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Asset Protection

ISSUE

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Asset Protection

	CONCERN	TRUST	FEATURE	BENEFIT	ALTERNATIVE CONSEQUENCE
CONTROL	<i>"I do not want to have my assets outside of my control until after I die."</i>	 REVOCABLE LIVING TRUST (RLT)	This trust can be changed at any time while the creator is alive, once they die the trust becomes irrevocable and the assets are retitled to the trust.	Confidence in creator control.	An irrevocable trust does not allow complete change access, a revocable trust does. A will puts the decision-making power into a probate court where the estate becomes public and the court can make decisions that the creator would rather have determined themselves.
BLOODLINE HEIRS ONLY	<i>"I do not want my children's spouses or ex-spouses to have access to my assets; I want only my blood line descendants to have access."</i>	 ANY KIND OF TRUST CAN HAVE THIS DIRECTIVE	A blood line directive can be added as a specific directive.	Directs that only bloodline descendants can receive trust benefits.	If a bloodline heir predeceases the creator, the heir's surviving spouse and potential new spouse could get the assets.

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LAWSUITS	"I want to protect my business and legacy from lawsuits."	 ASSET PROTECTION TRUST (APT)	An irrevocable trust that can protect up to 50% of your total assets from lawsuits. There is a 2 year look back for protection and there must not be a known suit or creditor issue that you are purposely avoiding.	Provides security of your assets in a court friendly state like South Dakota or Nevada after the 2 year look back and allows creators to self-settle, meaning access to both earnings and principal from the protected trust.	Frivolous and regular lawsuits including divorcees could access your assets.
IRA STRETCH	"I do not want my IRA or 401K to pay out a lump sum to my heirs."	 REVOCABLE LIVING TRUST (RLT)	A "Stretch IRA" provision allows the owner the qualified plan to stretch out the required minimum distributions of the plan for up to 10 years.	The stretch period enables protection from creditors and continued tax-sheltered growth of these assets.	A lump sum payment is vulnerable to spendthrift behavior, creditors, or divorcees.
LONGTERM CARE	"I do not have long term care insurance and with costs over \$100,000 per year I understand Medicaid can take my home when I run out of cash."	 MEDICAID QUALIFYING TRUST (MQT)	The MQT is an irrevocable trust that can protect the home and other assets from seizure upon LTC indigence. There is a 5 year look back on the transmittal of the asset title to the trust.	The home can be protected from seizure and passed on to the heirs. If the home needs to be sold for downsizing purposes, the trust permits this if the full equity represented in the home is retained in the trust.	When a person runs out of cash assets to pay for long term care Medicaid takes over payment for such care. By law, in the "Medicaid Recovery Act" they can seize assets to recover the costs.

Generational Legacy

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Generational Legacy

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	CONCERN	TRUST	FEATURE	BENEFIT	ALTERNATIVE CONSEQUENCE
ADDICTION/ABUSE	<i>"I am concerned that my kids or grandkids may succumb to addictive behavior after my passing."</i>	 REVOCABLE LIVING TRUST (RLT)	An addiction/abuse clause is added as a specific directive.	Trust payments are made to a qualified third party to make sure that an addicted heir does not continue to engage in harmful behavior with trust proceeds. Regular trust payments may continue for generations and this clause prevents access to funds by an abusing family member.	The addicted/abusing family member could spend all their inheritance on addictive behavior.
REASONABLE & PROTECTED ANNUAL PAYOUT	<i>"I have accumulated millions in my lifetime and I want them to be distributed as a legacy for many generations."</i>	 REVOCABLE LIVING TRUST (RLT)	A generation holding trust directive can allow payments of 3-15% to be paid out annually to succeeding generations.	This avoids lump sum payments that could result in spendthrift behavior or creditor access, and enables investment growth that could last for many generations if done at the normal 5-6% range of total annual payouts.	A lump sum payment is vulnerable to spendthrift behavior, creditors or divorcees. It also misses the opportunity to spread investment success and protection over generations.

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Generational Legacy



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SPECIAL NEEDS	<p><i>"I have a child who will need support for the rest of their life."</i></p>	<p>SPECIAL NEEDS TRUST (SNT)</p>	<p>A Special Needs Trust can assure that money is identified for the long-term care of a disabled family member. In the case where they receive SDI/SSI payments this may assure that those payments are not put at risk with a lump sum payment.</p>	<p>The SNT includes a life plan that details the therapeutic needs, daily life pattern, support team, and finances to assure minimum disruption in the family member's routines.</p>	<p>State Disability Insurance (SDI) payments are put at risk when a recipient receives a lump sum payment. It is also critical to minimize lifestyle changes for a family member who needs special support upon the loss of a parent or guardian.</p>
COMMUNICATION	<p><i>"I want my children and grandchildren to know my reasoning for creating the trust, how I earned this legacy, and the values important to me."</i></p>	<p>ALL TRUSTS</p>	<p>A specific directive can be a letter to your heirs about those beliefs and motivations that have been important to you.</p>	<p>This will be featured in the trust and can be attached to each payment your legacy receives.</p>	<p>Many families lose touch with what makes their legacy so special, resulting in not knowing and appreciating how your family member was able to provide you with this legacy.</p>

