

Benefits of A Minor Children's Trust



A Minor Children's Trust is desirable whenever you have potential beneficiaries who are under the age of 21. It is typically incorporated inside the Revocable Living Trust. A well-planned Minor's Trust will provide guidelines to the persons who will be guardians over your young children. It is a place for you to state your desires regarding aspects of raising your children. This trust will also provide instructions regarding the administration of the property you leave behind to take care of your children. Again, you provide guidelines to the person controlling the money (the trustee) as to how you want money spent to support your children and what you don't want money spent on. A well-developed Minor's Trust is a set of instructions for the person you have chosen to do what you would do if you were still alive and able to raise your children. Most often the person who is the guardian (this is the person your children will live with) is not the same as the person who is the trustee (the person who manages the money for the children).

People with minor children present different planning considerations as to what arrangements are best for the surviving children (or when grandchildren or other beneficiaries such as nieces and nephews are to be primary beneficiaries of the trust). We have numerous optional trust arrangements available for you as the parents to choose from. A separate Minor's Trust should be set up so that you can be more specific in how long the funds are to be held in trust and provide guidelines to the trustee for distribution of additional funds to the guardian appointed for the child and for early distributions to the minor. Said trust may include additional children either born to or adopted by the grantors after the execution of the trust and may also include descendants of any child who may predecease you.

Guardian of Minor Children

You should give special consideration to the person or persons who will be the guardian over the "person" of your minor children (this will not apply to your grandchildren or other beneficiaries). Normally that person will not act as trustee or conservator over assets that are in the child's name. There are special provisions we can include that allow allocation of extra funds for a guardian. The following choices represent some of the ideas we have noted that are useful or desirable especially when there are a number of minor children or beneficiaries and/or there is a substantial difference in your financial status and that of the proposed guardians.



- Allow the guardian to reside in your residence while the children are minors. If the guardian deems it advisable for the minor children to stay in the residence, the trustee can allow the guardian and the children to live in the residence, with the cost of maintenance and upkeep to be paid out of the trust.
- Help guardians to buy a bigger house or enlarge their existing house to accommodate your children with no requirement to repay the trust for such funds.
- Provide a generous monthly allowance to the guardian to cover expenses. This allows the trustee to reimburse the guardian for the fair share of the general household expenses of the minor children and any expenses incurred by the guardian that are specifically allocated to the support, education and medical care of your children.
- Provide for private education for your minor children and/or also for the children of the guardian.
- Distribute funds to the children while minors or while in college.
- Equalize mixed minor lifestyles. If the guardian is of modest means and you want money spent on private education, etc., for your children, there could be resentment built up if the guardian's children do not have similar benefits so provisions can be incorporated to minimize this.

You need to spell out how lavish or restrictive you want the trustee to be regarding distribution of funds to or for the benefit of the children while minors or while in college, and any special instructions to the guardians regarding the children.



We suggest you write a letter of guidance to the guardian of your minor children with specific instructions and guidance with regard to personal goals and objectives and authority for expenditures for particular activities or items you desire for the benefit of said children and include it as an attachment to your trust.

Guidelines to Trustee



The Minor's Trust gives guidelines to the trustee to make early distributions to beneficiaries. The following example describes some of the alternatives available for inclusion in the trust to permit a trustee to distribute money to a beneficiary, in addition to the normal support, education and welfare, at times prior to the normal distribution dates. Such distributions are called "advances" and generally are deducted from a beneficiary's future distribution share unless otherwise indicated.

- Funds for college, graduate school or advanced degrees. The normal education trust usually only covers undergraduate degrees for each beneficiary. This option allows a beneficiary to obtain money from his share of the trust for post graduate work.
- Funds for acquiring certain assets such as an automobile, house, business, etc. This permits an advance of monies when a beneficiary has the indicated need.
- Funds for support, education, medical expenses, etc., for the named beneficiary's spouse and/or children. This gives broader discretion to the trustee if a need arises in a beneficiary's family.
- You may add other provisions that pertain to your situation. For example, many persons belong to churches that send members on a mission and you want funds available for this purpose.

