

A Plan You Can Trust—Protection Now Can Help

Keep your clients' assets out of the wrong hands



When “‘Til death do us part” comes earlier than expected, your clients may be looking at a split of not just their personal assets, but those passed down from previous generations.

To combat this potential loss, many are looking toward trusts to help ensure their money ends up where they want it.

Protect and Serve

In the past, trusts were primarily created to avoid or protect against paying taxes, especially estate taxes, upon an individual's death. While some still create trusts for this reason, tax protection is less common among the general population due to changes in estate tax law. Nowadays, the primary reason for creating trusts is ensuring the establishing individual has control of where his or her assets go, to whom they go to, and the circumstances under which someone would receive them.

That need for asset protection is beyond planning for what happens after an individual's death. Trusts can offer an additional level of comfort against

the possibility of various life transitions, such as a divorce or other change in family dynamics. Today, parents and grandparents are concerned that the money they pass on to their children and grandchildren won't stay with them. Modern divorce rates can trigger a sense of alarm: Clients want to leave money for their children, but half of it could walk out the door in a divorce settlement. Establishing a trust helps ensure these hard-earned dollars stay in the hands of the intended recipient.

Trusts or other protected accounts can be especially valuable for spouses and families on their second marriages. “It's not uncommon for someone today to enter a second marriage in their 50s and 60s and to bring several hundred thousand dollars [with them] into that marriage,” said Bethany Bryant, president of The Private Trust Company. “Deciding how to pass that on to your children or your joint children is something couples grapple with every day.”

Depending on what has (or has not) been established by your clients, tricky situations can arise. Take, for example, a couple on their second marriage, where both the husband and wife have children from their previous marriages. One spouse passes away and there was no trust established for his

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remaining assets. This money would pass to the surviving spouse of this second marriage, who could potentially take all of it and give it to her children from her first marriage only. This scenario excludes the children of the deceased spouse from receiving any of their parent's assets. While this seems like an extreme example, 40% of marriages involve at least one spouse who has been married before.¹ It's a situation that could be a real possibility for some families.

Aside from family transitions, trusts can serve as protection for your clients in any of the following situations:

- Creditor protection in the event of bankruptcy, being sued, or other legal event
- Families with special needs children, in order to ensure additional assets beyond what state and/or federal aid will provide both during your client's lifetime and after death

Creating Your Future Plan

To assist your clients who may benefit from establishing a trust for one reason or another, there are several steps you can take in order to set them on the right path.

Find a qualified attorney: Help your clients seek legal advice from a qualified estate planning attorney. The actual process of setting up the trust can require a time commitment of several weeks to several months, depending on the complexity of your clients' financial situations. This attorney should ask many questions to uncover your clients' full financial picture, as he or she is the one who will be drafting all the client trust documents.

Discuss the reasons for setting up the trust: As with all financial decisions, trusts should be created in accordance with a client's existing financial plan. According to Bryant, "Trusts can help execute your goals, but being able to articulate what you want the trust to accomplish, and having your attorney put that into writing, is paramount to ensuring it will happen." Between you

and your client's attorney, you should have open, honest discussions about his or her specific family situation and how much control they'd like to implement. There may be times when the amount of assets actually makes a trust uneconomical, due to fees or other extenuating circumstances. There's usually a reasonable threshold to determining the trust's practicality, which can be discussed during the establishment process.

Understand the difference between equality and fairness: Everyone's family situation is different. Clients could have two beneficiaries or 12. Among those, there can be differences in income and respective family situations. Clients can exercise equality in deciding distribution, meaning all beneficiaries get the same amount, and/or fairness, meaning beneficiaries receive what is most beneficial to them. This can be a sensitive topic, so be sure to encourage your clients to take their time when determining how they'd like to pass on assets.

Determine the right trustee: Often, naming the right trustee is the last decision made around the trust's creation. This is a big decision, as this person needs to be capable, willing to serve, and able to make decisions for the family. Sometimes a family member is the right fit, but as trusts can be a sensitive topic, it could be beneficial to offer the option of utilizing a corporate representative for objective decision-making.

According to a recent study conducted by the Pew Research Group, there is a 10-year age gap in¹



of first-time marriages



of remarriages





Examine beneficiary designation:

When planning for the future, you may want to remind clients about their other assets that don't pass through a will, such as life insurance. These assets should be reviewed to ensure the beneficiaries are correct. This is particularly important during a change in family dynamics, like a death, marriage, or birth of a child.

Conduct an annual review:

Whether or not your clients are going through a transition or have extenuating circumstances, their trusts should be reviewed, and revised if necessary, every few years to make sure they still conform to their goals and lifestyle.

The Bottom Line

Trusts aren't for everyone, but they can provide a significant level of protection for the assets your clients want to pass down. By discovering more about their family dynamic and the trust's overall goals, it could be the next appropriate step in their existing financial roadmap. Their future generations will thank you for it. ■

For more information about establishing trusts, please contact The Private Trust Company at (800) 877-7210 x7990.

The Private Trust Company N.A. is an affiliate of LPL Financial.

¹ Source: Pew Research Center, "Four-in-Ten Couples are Saying 'I Do,' Again" (11/14/2014)

Finding the Right Fit

Depending on the situation, the following options could be beneficial in helping your clients protect their assets.

AB Trusts: The primary type of trust created today, this is a revocable trust during the client's lifetime and then converts to an AB trust after death. AB trusts divide in two after the first spouse's death to provide for the surviving spouse and the family. These trusts are still customizable in the dispersal provisions.

Asset Protection Trusts:

Used similarly to a prenuptial agreement, clients can put assets into this trust for the benefit of themselves or their children without giving their spouse an agreement to sign. While these aren't widely used, they are more common among clients with high-risk careers, like doctors.

Trusteed IRAs: For clients who have built up substantial retirement assets but don't have many other assets outside of their retirement plans, a trustee IRA is a less expensive way to develop a trust document without incurring the extensive legal fees of an attorney.