

Published February 2, 2016 in the *Bradenton Herald*, Bradenton, Florida

Written by Jim Zientara

You have to trust somebody

Do you know how you will pass assets to future generations? I've been thinking about just that. How do I want my children and grandchildren to receive their inheritance?

I could leave instructions in my will to divide the total inheritance into separate pots, give each pot outright, and hope for the best.

My inheritors might be grown adults, but give them \$100,000 or more, and they might go berserk spending it. Having been a financial planner for many years, I've seen fortunes squandered on the toys of today leaving nothing for the necessities of tomorrow.

I like the idea of protecting my beneficiaries from themselves.

Being a former trust investment officer at two different bank trust departments, I lean toward keeping the total inheritance intact, unless there are specific small bequests to charities, friends, etc.

For myself, I had an estate planning attorney write me a living revocable trust which is a long, legal document, but is not a trust under will.

In a living revocable trust, I transfer all my assets right now from my individual name to the trust, and I become the sole trustee of my trust. I'm still in charge of my money, and I still conduct business as usual.

Inside the written trust are instructions on how I want my trust handled by the successor trustee who succeeds me when I become incompetent, incapacitated, or dead.

The successor trustee will take my assets to create pots of money for each beneficiary, pay the income as often as I have set forth, and invest the assets the way I have described in the trust.

The successor trustee could be good ole' Uncle Louie or a bank trust department.

If Uncle Louie is my successor trustee, he has pressure on him to do the job he may not know anything about but is required by law to act properly and prudently. If he does something wrong, he may be held personally liable.

What if Uncle Louie refuses to act as or resigns as trustee? What if he dies, who takes over? Ask Aunt Mary Jo?

A better choice might be with a bank trust department as successor trustee. They don't normally refuse to be a trustee or die. I would ask lots of questions about what they charge, what they do, how they manage the money, and if they follow the prudent man rule.

The Prudent Man Rule requires the trust department to act as a fiduciary to invest prudently and responsibly considering the purposes, terms, distribution requirements, and other items in my trust document.

If you are a Florida resident, type “Prudent Man Rule Florida” in an internet search engine. There are many articles to read to determine if you like the idea of Florida’s Prudent Man Rule guiding the management of your trust.

In any living revocable trust, there is great flexibility. Here is one of them.

After I’m gone, my beneficiaries will not have direct access to their pots of money. They have to ask the bank trustee for the money, since I have given the bank the discretion to pay or not to pay.

As an example, suppose Junior asks the bank trustee for \$200,000 to buy a new Ferrari red sports car. I have left trust instructions for the trustee to be reasonable and to follow the Prudent Man Rule.

I presume the trustee will tell Junior that his car request is not reasonable and not prudent, no matter the size of his pot of money.

Junior could then ask the bank trustee for \$30,000 to buy a new Ford Explorer. The trustee may approve this request and take money out of Junior’s pot. The trustee usually sends the money to the Ford dealership, not to Junior.

I will be controlling my estate, via the trust, from my grave. It’s my money. I worked for it, paid lots of taxes, and invested wisely. I ate many TV dinners and shopped for buy-one get-one specials. Since it is my money, I can also give it away to charity, or burn it.

So I’ll be contacting an estate planning attorney soon to review my current living revocable trust. I want to learn what other features or restrictions I might add to my current trust to amend it while I have the ability to do so.

You have to trust somebody, so who’s it going to be? I’ve already made that decision. Once I am incompetent, incapacitated, or dead, it’s too late to do anything.

Jim Zientara, Branch Manager and Financial Planner with Raymond James Financial Services, Inc. Member FINRA/SIPC. Investment Advisory Services are offered through Raymond James Financial Services Advisors, Inc. His website is www.thefinancialplanningguy.info and telephone is 941-750-6818 at 11009 Gatewood Drive, Lakewood Ranch, FL 34211. Any opinions are those of Jim Zientara and not necessarily those of RJFS or Raymond James.