Knox McLaughlin Gornall & Sennett, P.C.
Erie • Pittsburgh • Jamestown, NY
814-459-2800 • www.kmgslaw.com

Why Use Trust Planning?

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This article shows the benefits of multi-generational asset protection planning, using trusts.

DIVORCE

- Most clients are worried about their descendants' love and potential for lost love.
- Parents want to avoid having assets inherited by their children get divided and distributed to the children's future former spouse(s).

DISABILITY (Long-Term Care Costs)

- Most clients have seen family or friends endure extended nursing home long?term care costs, which can wipe out savings.
- Some clients have purchased expensive long?term care insurance; others have not, due to the high cost.
- Most clients are surprised to hear that the trust planning we recommend protects all inherited assets from the need to use those inherited assets in the "Medicaid Spenddown" nightmare.

For more on Elder Law & Medicaid Planning, see our group page, FAQs, and related articles.

BANKRUPTCY

- The trust protects against creditors' claims against inherited assets (assuming the assets are not pledged as security).
- The trust protects against judgment creditors (for example, child is texting, runs a red light, and kills someone).
- The trust also protects against malpractice creditors (for example, if the child is a doctor, attorney, or other high-risk professional).

SUBSTANCE ABUSE

- A trust is the only tool available to potentially prevent a child from using liquid resources gifted or inherited (from parents) to buy addictive substances, which could lead to his or her ultimate destruction.
- If substance abuse is an issue, divorce, long-term care costs, and bankruptcy often follow close behind, as well as death.
- If the child is substance affected and all of the other nightmares happen, generally the child will probably not have executed an estate plan. The trust includes a multigenerational plan, though, so the grandchildren will be the ultimate beneficiaries and the parents' other children have the power to appoint successor trustees.

FEDERAL ESTATE TAX & PENNSYLVANIA INHERITANCE TAX

- Only our wealthiest clients are primarily concerned about the exclusion from federal estate tax and Pennsylvania inheritance tax.
- Most clients are primarily concerned with divorce, disability, substance abuse and/or bankruptcy: federal estate tax and Pennsylvania inheritance tax exclusion is just a bonus.

FLEXIBILITY / DISTRIBUTIONS

- Most clients have heard horror stories about trusts. In reality, attorneys have worked tens of thousands of hours to develop trusts that are very flexible, yet still able to protect assets from outside creditors – even with the clients' child being the trustee. The trustee (even the client's child acting as trustee) can have the authority to distribute income and principal to themselves and their issue for their health, education, maintenance and support.
- **NOTE**: if the child trustee suffers from one of the issues noted above, an independent trustee should be appointed.

BUSINESS SUCCESSION

- To have a successful business succession, gifted or inherited assets need to avoid encumbrances resulting from the issues noted above. Business owners need flexible trusts to manage the business and develop their own succession plan.

For more on business succession planning, see our related publications.

INCOME TAX NEUTRALITY

- The trusts we use are generally income tax neutral, so the trust planning does not result in material increases in income taxes.

If you have questions about trust planning or multi-generational asset protection, please contact our office at 814-459-2800.



Thomas C. Hoffman, II

Thomas C. Hoffman II concentrates his practice on closely held business planning, business succession planning, implementation of sophisticated estate and trust planning, administration of complex estates and trusts, and the tax consequences of these matters.

thoffman@kmgslaw.com • 814-459-2800

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