Trusts—Not Only for the “Rich and Famous”

Providing for the distribution of assets after death is not a task eagerly approached by anyone. It is, however, a task everyone must face. And, that’s where **trusts** enter the estate planning arena. A trust is simply an arrangement whereby one person holds legal title to an asset and manages it for the benefit of another. In one form or another, trusts may be used in personal financial planning.

The ability of a trust to help bridge the gap between life and death is one of its most valued characteristics. A trust allows a person to “rule from the grave,” so to speak—perhaps not forever, but to the extent the law allows. Generally, a trust may be established to last for many generations, ending 21 years after the death of the last named **beneficiary**.

Benefiting Oneself

You could establish a trust for your own benefit, not only for tax purposes, but also for many other reasons. For instance, you may want the benefit of professional asset management, or you may want to participate in a new business venture with strong potential, but high risk. You could then use the trust to help assure yourself of an income in the event of failure. You may set up a family trust with the primary purpose of observing its operation and then eliminating any deficiencies that appear in actual operation. You may feel that, while you are presently capable of managing your affairs, you may be unsure about the future. In that case, a **standby trust** may serve a useful purpose.

Benefiting Others

On the other hand, trusts can be established for the benefit of others, such as a spouse, children, parents, or grandchildren. In addition, an individual may want to provide for beneficiaries who may be regarded as missing elements in their abilities, experience, or training.

This is clearly the case where minors, or others deemed legally incompetent, are the intended recipients. But, trusts may be created for the benefit of responsible, competent adults too, for the same reasons the person establishing the trust may want to set up a trust for him or herself. These include freedom from management burdens, professional administration, mobility, and other practical reasons—the most important being cash savings. While avoiding **probate** may be a consideration, the estate and gift tax savings made possible by the use of trusts is more important in many cases.

Use of a trust device can often permit a donor to transfer assets for the benefit of a beneficiary, while at the same time shielding such assets from the reach of creditors. For example, the laws of most states

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permit the creation of so-called **"spendthrift trusts."** Use of such trusts may permit the person establishing the trust to place both trust income and principal beyond the reach of the beneficiary's creditors. For the most part, these laws prevent the beneficiary from assigning any part of the interest in the income or principal of the trust since most creditors look to property that could freely be assigned by the beneficiary. Their attempts to reach assets can be thwarted or at least made more difficult. The person establishing the trust is generally permitted to make free use of his or her own assets, even if the result is to prevent a beneficiary from dealing with the trust's assets at will.

If you are considering establishing a trust, be sure to seek the advice of a qualified legal professional before final decisions are made.

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