argent family was done after years of working together and watching our respective businesses grow," said Luke. "We share the same values and commitment to clients, and we will be stronger together. Argent and Heritage provide significant value to our client landowners and mineral interest owners. Together, we will offer a depth and range of oil and gas services that is unmatched by any other service provider in our region."

"We are very fortunate to add the entire talented team at Heritage," said Argent CEO Kyle McDonald. "Argent's approach is to employ highly experienced, local professionals to lead our subsidiaries, while providing the full resources, experience and technological support of a major regional wealth management organization, all from a core based on sound fiduciary principles. We look forward to growing together."

Argent Mineral Management operates from six offices currently: Oklahoma City, Oklahoma; Southlake and San Antonio, Texas; Alexandria, Ruston and Shreveport, Louisiana.

Argent Mineral Management provides mineral management services such as lease negotiation, administration, accounting, and auditing. Argent Financial Group, parent company of Argent Mineral Management, is a full-service, trust-based wealth management firm that provides clients with a broad array of wealth management services built from its core of trust management. Argent, operating 22 offices across ten southern states, just celebrated its 25th anniversary.

Harbour Trust Company promotes Brian C. Merrill to vice president

January 29, 2016

Harbour Trust Investment & Management Company, located in Michigan City, Ind., recently announced Brian Merrill has been promoted to the senior management team and named vice president of the company. Merrill has been a key member of the Harbour Trust team for more than eight years, according to a news release.

"It is with great pleasure that we recognize Brian's strong leadership and expertise," said Bob Rose, Harbour Trust President. "Brian is passionate about his job, especially interacting with existing and potential clients, and his skills and experience allow him to offer the top-quality service we provide at Harbour Trust."

Merrill started his investment career in 1995, spending six years with Horizon Bank and Old National Trust as a Portfolio Manager and Investment Officer, specializing in portfolio management of high net worth and retirement accounts.

Brian C. Merrill

Merrill joined the Harbour Trust family in 2008 as an Investment Officer. Also, in his role as the Chairman of the Investment Committee, Merrill guides a team of trust professionals in developing asset allocation strategy and selecting individual investment assets for the company's clients.

"It's an honor to be named Vice President," said Merrill. "After eight years with Harbour Trust, I am looking forward to this new challenge and seeing how much more we can accomplish for the clients we serve."

Merrill was born and raised in Muncie, where he received his B.S. degree in Corporate Financial Management from the Ball State University Honors College. He is currently pursuing the completion of the CFA designation.

Is something missing from your trust department?

Preneed trust expertise you can count on. You constantly work to make sure your trust department has all the bases covered. You know where the holes are, and you work diligently to close them. But what about funeral and cemetery trusts? Do you have any? Are they covered? That's where we come in.

We offer the highly specialized expertise that many financial institutions don't even realize they're missing. We fill in the missing regulatory knowledge, guidance and expertise that can reduce your risk and minimize liability. So you can get on with your day-to-day, core business. Let us complete your team. Contact Infinity Management Advisors today.

INFINITY MANAGEMENT ADVISORS

407-340-7920 • trustima.com

Death care industry adopts estate planning techniques, yielding new opportunities for trust organizations

story contributed by James "Jim" Atwood
President, Infinity Management Advisors, LLC

In the last several years, the death care industry has looked more closely at the tools and techniques regularly utilized by the estate planning industry. This includes the adoption of unitrusts by perpetual care cemeteries. This approach empowers cemetery operators to better plan for their business while supporting growth of the trust. Legislators in Iowa, Missouri and Tennessee recognized these advantages and enacted laws adopting the unitrust distribution method for perpetual care cemeteries. Florida may be the next state to adopt this estate planning technique.

Florida State Senator Kenneth Roberson introduced Florida House Bill 473 (Funeral, Cemetery and Consumer) in October 2015. This bill would allow the election of the unitrust distribution method as an alternative to the current net income approach for care and maintenance trusts required of cemeteries. It also creates definitions, requirements, and procedures for election, modification, and Board approval of a cemetery company's election to use the method.

