



IT'S YOUR LIFE

Family Succession Planning with Trusts

The goal of most parents is to see that their children and grandchildren succeed. As long as the parents are alive, they can help their children as needed. But, what if the parents die? Family succession planning involves helping the next generation succeed by properly protecting their assets and incenting the type of behavior parents find appropriate. This can effectively be done using one or more forms of trusts.

Minor children – It is generally not advised to give an inheritance to an 18-year-old, but this could happen without proper planning. If a child is under 18 when the parent dies, the court will impose a guardianship. Generally, the inherited assets must be turned over to the child when he or she reaches legal age. Having a trust can prevent this. Think of the trust as doing what you would have done if you were still alive. It is unlikely you would have made a large gift to the child on his/her 18th birthday. Rather, you would make sure the child's needs are met, college and perhaps a wedding is paid for, or you may want to help pay for a first house or to start a business, etc. The trust can be designed to do just that. Additionally, it can be designed to make lump sum distributions at certain ages. All things you would likely have done if you were still alive.

Special needs children – People who have children with special needs (physical, mental, emotional) can make sure the child's needs are met after both parents are gone. Many of these individuals are eligible for public assistance of some type; however, if they inherit outright from their parents, they may become ineligible for the assistance until the inheritance is spent. Parents of special needs children should consider setting up a trust that will supplement the child's needs without disqualifying him/her from assistance.

Children with chemical, gambling, creditor, motivation problems – For children with issues that a sudden influx of money could exacerbate, parents should consider putting the child's inheritance into a trust for protection from themselves and from creditors and predators. The trustee could have the discretion to make partial distributions when certain milestones are met (e.g., chemical-free for a certain time period, credit under control) or for accomplishing certain goals (e.g., college graduation, dollar for dollar match of legally earned income, etc.).

Children's spouses – Sometimes, parents are more concerned about their children's spouses than they are the children themselves. If marriage stability, debt issues, etc. is a concern, the parent should consider putting that child's inheritance into a trust that provides lifetime income to the child, but with an ultimate distribution to the grandchildren (bloodline trust).

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Blended Families - Things can get complicated when there have been prior marriages, especially if children are involved. Without proper planning, a parent who remarries may inadvertently disinherit his/her own children. This would happen if the bulk of the estate passes primarily to the new spouse. It is recommended that, before remarrying, a parent with significant assets should consider a prenuptial agreement and trusts to protect assets for “bloodline” heirs.

A qualified, experienced estate planning attorney can help you work through your concerns and put together a plan that provides appropriately for your children when you are no longer around.

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