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A Special Trust For The Successful Child

Do you have a financially successful child? We often recommend against leaving all of the inheritance for the successful child to them outright. Instead, it can be better for both your child and your grandchild to leave some or all of the child's inheritance in a special "generation skipping" trust. We call such an arrangement a "Heritage Trust".

Let's review the provisions of a Heritage Trust, including the estate tax savings and other advantages:

1. The child can be the trustee of his own trust and manage the trust property, if you feel this is appropriate. As trustee, the child can invest the principal as he or she sees fit. As trustee, the child signs all checks and does not need anyone else's approval.
2. All income can be paid to the child during his or her lifetime (or a percentage of the total return may be paid, allowing the child to benefit from capital growth).
3. The principal of the trust can be distributed to the child and his or her descendants for their health, education, maintenance and support. So it is available to the child and his or her family if they need it.
4. Property in such a trust is protected from the child's creditors and predators (the IRS, ex-spouses, etc.). Although anyone can find himself in a lawsuit, this protection is even more significant if the child or the child's spouse are in a high risk business or profession.
5. On the child's death and through the child's will, the child can have the right to "appoint" (direct) the remaining trust property to a limited group of people you specify, such as the child's spouse and descendants.

With this feature, this means the child can control to whom and when the remaining trust property will be paid. He can create further trusts for the benefit of the spouse, children and grandchildren.

6. The major tax benefit of using such a trust is this: a significant amount of property (up to \$2,000,000 per parent, and sometimes much more) can pass to your grandchildren free of estate taxes upon your child's death.

This is particularly significant when you recognize that your child's inheritance, if received outright from you, would be taxed again at his or her death on top of assets which he or she already owns. The applicable federal estate tax rate can reduce this inheritance by 45%.

If your child would invest all or most of his inheritance anyway, he can do so just as easily in this trust as he could in his own name, yet this trust offers significant estate tax savings and creditor protection.

A child cannot create this type of trust for his own benefit and achieve the same estate tax and other advantages. With this special trust, you can do something for your children that they cannot do for themselves.

As you can see, there may be several reasons why this special trust for the successful child could be of benefit to your children. This is true even if YOU do not have a taxable estate. This article is presented as an informational summary only and does not discuss all the specific drafting options or complete tax and other ramifications of heritage or generation skipping trusts. We urge you to discuss the ideas expressed in this article with your children, and a competent estate planning attorney.

This article was prepared by Midgett & Preti PC and is intended to provide general advice only. For answers relating to a specific situation, you should consult a competent estate-planning lawyer.