While this legislation offers cemetery owners and operators a new tool that can strengthen their business, it also offers trust companies a growth opportunity. As the financial needs of the death care industry become more complex, funeral professionals need more advanced expertise and guidance. In the case of unitrusts, the relative complexity of this financial technique has led to slow adoption rates by both state legislatures and by cemeteries in states that allow for the unitrust distribution election. To evaluate whether to pursue this opportunity to serve, it's best to start by understanding the unique benefits of the unitrust election for perpetual care cemeteries.

Perpetual Care

Perpetual care cemeteries must uphold a promise to provide a well-maintained final resting place as far into the future as possible. It is a sacred responsibility to their clients and to their communities, requiring the upkeep and maintenance of the grounds to continue after the property is fully "sold out." To fully understand and appreciate the extent and necessity of economical sustainability of perpetual care trusts you have to consider cemeteries that have been in existence since the early 1800s – many serve as treasured landmarks that tell the history of a community.

Maintaining and caring for cemeteries, like other properties with historic value, are financed through endowment care trusts, which restrict distributions to net income. Under these standards, a typical perpetual care trust fund portfolio is weighted heavily in income-producing investments. As cemetery owners and operators continue to see a decline in available funds for maintenance and upkeep, they are turning to alternative solutions.

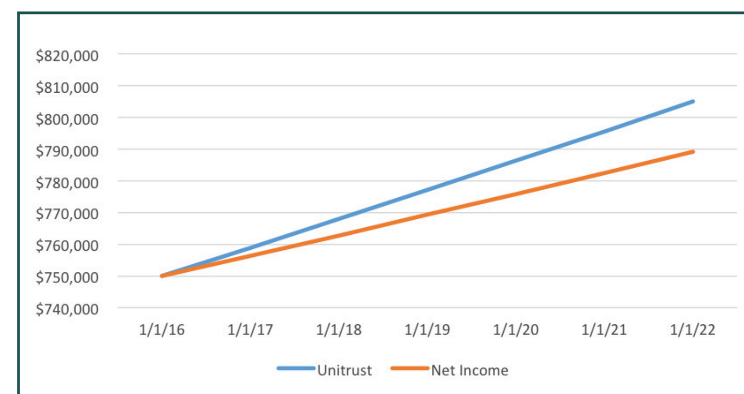
Jim Atwood

Florida is the fourth state to examine adopting the unitrust distribution method through new legislation. Iowa, Missouri and Tennessee adopted the use of the unitrust withdrawal method through a simple administrative rule change. Regardless of the mechanism, these legal changes have the potential to mitigate financial pressures and burdens of cemetery owners by offering a consistent and constant revenue stream and minimize fluctuation due to interest rates.

A unitrust withdrawal method regulates a fixed percentage distribution based on the annual fair market value of funds within a trust, accounting for both income and capital gains. The unitrust withdrawal method provides a total-return approach, as perpetual care cemeteries earn returns on the total fair market value of their trust. To fund the care and maintenance of a "sold-out" cemetery with no other viable revenue streams, the unitrust election has the potential to significantly improve the financial wellbeing of a business while maintaining the integrity of the perpetual care trust fund.

To fully understand the financial impact, let's compare the unitrust method to a typical net income distribution. Net income distribution, in most states, is restricted to interest and dividends. For the purposes of this comparison we will look at a trust with a $750,000 market value and its growth over seven years. This comparison is using current ten-year U.S. Treasury notes, which are yielding approximately 1.87 percent. After fees, expenses and taxes, this is likely to result in a 1.1 percent distribution to the cemetery.

As shown in the below chart, over the seven years shown, the unitrust withdrawal method will provide, on average, nearly $20,000 more in distributions and $7,800 in year-over-year growth. The difference in positive cash flow to the perpetual care cemetery is significant allowing for true sustainability and financial growth. This method gives cemetery owners and operators the knowledge and ability to plan further in advance to ensure the success of their business.



The unitrust method implements a fixed percentage of the trust's fair market value. Typically, distributions range from three to five percent and are dispersed over the course of a year. On average cemeteries will elect for a 4.5 percent distribution, which provides a reasonable distribution for upkeep and maintenance, and also supports re-investment of the remaining earnings.

