



Welcome to *Trust Connection*, our monthly newsletter highlighting Trust news and information. Each month we will feature timely articles of interest.

## About Us

At Halliday Private Trust, it is our mission to assist our clients in the process of providing solutions, specifically through a wide range of financial advice.

Since 1982, we have utilized a full spectrum of financial services to help our clients navigate every major hurdle in their financial lives. Because we are an independent financial services firm, we utilize an open architecture approach to locating the most suitable investment options for our clients.

Our role is to help clients make smart decisions about their money. We understand that each client has unique needs and requires personalized solutions based on their goals, objectives and concerns.

## Dysfunction Junction: The Real Issue in Estate Planning

Family dynamics and concerns in leaving assets to heirs should be the primary focus in estate planning. For decades the assets have been prepared for the heirs — now the focus needs to be on preparing the heirs for the assets.

Preparing heirs for the assets creates a more difficult conversation between the advisor and client. This is no longer just running numbers; it now involves talking about soft issues, including people and society, personal feelings, and, in some cases, parental failings. A good example is seen in the movie *The Bucket List* with Jack Nicholson's character who, while wildly successful financially, has lost touch with his daughter and, thus, his grandchild. This is not something that writing a check or updating an estate plan will change.

There are three key issues to address when focusing on preparing the heirs for the assets. One is the desired use of funds by heirs, the second is the heirs' ability to handle the funds responsibly, and the third is the protection from third-party dysfunction such as lawsuits, creditors, taxation, and divorce.

### Use of Funds by Heirs

First, determine whether or not the heirs can handle the money responsibly. When parents are not confident their children will behave in the desired manner, so-called "incentive trust" language can be devised. As long as it does not violate public policy and stays within the bounds of being legal and possible, incentive trusts can provide guidance to heirs by creating a variety of incentives to perform certain desired behaviors or avoid others. Examples of what can be added in an incentive trust include not smoking, not using drugs, age attainment, achieving education objectives, marrying within one's faith, or having a prenuptial agreement prior to marriage. Using an experienced estate planning lawyer can help with wording these issues properly so as not to violate public policy rendering the clause unenforceable, or stating it in an overly general manner, such as "he will receive \$250,000 when he marries," which lead to more than a dozen marriages in one famous case. This can be a fascinating conversation, even between spouses, that helps uncover the most important concerns.

Philanthropy can be a type of inheritance unto itself, giving the beneficiary the gift of giving rather than using the funds for personal use. This can allow the successful child to continue the family legacy and pass it on to their children, can protect those who can't handle money from losing those funds but still make choices to improve the world around them, and maintain those assets outside the threats of taxation and creditors.

## A LOCAL TRUST SOLUTION

Call us today at (800) 786-1598 to learn more about working with Halliday Private Trust.

For information and assistance, please feel free to contact one of our Trust Advisors:

- Michael F. Fleming, Esq.
- Sean S. Mohammadi

### Ability of Heirs to Handle Funds

Second, do the heirs have the capability to handle the assets properly? Special needs trusts can be created for disabled beneficiaries, and trusts can also be set up for minors too young to make their own decisions about money as well as beneficiaries with a history of using drugs, going to prison, gambling, or uncontrolled spending and debt. Parents naturally want to protect children who cannot protect themselves, and trusts with discretionary language in the hands of a trustee, sometimes aided by a “letter of wishes” giving the trustee insight to the concerns, can be the right way to structure an inheritance.

### Protection from Third-party Issues

Should the beneficiaries and funds be protected from third-party issues like lawsuits, creditors, taxation, and divorce? If so, trusts often make sense, not because the children can't handle the money but because they may be successful on their own in fields where lawsuits are common, such as medicine or architecture. In addition, while the parents may not have a taxable estate, the children might, so why pile money they would pass through to their children on top of their already taxable estate? An irrevocable trust will make the funds available if needed, and not part of their estate, nor accessible to their creditors, if they don't.

Knowing how these issues affect the estate plan can draw families closer than ever, including future generations. The ability to discuss the details of desires and known or potential dysfunction is always central to planning regardless of the effects of estate taxation.

*Copyright owned by Cannon Financial Institute, Inc. All Rights Reserved. This material may be reprinted and distributed subject to inclusion of this copyright notice. This publication contains general information only, and neither National Advisors Trust Company, FSB, nor Cannon Financial Institute is, by this publication, rendering accounting, financial, investment, legal, tax or other professional advice or services.*

725 Glen Cove Avenue  
Glen Head, NY 11545

14 Corporate Woods Blvd.  
Albany, NY 12211

211 Main Street  
Cooperstown, NY 13326

1819 Main Street, Suite 300  
Sarasota, FL 34236

[www.hallidayprivatetrust.com](http://www.hallidayprivatetrust.com)  
(800) 786-1598



**Halliday**Financial

Follow us forward >>