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PRACTICING EXCLUSIVELY IN
ESTATE PLANNING · PROBATE · TRUST ADMINISTRATION
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MAJORING IN MINORS

Do you have any minor children (i.e., under age 18 in most states)? If you do, then your calendar is likely filled to overflowing with their school commitments and extra-curricular activities. Besides *time*, all of these commitments and activities require *money* … and lots of it. Since your children are worth the investment of both your time and

your money, what plans have you made for them in a world without you? What would happen if your children were orphaned today?

Back-up Parents

Who would you entrust with the responsibility of rearing your minor children to adulthood? By default, any surviving parent will be the legal guardian (i.e., back-up parent) over your minor children. However, in the event there is no surviving parent, you must legally appoint the guardians of your own choosing or a court will make the appointment for you. When selecting guardians, most parents appoint family members or friends with whom they share common principles, values and religious beliefs.

Inheritance Managers

As with guardians for your minor children, unless you legally appoint the inheritance managers of your own selection, a court will make the appointment for you. Accordingly, you should legally appoint them because a court would likely appoint the guardian to serve as the inheritance manager, too. Very few divorced parents want their ex-spouses to manage the inheritance left to their minor children. Common candidates for this role include trusted family members or friends, professional inheritance managers (i.e., trust companies) or combinations of the two. [Note: It is prudent to get permission from your intended back-up parents and inheritance managers, as well as their alternates, in advance.]

Common Concerns

Once you have appointed appropriate inheritance managers, you still need to protect the inheritance both **for and from** your children. There are three common concerns that can be hazardous to your wealth.

continued on page 2

INSIDE

Most Parents expend considerable time and treasure to provide for their minor children. But not all parents live to see their children enter adulthood. Our front-page article reviews key considerations to provide for your children in a world without you.

On page three, we survey tax-savvy lifetime gifting strategies to *leverage legacies* to minor children, with some surprising control retained by the donor. [Hint: You might want to share this article with their grandparents!]

continued from page 1

Divorces

First, the divorce rate has never been higher and blended families today outnumber original nuclear families. Second, lawsuits and bankruptcies are setting new records. Last, but not least, ambition-killing *affluenza* is always a concern whenever someone inherits wealth for which they did not personally work to earn. Depending on how the inheritance is left to your children, it can either be a blessing or a curse.

Squandering

Without proper estate planning, your children will receive their full inheritance upon reaching legal adulthood (i.e., upon reaching age 18 in most states). Will their inheritance be taken by a subsequent divorce, lawsuit or bankruptcy? Will it be converted into fast cars and extravagant trips, rather than college educations, first homes and seed money for a small business?

Because of these concerns, some parents create plans that distribute the inheritance outright at staggered ages (e.g., one-half at age 25, with the balance at age 30), once their children gain some life experience and maturity. While this is better than a full, outright distribution, it does not offer the maximum inheritance protection available.

Using Discretion

The greatest inheritance protection is achieved when your estate plan creates a Long-Term Discretionary Trust to administer the inheritance for your children. Such an arrangement can make both income and principal available to your children for their health, education, maintenance and support, as well as for any purpose deemed appropriate in the discretion of your appointed inheritance managers. Properly drafted, a Long-Term Discretionary Trust may serve as an estate plan within an estate plan. How? Upon the death of your children, the inheritance can continue for their own children. If they have no children, then the inheritance can continue for their siblings … without any unpleasant and unintended consequences.

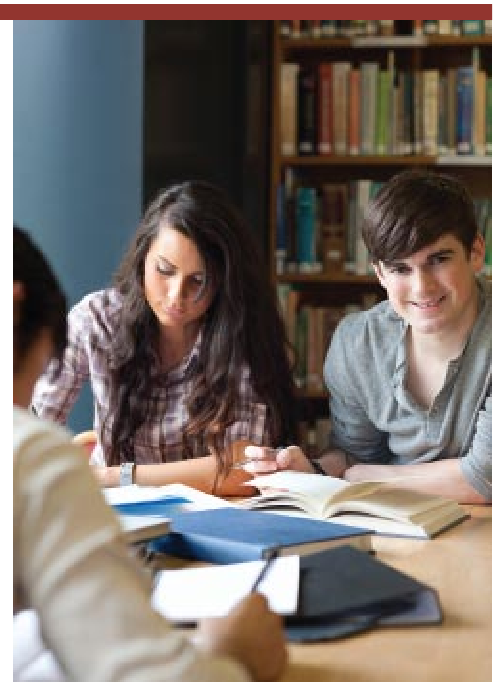
As you can see, planning for minors is no minor matter.

Ask Yourself ...

These Questions Regarding "Majoring in Minors."