The net income distribution method varies depending on interest rates resulting in unpredictable distributions. This method negatively affects the sustainability of a perpetual care trust. The net income method discourages re-investment of funds and the preservation of the trust fund's principle. The management and budgeting process of the perpetual care cemetery can be complicated by inconsistent distributions.

If passed, this Florida bill could support the preservation and management of perpetual care cemeteries. The perpetual care industry will have a better understanding of their long-term income and will be empowered to make decisions regarding their business. To ensure the unitrust election works for their business, cemeterians will need the guidance and expertise of trustees. The financial tool is only one example of how trustees are well-equipped to meet the evolving needs of the death care industry. By investing the time and energy in understanding the unique needs of cemeterians and funeral service professionals, trust organizations will find an attentive audience and a promising business opportunity.

About the Author

Attorney Jim Atwood, is the CEO of Infinity Management Advisors, LLC, a consulting firm that specializes in fiduciary administration and services, and serves as a member of the Board of Directors of Funeral Services, Inc. (FSI). He was a member of the Tennessee Bar Association study committee that adapted language for the Uniform Trust Code in Tennessee and was involved in modeling policies for SunTrust Bank that allowed conversion to the unitrust option. He has also served as senior vice president of SunTrust Bank's cemetery and funeral-trust services group.

CFP Board updating fiduciary standards of professional conduct

2016 is shaping up to be the year of major regulatory change for financial advisors.

Michael Kitces
February 8, 2016

The CFP Board's Standards of Professional Conduct are the rules by which CFP certificants are held accountable – and a violation of those rules can result in a private censure, a public Letter of Admonition, or even an outright suspension or revocation of the CFP marks. And after 8 years of the current Standards being in place, the CFP Board recently announced that it has formed a new 12-person committee — the "Commission on Standards" — tasked with evaluating whether it is time to update the standards...and if so, how they should be changed.

And arguably, the CFP Board's standards do have room for improvement. While the last revision in 2008 took the positive step of introducing a fiduciary standard for CFP certificants, it notably applies only when a CFP certificant is actually "doing" financial planning, not merely for being a CFP certificant who works in the financial services industry – creating problematic scenarios where a consumer hires someone with the CFP marks only to find out later that person wasn't required to act in his/her fiduciary capacity as a professional. Similarly, the CFP Board "requires" a fiduciary duty for CFP professionals providing financial planning, but doesn't specifically require those advisors to manage or avoid their conflicts of interest, and instead simply requires that such conflicts be disclosed... despite the available research that finds disclosure is a poor remedy to manage conflicts of interest, and can even cause advisors to behave worse. And of course, there's the CFP Board's compensation disclosure rules, which have dragged the CFP Board into both a lawsuit, and criticism that its current definitions render its definition of "commission and fees" as meaningless for consumers.

Fortunately, the CFP Board's decision to revisit the Standards of Professional Conduct — as it does from time to time — gives the organization opportunity to correct these issues. The process this time around includes both numerous public forums with CFP certificants — being held in six major cities in the coming weeks — and will be followed by a public comment period for all CFP stakeholders to weigh in on any proposed rule changes.

Portland Oregon
Association of Trust Organizations
ANNUAL MEETING 2016
Sept. 25-27 @ The Nines
call for early sponsorship info
(405) 680-7569

It's what's inside that gives you knowledge.

With our trust administration technology inside your business, you can check the balances of your trusts daily, track your receivables and earnings down to the contract level, and even access monthly statements immediately. Unlike others, all our monthly statements add up to the market value of the trust. You'll know exactly what's going on with your trust. And it's all backed by unparalleled customer service. So the question remains: What does your trust run on? FSI. Any trust, any state, any time.

fsitrust.com

TRUST SOLUTIONS

Tax hikes hit trusts hard

Ashlea Ebeling
Forbes
January 9, 2016

Folks with trusts, and that includes widows and the disabled, not just the ultra-wealthy, have been hit with a double tax whammy this year. First the 3.8% Obamacare tax that applies to net investment income kicked in Jan. 1. Then, the American Taxpayer Relief Act was signed into law on Jan. 2, imposing income and capital gains tax hikes on trusts akin to those on the wealthiest taxpayers. The top income tax rate is now 39.6%, up from 35%, and the top capital gains rate is now 20%, up from 15%.

