



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.

### Estate Planning: An Important Family Decision

Planning for a family's transfer of wealth, plans for incapacity, and executing on those plans can be a significant challenge both for clients and their trusted advisors. Clients look to their trusted advisors for guidance, and it is critical that a trustee or directed fiduciary understand the many variables at play, including family dynamics, and how they align with one another.

#### Why is estate planning so important?

While it is hoped that families will work together to make sure one's final wishes are carried out, more often than not families don't agree with one another. Moreover, what's intended to happen and what actually happens are rarely the same. There are many horror stories of families being torn apart by fights over money, property, and possessions after the death of a family member. None of us wants to believe that our family could behave so badly, but when money and emotions collide, hurtful, irreparable comments can tear a family apart. Estate planning can help ensure a family is not put in a position where they are at risk of ruining relationships.

Anyone can write a will, but a skilled estate planner also understands family dynamics. From the parent who enables a financially irresponsible child to the daughter who wants to tell her mother what to say in her will, family members can make estate planning complicated. Dynamics may be so ingrained that clients aren't even aware of them. Take, for example, the client who wants to leave the family business to a pair of siblings who are barely on speaking terms. The client may be so intent on being fair and keeping the business in the family that he doesn't see the plan can never work. A good estate planner must be able to spot these sorts of problems and offer the client more appropriate options.

Another common issue is dealing with blended families. A simple estate plan may lack the foresight to provide for children from a previous marriage. For example, if one's assets are left to one's spouse, he or she may not want to leave those assets to the deceased spouse's children from another marriage. This, in essence, leaves these children disinherited. Therefore, individuals who are in this position need to ensure their wills and trusts clearly provide protection for these children.

People often don't give much critical thought as to who will administer their estate when they are gone, and that can be a big mistake. It is recommended not to choose simply the eldest child or the closest-living child for this; using such arbitrary criteria isn't in anyone's best interest. Naming multiple family members as executors is also not a good idea.

#### Estate Planning Issues to Consider...

*Make realistic plans.* In their eagerness to distribute assets equally among their children, some people devise plans that will never work in practice. A couple might, for example, want to leave the family vacation home to their three children without considering whether all of the children want the home or can cooperate in its use and care.

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## 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:

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*When is a trust necessary?* Many people don't think through the consequences of leaving money or property to someone outright. But a small inheritance can cause big problems for a person who receives disability payments — or someone who isn't financially responsible may spend their way through their parent's money in a short amount of time. By asking questions about the client's heirs, an estate planner can spot situations where a trust may be a good idea.

*Disinherited children.* Many estate planners caution that disinheriting a child is an invitation to contest a will. To spare the remaining children the turmoil and expense, many professionals recommend leaving some money or property to the child, with a stipulation the child will forfeit that inheritance if he or she contests the will.

*Undue influence and competency.* Most estate planners are aware of these issues and know how to spot red flags. Among them are the child or caregiver who brings an elderly person in for a significant change to a will. Professionals should take care to establish that the testator, and not his or her family, is the client. They should also meet separately with the testator to make sure he or she is competent and not under any duress or undue influence.

*Family meetings.* Many people prepare wills and other estate planning documents and never discuss their assets or their estate plans with their children. The children may be shocked to find out their parents were deeply in debt or left the family home to Johnny when Jenny was the one who wanted it. This can lead to bitterness, resentment, and sometimes even litigation. Professionals can encourage a better outcome by urging their clients to discuss their estate plans with their children.

*Choosing administrators and powers of attorney.* Many people think it's an honor to be named administrator or executor of an estate, but it's a difficult responsibility. Make sure someone mature, responsible, and able to get along with other family members is chosen. Don't let them pick someone as a reward. The same goes for financial and healthcare powers of attorney. Encourage clients to think carefully about who is most honest, reliable, available, and willing to carry out their wishes.

### Minor's Trusts

Another option to transfer money to a child is through a §2503(c) irrevocable minor's trust. The primary advantage of a minor's trust is that contributions qualify for the annual gift tax exclusion even though they are gifts of a future interest. Contributions will also be exempt from the generation-skipping transfer tax. Generally, only gifts where the child receives the gift immediately qualify for the gift tax exclusion. However, contributions to trusts that conform to IRC §2503(c) rules also qualify.

If the grantor serves as trustee, then the trust may be included in the grantor's estate if the grantor should die before the child reaches 21. Therefore, neither the grantor nor a spouse should serve as sole trustee. However, they can serve as co-trustees. Trust assets will also be used to determine educational financial aid for the child.

### Final Thoughts

If family dynamics are complicated, as so many are these days, it is even more important to make inheritance wishes known. There is a lot to consider, especially with blended families. Although these issues can be difficult to discuss, don't neglect to have the discussion. An experienced estate attorney can help mediate these discussions and ensure assets are distributed appropriately.

It is wise to work with trusted professionals to make these important family decisions. They can explain the role of executor, the skills needed to be successful, and any possible conflicts of interest that may affect decision-making. If a family member is not a suitable executor, a corporate trustee with no financial or emotional attachment to the estate may be the best choice.

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