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Four Things to Consider When Using a Continuing Trust

Not all children are responsible enough to handle a large lump sum inheritance at age eighteen without some guidance. Most children would be tempted to spend it all on fast cars, designer clothes, lavish vacations, or maybe even to quit their job. It is important to educate yourself on the options available in the event you die prior to your children reaching the age of majority.

1. How a Continuing Trust Works

A continuing trust is a great option to ensure that the money you worked so hard for lasts to provide your children with the future you envision. A continuing trust holds money for a specific period of time and does not distribute it outright. This type of trust can allow for small distributions when a child reaches certain ages, and then distribute the remainder at a specified age, or continue indefinitely. You decide the appropriate ages and amounts for disbursements to your children. The specifics will largely depend on what you hope your children will utilize the funds for and whether you need to plan for special circumstances that affect your children.

2. Protecting Minor Children

Continuing trusts can be particularly beneficial for situations in which a child may inherit funds or property while they are a minor. Minor children are unable to own property or inherit an amount over $15,000 in many jurisdictions. If children are set to receive more than $15,000, most states require that a conservatorship or guardianship be put in place until the child reaches the age of majority (eighteen or twenty-one depending on the state). This court process requires additional fees and court filings for the duration of the guardianship or conservatorship. And ultimately, the child would still receive a large lump sum when they turn eighteen or twenty-one (when they may still be immature). Establishing a continuing trust prevents the need for a conservatorship or court-monitored guardianship.

3. Other Ways a Continuing Trust Can Help

Continuing trusts can also be beneficial in other circumstances. They can help preserve money for children who are financially irresponsible and tend to exercise poor judgment when it comes to spending. They can also protect children who suffer from addiction from having a lump sum given to them that could be used to fuel their addiction. In addition, this type of trust may protect money and property from lawsuits if a child works in a high-risk occupation.

4. Potential Issues with a Continuing Trust

Continuing trusts provide a lot of benefits, but they can be problematic if not properly drafted. There may be a circumstance in which a child may need a large sum of money and the trust does not give the trustee the ability to distribute money for that need. Additionally, if a child requires government aid, this type of trust may disqualify the child if it does not contain specific language to preserve the benefits.

While we have already discussed several of the benefits of establishing a continuing trust, there are other important considerations when deciding if a continuing trust is the right fit. In most cases, managing a trust costs money. The amount that it will cost can be quite substantial depending on how long the trust exists (and continuing trusts typically last a long time). The most common expenses associated with continuing trusts are trustee fees and income taxes. Both should be considered when determining how long you would like the trust to exist. There can be provisions that can give the trustee authority to dissolve the trust if it becomes financially impractical to maintain or if the original purpose is the trust is no longer applicable.

Another important consideration of continuing trusts is that managing a trust takes time. These types of trusts are created to last for a long time and require a trustee who has the time to dedicate to the proper management of the trust. One of the more difficult decisions you will need to make is choosing who should serve as trustee. There are many considerations that go into trustee selection, and the following questions should be asked: How old is the successor trustee? Do they have the time and capacity to manage a trust? Will selecting this person put them in a position where it could strain their relationship with the beneficiary? You may feel it would be better to select an entity rather than a family member; if so, you should ask the following questions: How accessible is this institution? Will they be in business long enough? Is there a minimum trust value requirement? What fees do they charge for management?

There are a lot of considerations in determining whether a continuing trust is the right fit for your family. Contact a qualified estate planning professional who can ask you the right questions to make a proper determination of whether this form of trust is appropriate or if there may be a better option for your circumstances.