



Family Legacy Protection Planner

THE FLEXIBLE PROTECTION OF TRUST-BASED PLANNING

Welcome to 2017! We hope you're recovering nicely from the holidays and settling back into a routine.

As you assess your goals for the year ahead, take a moment to review your legacy planning. You've hopefully already handled a few key pieces—set up and funded a trust, signed a will, created a power of attorney, etc.

But does your plan offer you and your family the greatest possible protection for the circumstances in your life right now? Ask yourself these questions:

1. Does your plan provide adequate safeguards to prevent disputes and confusion among your family if you become incapacitated or upon your death?
2. Does your plan designate someone and provide appropriate authority to a person you trust to handle your affairs if you are unable to do so?
3. Does your plan protect your heirs and their inheritances against financial mismanagement, lack of foresight, bankruptcy, divorce, or court interference?
4. Have you had your trust, will, and other documents professionally reviewed in the last two years?

If you answered an enthusiastic “yes” to each of these questions, then you are probably doing pretty well on your estate planning. Of course, there are other reasons to discuss or update your plan, like the tax changes that are probably coming under the Trump administration, so always feel free to call us if you have questions.

On the other hand, if you can't answer an enthusiastic “yes” to each question, that's okay. Effectively transferring wealth to the next generation can be a tricky business. Read on to learn more about how we can incorporate the power of trusts into your legacy plan.

How trust-based planning gives you more control and flexibility

Placing your assets in trust provides protection for you and your family. If you become incapacitated, your successor trustee can step in to fulfill your stated wishes. You also get greater power and flexibility over how your wealth is distributed to your heirs, providing them with long-term protection against court control, divorce, bankruptcy, and financial mismanagement.

To illustrate, let's look at two scenarios:

SCENARIO 1

Through hard work and saving, you've accumulated an estate worth \$300,000, which includes a home, a bank account, and a life insurance policy valued at \$100,000 each. You want to divide these assets equally to your three children, Alisha, Becky, and Cameron. You name Alisha as a joint tenant on the bank account, Becky as the beneficiary of the life insurance policy, and set up a transfer on death deed for Cameron to receive the house upon your death. But over time, you decide to sell the house and deposit the money in the bank account, and you cancel the life insurance because the premiums were increased. If you pass away at this point, what happens?

Without a trust:

Becky and Cameron receive nothing because there is no house and no life insurance policy. Alisha receives the \$200,000 bank account (minus the costs of probate and taxes), and she has sole discretion at that point over whether to share with her siblings. Alisha's inheritance is also at risk from seizure by a bankruptcy court or a divorcing spouse, since she receives it outright and there's no trust "wrapper" protecting it. This is not an ideal result for anyone in the family.

With a trust:

By placing all your assets into a *revocable living trust* and naming the trust as the beneficiary of the life insurance policy, you avoid the piecemeal approach from above. Your trust essentially becomes the clearinghouse for the management and distribution of all your assets. Even if the life insurance lapses, your successor trustee will divide whatever assets are in the trust amongst your children equally, all without probate costs. In this case, Becky, Cameron, and Alisha would split the \$200,000 bank account (minus any taxes and trust administration expenses). Another advantage of the trust is that you can create lifetime trust shares rather than outright distributions, which protects each child's inheritance against bankruptcy, creditors, divorce, or a spending spree.

SCENARIO 2

After working and saving for 30 years, you've accumulated \$500,000 in your retirement account, to be divided equally among your five children. For now, let's focus on your youngest, an impulsive 23-year-old, Tim, who hasn't learned how to handle money properly. What happens to Tim's portion when you pass away?

Without a trust:

With a plain-old beneficiary designation, Tim can withdraw all the money at any time. Of course, as Tim cashes in the account, the government swoops in and takes about a third of it for taxes. Instead of reinvesting the remaining amount, he spends it, perhaps on a sports car he's always wanted. At this point, his inheritance (a depreciating sports car) is vulnerable to many pitfalls, from physical damage from a crash to a forced sale to pay for debts, divorce settlements, or other situations. Best case scenario: his wealth no longer grows, but instead shrinks. It seems that Tim certainly did not receive any long-term benefit from his inheritance.

With a trust:

It's not only revocable living trusts that you need to have in your estate planning toolkit. By setting up a *standalone retirement trust (SRT)*, you can control how Tim receives his portion of the inheritance. The "stretch-out" feature of the SRT allows the account to continue growing tax-deferred over Tim's expected lifetime while the trustee distributes a minimum amount each year.

Although Tim won't have the benefit of instant gratification, his \$100,000 inheritance can result in millions over the years, enabling him to afford multiple sports cars if he wants them. Additionally, this trust protects his inheritance against creditors, ex-spouses, and others risks.

An SRT provides flexibility to customize the distribution of your IRA separately for each beneficiary, so they each receives the maximum benefit or their situation. For example, if you have another adult child facing financial difficulties and possible bankruptcy, you can structure the trust so the trustee can delay payments and protect the inheritance from the bankruptcy court.

These are just two brief examples of how trust-based estate planning gives you greater flexibility and benefit to your family. No matter what type of estate planning circumstance you have, there's probably a trust that can help you achieve your goals. If you are interested in learning more about trust-based planning or would like to discuss your specific needs, please call anytime.

ENSURE YOUR FAMILY IS PROTECTED

If you want to ensure that your family is protected, please schedule your complimentary Estate Planning Strategy Call with San Francisco's premier estate planning attorney, Matthew J. Tuller.

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With an emphasis on developing and maintaining relationships with our clients and allied professionals, our firm collaboratively provides comprehensive estate planning and administration solutions to every client. Our firm provides the full spectrum of estate planning solutions. This includes creating and implementing a comprehensive estate plan, maintaining that plan through life, and administering the plan in the most effective and efficient manner.



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