Trust Connection

Building Lasting Relationships for the Benefit of our Mutual Clients

TRUST NEWS AND INFORMATION
FROM YOUR TRUST REPRESENTATIVE OFFICE

Welcome to ***Trust Connection***, a regular communication from Valley National Trust Services.

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Ensure Estate Plans have a Strong Foundation

While it is an important factor, great emphasis was frequently placed on taxation in estate planning. Even clients will get this wrong. When asked, "What is your primary goal," they will many times respond, "To pay as little tax as possible." Unless your client plans to leave everything to charity, taxation should still be addressed, but the emphasis should be on *who* the estate plan will benefit and *how* will it be executed.

After the Tax Cuts and Jobs Act of 2017, less than 1 in 10,000 decedents' estates, or 0.0001%, will owe federal estate taxes. The lack of estate tax issues has had two effects on the business of estate planning. One is that many clients who have focused on taxation in the past don't think they need estate planning, and the other is that the emphasis has shifted to family dynamics and the real concerns of clients who leave assets to their heirs. As one study concluded, we have for decades prepared the assets for the heirs, now we need to focus on preparing the heirs for the assets.

This can be a difficult conversation both for both the advisor and client. When it comes to addressing family dynamics in estate planning, there are three key issues: 1.) The client's desired use of the funds by the heirs; 2.) The heirs' ability to comply with those desires; and 3.) Protection from outside threats such as lawsuits, creditors, or divorce.

Does the client have confidence in his/her heirs to handle money responsibly? Many clients are comfortable with the ability of their children. They believe their children were raised well, have a good education, and learned life lessons that will help them manage inherited wealth. In these situations outright disposition is often used in estate planning.

Incentive Trusts
When the client is not confident in their heirs, so-called "incentive trust" language can be devised. As long as the provisions are within the realm of possibility and do not violate public policy, incentive trusts can provide guidance to heirs by creating a variety of motivations to perform certain behaviors desired by the client, or creating the motivation to avoid behaviors. Examples include refraining from smoking, drinking, or drug usage, gambling, uncontrolled spending, or achieving education objectives. Estate planning attorneys help the client define these issues accurately to avoid violating public policy, rendering the clause unenforceable, or stating it in too general a manner. These conversations can help your client discover and articulate the most important concerns.

Special Needs Trusts
Special needs trusts can be devised for disabled beneficiaries and for minors too young to make their own decisions about money. Parents naturally want to protect those children who cannot protect themselves. Trusts with discretionary language in the hands of a trustee, perhaps aided by the aforementioned incentive trust provisions or a "letter of wishes" giving insight to the client's concerns may be the right way to structure an inheritance.

Philanthropic Trusts
Philanthropy is a type of inheritance itself, often structured in a similar manner, giving the beneficiary the gift of giving rather than the funds for personal use. This can allow the beneficiary to continue the family legacy, improve the world around them, maintain assets outside the threats of taxation and creditors, and pass them on to the next generation.

Protection from External Threats
Protecting beneficiaries and funds from external threats such as lawsuits, creditors, and divorce are concerns for many clients. Trusts often make sense to protect the assets of clients in careers such as medicine or law where lawsuits and claims against wealth may be more likely. In addition, success may mean that, while the client may not have a taxable estate, the children may have one, which would increase the amount they would pass through to their children on top of their already taxable estate. Using an irrevocable trust, your clients can have the best of both worlds; available to them if they need it, and not part of their estate nor accessible to their creditors if they don't. With a divorce rate hovering around 50%, it is understandable that some clients might be concerned about the potential erosion of inheritance to divorcing spouses. Many require prenuptial agreements with certain provisions to protect the trust funds.

Historical and current family dynamics, personal values, and social issues can have a significant effect on estate planning. Take the time to gain a solid understanding of clients' true desires and to recognize any current or potential threats. Taxation may be a concern but these are central to securing your client's legacy as well as your position as a trusted advisor.