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Ways of passing along your estate

You have worked hard and long and paid lots of taxes. Now you and your financial planner or advisor decide it is time to work on your estate plans with the help of your attorney and other trusted advisors.

It is your money to do with as you see fit. You can burn it, give it to charity or your children, or whoever you like. Let's say you want to give it to your children.

As a former trust officer in two bank trust companies, I have seen money transferred in many ways. If husband and wife are jointly involved, here are some choices that my attorney suggested.

After consultation with your attorney, your attorney will draw up various legal documents for you to sign. These documents control what happens to your estate, your stuff, in the future.

If your choice is for a will, after the last one dies the executor or personal representative follow the terms of your will. It might give the money outright to the children after probate and its costs.

There is a high chance that it will be squandered. Just look at the many people who win the lottery and declare bankruptcy a few years later.

Another choice my attorney says is to draw up a living revocable trust. You tell your attorney how you want your estate to be handled, perhaps for as long as 300+ years.

There is usually no probate when a properly funded trust is involved. There are many strategies you could use within your trust.

You are in control of your trust. Upon the passing of the last to die, the trust names a successor trustee.

The successor trustee's task is to follow the wishes of the trust. You can name any person, but there might be problems.

The successor trustee might resign, take off with the money, be found to be incompetent, die, etc. The next successor may also cause problems. Two children might not always agree.

The successor trustee could also be the trust department of a bank, credit union, or private trust company.

You tell your attorney what you want done with your money. Your attorney writes your thoughts in the trust document and specifically mentions the corporate trust company.

After you, your attorney, and the trust company all agree on the legal language in your trust, you sign the trust document.

The trustee is guided by the trust document and its experience to make usually rational, prudent, and conservative decisions.

Corporate trustees are regulated by the State and follow the law. They can be sued if found to be incompetent.

A trust company may have minimum required investible assets of maybe $500,000. Using a trust company is not for everybody, but for those who prefer professional management of their estate.

Corporate trustees can literally live forever. The trust company's people are often referred to as the "trustee" of your trust. The trust company becomes your sole successor trustee and collects your various assets.

The trustee pays out bequests. For example, a certain amount might go to a specific charity or to 529 college savings plans for your children.

After the specific bequests are paid, the trustee divides the remaining assets, the corpus, into a trust for each of your children.

A trust has many paragraphs and you can add many restrictions.

A popular restriction is called the Spendthrift Provision. It says the trustee decides if and how much income and principal each child gets from his trust.

For instance, suppose your son asks for $250,000 to buy a Maserati sports car. The trust document says to be prudent and for the trustee to use their judgment. The trustee says NO.

But if the son asks for $30,000 for a Ford Explorer, the trustee may say YES. The money is sent to the dealership, not your son, to pay for the auto.

Suppose your child gets divorced, goes bankrupt, causes an auto accident, or is just not competent to handle money. Generally speaking, since the child does not have control of his trust account, the trustee might not use trust money to pay for the child's problems.

The Spendthrift Provision is a way of protecting the money and the children from spending the money on what you might call frivolous adventures.

If a child dies, his heir takes his place and the trust continues on for the next generation. Passing your money along from generation to generation tends to preserve it.

It is your money that you will be entrusting to a trust company. Be sure to check the company out and ask many questions before signing any paperwork with them.

If you need help selecting a trust company, let me and your attorney grill them along with you. You want this done properly, since the trust could run for many years.

You choose the ways of passing along your estate to your heirs. It's your money, at least for now.

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