

THIS WAY FORWARD

YOUR WEALTH



Stronger and Longer Lasting Inheritance Protection

>>> *Dynasty trusts are better safeguards for children and future generations*
 By Anthony F. Vitiello, Esq.

A common perception of “estate planning” involves wills, sometimes with trusts for the surviving spouse to preserve any death tax exemptions, and then trusts for children so that a child does not receive an inheritance outright until reaching a certain age of maturity. However, while such a design is the standard practice in estate planning, it ignores crucial benefits available to children and later descendants.

Some basic truths about trusts cry for a different approach. One such truth is that when a child eventually receives an inheritance outright, that inheritance becomes completely exposed to creditors. Everything you worked so hard to leave to your child can be taken away if your child has some unfortunate event occur. That event can be devastating and not foreseeable, whether it be a malpractice action, for example, if your child

becomes a doctor, or even if your child is involved in a horrific car accident resulting in death or severe injury to others.

Another such truth is the havoc a divorce can wreak on a child’s inheritance. Depending on how your child handles his or her inheritance, some portion of that inheritance is likely to end up in the hands of the divorcing spouse. It could be a small amount of the inheritance or could be up to one half.

Everyone leaving a significant inheritance should consider imple-

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menting dynasty trusts as an alternative to trusts that terminate at a child’s attainment of a certain age. A dynasty trust is designed to remain in existence for a child’s entire lifetime, as well as that child’s children’s lifetimes. A properly designed dynasty trust can also be completely protected from a child’s creditors and divorcing spouse. Neither can access the funds. The assets left to the child simply stay titled in the name of the trust until the trustees decide to distribute assets to the child. The distributions can be small or large; there are no limitations on what the trustees can distribute to the child, to the point of terminating the trust. But if the child does not need or want the money to use currently, the trustees watch over the trust assets in a protected shell.

There are specific design requirements needed to obtain these benefits, one of which is that the child cannot be the sole trustee of the trust; in addition, the non-child trustee(s) must make the distribution decisions. However, the child can be one of the trustees and the child can be given certain powers in the trust that would make the child comfortable with this arrangement. The goal is not to keep the inheritance from the child, but to provide your child with the tools to enjoy the inheritance without interference from creditors or a divorcing spouse.

In sum, if you had the ability to protect your child’s inheritance from the realities of today’s litigious society and the high divorce rate, wouldn’t you consider utilizing dynasty trusts in your estate plan? **NJB**

About the Author

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