The Minor's Trust is designed to be very flexible such as providing options to encourage a beneficiary to maintain a high grade average in high school or college, assist beneficiary for a wedding or birth of a child, restrict payments if a beneficiary is a drug or alcohol abuser or a spendthrift, or any other options which you desire to encourage your children to become responsible adults.



Allocation to Separate Trusts and Final Distribution of Assets

When the Minor's Trust is first established, you need to determine whether to hold the assets as a single trust until an event happens, such as the youngest attaining a certain age, or whether to immediately divide the assets into separate trusts for each beneficiary.

The most common and practical approach when there is more than one minor beneficiary is to hold the trust as a single trust until an event happens. Think of it this way, the trust is to replace you in providing for your children until they are self sufficient. If you were alive you would support each child until he or she is self sufficient. No one knows how much it will cost and it is better to make an older child wait a while than to run out of money before a younger child can support himself or herself. Remember you already supported that older child to his or her present age.



The other alternative is to immediately divide the assets into separate trusts for each beneficiary. The distribution to or for a beneficiary would come out of that beneficiary's trust share only. This choice is recommended when there is a very large sum of money involved or only a couple of children that are far apart in age.

If the trust is held as a single trust, provisions must be made for distribution to separate trust shares after the youngest attains a certain age, or perhaps a combination of age plus a college degree. Then the final distribution to each child would be one of the alternatives below. If the trust was divided into separate trusts then each child would get his or her share immediately under said alternatives.

- 1) Outright distribution to beneficiary. This can be used when the expected remaining amount to be distributed is modest and it makes sense to wind up the trust and distribute the remaining property. If the amount expected to be available is substantial then we recommend that you spread out the distribution to protect beneficiaries who are not yet mature enough to handle money from getting a large sum at a young age. If they "blow" the first distribution, then by having a second or third chance maybe they will be wiser. Also it is not beneficial for a young person to get too much money at a young age and thus destroy their incentive to go to school to get an education and a career.
- 2) Provide a program of staged distributions or withdrawal rights. For example, distribute 1/3 at age 25, 1/3 at age 30 and balance at age 35. If you choose the single trust until youngest attains age 23 and you have 3 children ages 2, 6 and 10, then when youngest is 23, next one will be 27 and oldest will be 31, so the youngest would need to wait 2 more years for a 1/3, the 27 year old would be past age 25 so would get 1/3 of his trust, and the 31 year old would be past two of the distribution ages and would get 2/3 of his trust.



Additional Considerations

The detailed delay distributions and the guidelines for early distributions outlined above for minor children can also be used for grandchildren, adult children or other persons for whom you do not want immediate distribution or for whom you want to protect from creditors, spouses, etc.

If your children or other beneficiaries will receive a large inheritance (\$250,000 +) you may wish to consider having the final distribution from the Minor Children's Trust to be allocated to a **Personal Adult Management Trust** for each beneficiary rather than distributing the assets outright. The beneficiary can then manage the assets of said trust and receive all the income. In addition, the trust would offer substantial protection against creditors, spouses who may invade the funds, divorce, and future estate taxes. Please see our brochure regarding the advantages of a **Personal Adult Management Trust** for further information.

If you would like to provide for an older parent or other relative, you may wish to consider a Lifetime Trust which will provide income for said beneficiary during his or her lifetime and then be distributed to your designated heirs after said beneficiary's death. Please see our brochure regarding **Special Needs Trusts** for further information.

The Special Needs Trust is also recommended for adult beneficiaries who may be in a bad marriage, who cannot handle money, or who have an addiction to drugs or alcohol. If a beneficiary is or may become eligible for government assistance, a more restrictive trust, called a **Supplemental Needs Trust**, may be required. This trust is designed to restrict the amount paid to or for the benefit of a beneficiary so as not to render him or her ineligible for certain government benefits. The brochure regarding Special Needs Trusts goes into detail regarding such trusts and lists some of the permissible expenditures for said beneficiary.

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