Protecting your children's inheritance

By Linda T. Cammuso

When parents name a child in a will or trust, or list the child as a joint owner on an asset (e.g. a bank account) or as a beneficiary of life insurance or an IRA/401K, the asset becomes the child's property upon the parent's death.

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Today more than ever, parents are concerned about how children and grandchildren will handle their inheritances. Statistically, inherited money is spent at a significantly faster rate than a person's earned or saved money. Whether because the children are young, in debt, struggling with an addiction, or simply not good with money, many parents fear that their life savings will quickly vanish in the children's hands.

In addition to voluntary spending, children also stand to lose inherited assets involuntarily:

•With a skyrocketing divorce rate, many inheritances will be lost to children's spouses in future divorce proceedings.

•Inheritances can be quickly lost to bankruptcies, foreclosures and other creditor problems.

•Children in high-risk professions may become the target of a lawsuit and lose their inheritance to a judgment creditor.

•Children who are disabled may lose certain benefits (such as SSI or Medicaid) if the inheritance raises their assets beyond program limits.

•A child with college-age children can suffer adverse college financial aid consequences from the receipt of an inheritance.

The good news is that some simple modifications to your estate plan can protect your children's (or other beneficiaries') inheritance from virtually all financial threats. With a straightforward trust arrangement, your children can benefit from their inheritance yet not have it considered their asset for creditors, divorces, public benefits or even their own unwise spending.

Your estate plan presents a unique opportunity to provide a level of asset protection for your children (or other beneficiaries) that they would not be able to achieve for themselves once the inheritance comes into their name. This is because the laws of most states (including Massachusetts) do not allow a person to establish a trust with their own assets and benefit from it while at the same time shielding it from their creditors. Yet, a person can establish a trust with their assets, for the benefit of someone else, and with the right language protect the trust assets from the third party-beneficiary's creditors.

Bottom line: if you leave all or a portion of your children's inheritance in trust for their benefit, you can protect it both from them and their outside financial exposures.

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