

Trust Planning for Children

In all but a few states, children are considered adults at age 18. Most parents, however, believe children should be more emotionally and financially mature before being entrusted with an inheritance. An important goal is protection of the assets. By utilizing a trust for younger beneficiaries, parents determine who will manage the assets as trustee and the terms under which the child will receive benefits from the trust.

The terms of the trust may specify which of the children's expenses are to be paid and under what circumstances. You may also specify when and how much of the income and principal will be distributed to the child. For example, the trust might provide that until the child is 25, the trust will pay for education, health and support, and that thereafter the child will receive regular payments in a fixed amount or based upon a percentage of the trust value. Parents often provide that principal is distributed in stages, e.g., one-third at age 25, one-half at age 30, and the balance at age 35. Some parents allow their children to at some point become co-trustees so they learn how to manage the assets from the original trustee.



If the trust is for two or more minor children, parents often establish one trust for the benefit of all children. This allows the trustee to provide for each child according to his or her needs—as you would do if still living. Typically, the trust is divided into separate shares—one for each child—when the youngest reaches a specified age such as 18 or 25.

With a trust, you not only control what happens while your children are living, but also the distribution of the assets if the child dies before becoming entitled to full distribution of the trust. However, you may allow an adult child to make that determination with what's referred to as a "power of appointment."

From a tax perspective, a generation-skipping trust may be appropriate. Such a trust provides for children during their lifetime and is then distributed to grandchildren (or more remote descendants). The effect of such a trust is to skip a generation of estate taxes. As you might imagine, there are limitations on the amount that can be generation skipped. Please see the *Estate, Gift and Generation Skipping Taxes* tutorial.

Some children may be more vulnerable to creditors than others. The child may be a spendthrift or in a high-risk profession, e.g., surgeon. A spendthrift trust is appropriate to protect the assets from creditors. These trusts are written so that the child *may* receive trust benefits but has no right to demand them. Because the distribution of assets is solely within the discretion of the trustee, creditors cannot access the trust in satisfaction of the child's debts.

In virtually all cases where the estate plan includes one or more trusts for the benefit of children, an independent trustee is appropriate. That can be an individual or an entity such as Virginia Fiduciary, PLC.