Trusts: A matter of caring

Quick quiz: Is the following statement true or false? *"Trusts are mainly tax-saving devices used by the very wealthy."*

False.

Few family trusts are established solely for tax purposes or set up by people of great wealth. Most are created primarily as a practical way to conserve family funds and create greater financial security for the trust beneficiaries. To be sure, most trust plans do take taxes into account, just as people reckon with tax factors as they invest money or make business decisions. But taxes are not what trusts are all about.

Trusts are about people. They are created by people who care about other people.

Trusts for children and grandchildren

When should an adult child's inheritance be left in *trust* rather than outright? Normally, the need for thoughtful trust provisions is dictated by special circumstances: a chronic illness, a chronic inability to handle money or, perhaps, an unfortunate marriage.

But the course of events is not always "normal." That's why parents need to consider how their youngster's inheritances would be handled if both parents should meet with what lawyers call a "common disaster." Grandparents face similar concerns when planning for the benefit of young children left by a deceased son or daughter.

The law seeks to protect assets left outright to minors by requiring a court-appointed guardian to administer the inheritance until the young person "comes of age." The more thoughtful solution, however, is to leave a minor's inheritance in trust.

- The trustee can be given special instructions about investments and the use of income and principal for the child's benefit. This approach allows the fund to be handled in a flexible manner.
- The youngster's trust can continue until he or she finishes school and gets a taste of the real world.
- Responsibility for managing the inheritance can be turned over to the beneficiary in two or three installments rather than all at once.

Trusts for husbands and wives

Early in a marriage husband and wife start their estate planning with simple wills. As years pass and assets accumulate, new planning is needed. That's where marital trusts come in. They're created for one or more of these reasons:

1. To relieve the surviving spouse of added investment management burdens during a period when the spouse may face the problems of raising a family or the pressures of a demanding business or career.
2. To protect a spouse who lacks knack or inclination for the job of investing. In the past this purpose was associated mainly with trust funds that men of business left for their financially inexperienced widows. Not necessarily so today.

Suppose a successful businesswoman is married to a distinguished scholar—a man oblivious to even major investment developments. To leave the sizable estate at her disposal to him outright, if he should outlive her, would be anything but a kindness. Far better to leave him not merely capital but the benefit of *capital carefully managed*.

3. To create lifetime security for a spouse while ensuring that the assets remaining in the trust at the survivor's death will pass to specified remainder beneficiaries, such as children from a prior marriage.

4. To safeguard financial independence of a spouse who is well along in years. Much has been written about how an older person can protect himself or herself against future property-management problems by creating a living trust. It's worth remembering that a trust, established during life or by will, can extend the same protection to a surviving spouse if he or she ever should become incapacitated.

Trusts for parents

Many couples in middle age are worried about their elderly parents, should something happen to them. Increased longevity has made such worries common. A properly planned trust offers a practical solution. If need be, the trust fund can serve as an assured source of lifetime income for the elderly beneficiary, then be divided among the couple's children or other heirs.

Trusts for charitable purposes

Gifts in trust to charity can be worthwhile for all concerned. For the donor there is the benefit of the good deed as well as the potential for income, estate or gift tax savings. For the nonprofit or charitable institution, there is the opportunity for it to continue its good works.

A popular form of charitable trust is the *charitable remainder trust* (either an annuity trust or a unitrust). The former pays the grantor of the trust a fixed dollar income each year. The latter pays a specified percentage of the trust fund's annual market value. In each case, at the donor's death, trust assets pass to the designated institution.

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Any developments occurring after January 15, 2007, are not reflected in this article.