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Generational Legacy

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SPEND DOWN BY NEW SPOUSE FAMILY EMERGENCY	<p><i>"When I die my spouse may get remarried, and I want to make sure their new spouse doesn't spend down the legacy I created for my kids."</i></p>	 <p>REVOCABLE LIVING TRUST (RLT)</p>	<p>The A/B/C feature of the RLT creates up to 3 trusts upon the death of the first spouse.</p>	<p>Upon the death of the first spouse the B trust is created, and the assets of the deceased spouse are protected until the death of the surviving spouse for the heirs. The surviving spouse has access to the earning of the B trust but not the principal which is protected for the heirs. The C trust is available for tax purposes when the estate is over the federal minimum.</p>	<p>This helps complicated families with legacies and protects kids from the impact of multiple marriages. Children from future marriages could get access to inheritance and lower the amount that the creator originally wanted for their children.</p>
	<p><i>"What happens if there is a family emergency that is beyond what the annual trust payment might be?"</i></p>	 <p>ALL TRUSTS</p>	<p>There is a HEMS directive in all trusts that allows extraordinary payments for health, education, maintenance, and support when the trust company and trust investment advisor see it as worthy.</p>	<p>The oversight assures that frivolous requests are separated from true emergencies and the knowledge of your family and legacy vision helps assure the appropriate support for family emergencies. A lower annual payout is appropriate since the trust can build "rainy day" assets for the unavoidable emergencies.</p>	<p>If there is no emergency fund or strong trust oversight the heirs are put at permanent risk of financial ruin.</p>

Tax Consequences

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Tax Consequences




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STATE SITUATION/LOCATION OF TRUST	SALT DEDUCTION	"I am living in a high tax state and want to maximize my SALT deductions."	 ASSET PROTECTION TRUST (APT) OR MEDICAID QUALIFYING TRUST (MQT)	Moving the ownership of your supplemental high taxed real estate into a non-grantor trust will create a separate tax entity that can have its own SALT deductions.	A trust is a tax entity that like a person earns deductions. Please see your CPA.	A person or tax entity is allowed \$10,000 for SALT deductions, with just one entity that is your limit.
	A/B/C	"I am concerned that my estate is beyond the federal minimum estate tax of \$11 million for a single person."	 REVOCABLE LIVING TRUST (RLT)	The A/B/C feature of the RLT creates up to 3 trusts upon the death of the first spouse. The A trust is for the surviving spouse, the B trust is for the first spouse to pass, and the C trust or QTIP is designed for assets over the individual minimum tax deduction amount of assets which are the total in each of the A and B (\$11 million each).	Upon the death of the first spouse the B trust is created, and the assets of the deceased spouse are protected until the death of the surviving spouse for the heirs. The surviving spouse has access to the earning of the B trust but not the principal which is protected for the heirs; the C trust is available for tax purposes when the estate is over the federal minimum.	This maximizes your estate tax deductions.
	STATE SITUATION/LOCATION OF TRUST	"South Dakota and Nevada, I understand are favorable trust states."	 ALL TRUSTS	These states have been identified as the most trust friendly states for multiple reasons: see benefits.	Trusts are taxed like people so locating your assets into states with no state tax is important. These states offer trust friendly courts based on past practice. Trust laws in these states minimize the APT look back period to 2 years.	States with state income taxes will reduce the growth of your trust assets and may risk them with longer look back periods for APTs.

Trust Management

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	CONCERN	TRUST	FEATURE	BENEFIT	ALTERNATIVE CONSEQUENCE
CORPORATE	"Why would I want a corporate trustee rather than my brother-in-law?"	 ALL TRUSTS	Trustees have important jobs: they retitle assets to the trust, create a tax entity, manage the payments and investments of the trust.	A corporate trustee has federal government oversight, posted fee structures, and tax/legal expertise to do the job affordably and quickly based on billions of dollars of trust oversight.	A friend or relative can charge the trust what they want, will need to hire professionals for titling assets, tax work, and real estate disposal. They also could die before the trust is used up creating an oversight challenge.
TRUST INVESTMENT ADVISOR	"I trust my investment advisor; can they continue to support my family through the trust?"	 ALL TRUSTS	Trust investment advisors are recognized by trust companies as the entity to manage trust investments with trust company oversight. This is called a Directed Trust.	This assures you that someone who knows your family will be part of the legacy team.	Unaligned or unprofessional investment managers (family/friend) may not realize the most potential for your heirs.
TRUST PROTECTOR	"I want to make sure my CPA has oversight of the trust company and trust investment advisor."	 ALL TRUSTS	A Trust Protector sits above the trust company and trust investment advisor. Their role is oversight, not actual management.	This assures you that someone who knows your financial legacy will have oversight of the financial team.	This is purely an option for certain families.



If you have questions or would like more information, please contact us.

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