1. Have I appointed *legal guardians* (i.e., back-up parents) for my minor children to rear them in a manner consistent with my principles, values and religious beliefs? Yes No Not Sure
2. Have I appointed *inheritance managers* of my own choosing to administer the inheritance for my minor children according to my goals for them? Yes No Not Sure
3. Do I understand the risks of providing children their full inheritance upon reaching legal adulthood (i.e., upon reaching age 18 in most states)? Yes No Not Sure
4. Do I understand that any outright distribution of an inheritance can be risky? Yes No Not Sure
5. Have I created a Long-Term Discretionary Trust as part of my estate plan to protect the inheritance of my children from potential divorces, lawsuits, bankruptcies, *affluenza* and unintended consequences? Yes No Not Sure

LEVERAGING LEGACIES



For many people, saving for retirement was once a top priority. Now, having reached retirement, they find that their resources may exceed their needs and they can provide financial assistance to others. Some retirees find satisfaction in supporting their favorite charities, their children or both. Still, others find great pleasure in helping their grandchildren, especially with post-secondary education funding. In fact, more than one grandparent has said *if I knew how much fun grandchildren were, then I would have had them first!*

Section 529

The law has recognized this special grandparent-grandchild relationship, creating a variety of means to facilitate financial generosity. In this article we will survey Internal Revenue Code Section 529 (Section 529).

Depending on your unique circumstances, there may be significant tax and non-tax benefits available under Section 529. Otherwise known as *Qualified State Tuition Programs*, Section 529 plans are administered at the state government level. Each state may design its own Section 529 plan (or possibly multiple plans) within certain federal parameters.

Tax Benefits

You may contribute up to $65,000 in a single year ($130,000 through gift-splitting if you are married) per grandchild to a Section 529 plan without triggering any gift taxes, as long as you make no further gifts to that grandchild for five years. [Note: If you do not survive the fourth year following this lump sum gift, then a pro-rata portion will be included in your estate.]

Once invested, your contribution to the Section 529 plan grows tax-free as long as your money stays in the plan. When distributions are made to pay for qualified education costs, such withdrawals are made federal income tax-free.

Non-Tax Benefits

Unlike some traditional arrangements for gifting to minors (e.g., under state uniform transfer to minors statutes), contributions to Section 529 plans remain under your control for the life of the plan. Under many traditional arrangements, control of the assets transfers to the beneficiaries once they reach legal adulthood (i.e., upon reaching age 18 in most states). Depending on their level of personal and financial maturity, a lump sum distribution in any amount can spell disaster.

Under a Section 529 plan, however, not only do you decide when, for whom and why withdrawals are taken, but you can even reclaim the plan proceeds for yourself in whole or in part down the road as a *non-qualified* withdrawal. While such a withdrawal will be subject to partial income taxation plus an additional 10 percent excise tax, this may be a small price to pay for financial flexibility.

With all wealth transfer techniques, there is no *one size fits all solution*. Competent counsel can help you sort through the options, alternatives and potential pitfalls of Section 529 plans.

[Note: The Internal Revenue Code is ever-changing, so be sure to stay current on changes to benefits under Section 529.]

POCKET PROTECTORS
Tips to help you protect your pocket!

Life Insurance Settlements

Are you age 65 or older, with a life insurance policy that you no longer really need or are you paying premiums you can no longer afford? Perhaps the policy was acquired to fund a Buy-Sell Agreement for the family business you sold, or for some other reason no longer relevant to your current financial and estate planning objectives. Regardless, rather than let the policy lapse, you may consider selling it for cash. The cash could be used for any purpose, to include for current health care costs, financing that dream vacation you have been deferring or helping grandchildren with college.

Before selling your life insurance policy, however, be sure to get independent counsel regarding appropriateness issues and tax consequences. In addition, the sale of life insurance to third parties may be governed by your state laws and you will want to make sure everything about the proposed transaction is fully compliant. Contact your state insurance commissioner (visit www.naic.org/state_web_map.htm for a listing) and the Life Insurance Settlement Association (visit www.lisa.org) for more information.

“Life is what happens to you while you're busy making other plans.”
— John Lennon

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Note: Nothing in this publication is intended or written to be used, and cannot be used by any person for the purpose of avoiding tax penalties regarding any transactions or matters addressed herein. You should always seek advice from independent tax advisors regarding the same. [See IRS Circular 230.]

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Joelle Drucker and Michelle Correll, the firm’s attorneys, have extensive experience practicing in large national law firms, but both have chosen to use their skills and experience in a way that allows them the ability to place a greater emphasis on the needs of their clients with a higher level of personal service. We strive for solutions that are practical and cost effective. The foundation and fundamental values of Drucker Law Offices are based on a firm belief in building and maintaining personal long-term relationships with our clients.

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