The kicker: these taxes hit a trust on any income it does not distribute over just $11,950, far less than the $400,000/$450,000 ATRA and $200,000/$250,000 Obamacare thresholds for individuals.

"It's hitting where it really shouldn't," said Laurie Hall, an estates lawyer and head of the Wealth Management Group at Edwards Wildman in Boston. "These increases weren't intended to hit people with income below $200,000, and they will."

Here's why. Most trusts (non-grantor trusts) pay tax on capital gains and accumulated income that stays in the trust, while the beneficiaries pay tax on income that is distributed to them. So trusts—even relatively small ones—will be hit with the 23.8% capital gains rate (the 20% rate plus the 3.8% Obamacare tax), even if the beneficiary himself would be squarely in 15% capital gains territory. "Going forward you have to think the trust is going to be hit with the extra 8.8%," Hall said.

True, many trust beneficiaries are ultra-wealthy and can easily bear the extra tax, but many middle-class folks have set up trusts for basic estate planning as well as non-tax reasons, and they'll be swept into the higher tax regime too. For example, it has been common for a husband to leave money to a surviving spouse in two trusts, one sometimes called a "bypass trust" to shield assets from the federal estate tax, and another "marital" trust to keep the assets earmarked for his children in the event the surviving spouse remarries. Also, families put money into "special needs trusts" for disabled or chronically ill relatives. "You're stuck between the human issues and the tax issues," Hall said.

NextGen advisors are just a little bit different

Diana Britton
WealthManagement Magazine
February 8, 2016

This industry is quick to jump on a trend; attracting and retaining the next generation of advisors is one of the latest. Many firms host "next gen" symposiums, industry conferences are crowded with break-out sessions imploring the grey hairs to get hip to millenials, and countless consultants have thriving businesses promising to teach advisory firms how "next gen" advisors think, behave and communicate, sometimes sounding like anthropologists decoding the social rituals of a mysterious and exotic tribe. We're told that these young financial professionals are "not your father's financial advisor," with different values, perspectives, expectations and communication styles.

And it's true—up to a point. As part of our ongoing surveys of financial advisors, Wealth Management.com took the pulse of 349 advisors under the age of 45 across all channels of the industry. On the substantive issues, it turns out that younger advisors are very much like older advisors. They are predominantly white males with a bachelor's degree; they're largely satisfied with their respective firms, including its management, technology and support. They get into the business for the same reasons—job satisfaction, to work with people, to help clients make better financial choices, etc.

"I think the industry has always had a history of replicating itself," said Tim Welsh, president and founder of Nexus Strategy in Larkspur, Calif. "People are attracted for the same reasons—the upside potential, the ability to work with people."

Like the general advisor population at large, they're not coming into the profession right out of college. About 67 percent of respondents said they came into the profession after working in another job—entering the advisory industry four years after leaving college, on average.

"It's tough to come right out of school, 23 or 24, and then expect people to give you $1 million and manage assets for them," Welsh said. "This is definitely a business based on money. So if you look at the demographics of who has money in the U.S., it's probably going to be very reflective of that."

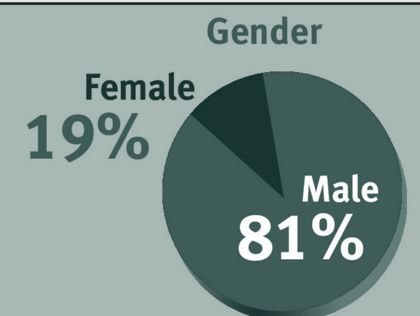
That's a much tougher trend to change.

Who are the NextGen advisors?
They look a lot like the old gen.

Average Age:
37 years

Average Length of Time as a Financial Professional
4 years

Gender



graphics from wealthmanagement.com

ASSOCIATION OF TRUST ORGANIZATIONS

2016 Annual Meeting

SEPTEMBER 25-27

Call (405) 680-7869 for early sponsorship information

Association of
Trust Organizations

2313 North Broadway
Ada, Oklahoma 74820