

## Is a family trust right for you?

**A** family trust, also called a living trust, grantor trust or revocable trust, is a flexible estate planning vehicle that allows the person(s) who establishes the trust (called the grantor) to control assets for current and future generations. Even with the flexibility and variability that a family trust can provide, it may not be best for everyone. To determine if it is right for you, you need to weigh whether the following benefits of a family trust are worth the additional costs (from \$500 to \$2,000, or more) of establishing and maintaining the trust (bank charges, investment expenses, additional accounting and tax reporting, if applicable).

### **Preservation of Assets.**

One of the primary benefits of a family trust is to preserve assets for distribution to future generations. The trust can provide support for the grantor, the grantor's spouse and other generations through income and principal distribution provisions. By limiting the access to trust funds through distributions controlled by the trustee, the family trust prevents possible waste, mismanagement, or excess spending that can deplete assets quickly when directly distributed to beneficiaries. The principal of the trust can be used for needs of the beneficiaries, while ensuring there are assets available to distribute to future generations, such as grandchildren.

**Spending Control.** The trustee makes distributions from a trust and the grantor can be, and usually is, the trustee at the beginning. There are many options for distributions that can be provided in the trust document, from income only, to income and unlimited principal. The standard provisions are for the trustee to distribute for the health, education and welfare of the beneficiaries. This provides the ability of the trustee to provide for the beneficiaries' basic needs. As these categories are broad, a grantor can leave a letter of wishes, which helps guide the trustee as to



the types of expenditures contemplated by the grantor for the beneficiaries.

**Estate Tax Planning.** Family trusts can incorporate complex estate tax planning for married individuals, including the division of assets at the death of the grantor to maximize the use of the grantor's federal estate tax unified credit. This division preserves from estate tax at

## Long Term Care Insurance Considerations

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Probably the number one inspiration to consider long term care insurance is watching a loved one slip into declining health and trying to figure out how to pay for the care they want and deserve. Perhaps your business has just offered you the opportunity to buy coverage as a pre-tax benefit. Maybe you realize that three out of five people



will need some form of long term care, either in the home, at the assisted living level or in the nursing home, and you do not want your loved ones to worry about how to pay for your care. Whatever your reason, here are a few things you should consider when examining a long term care insurance policy to insure it will meet your future needs:

◇ Purchase insurance from a highly rated insurance company. A.M. Best rates insurance companies on a scale of A++, A+, A, A-, B++, etc. Even though these ratings are not always indicative of a company's financial performance, you should consider companies rated at B+ and above. There are many highly rated companies, and

your agent should be able to tell you their rating and what that rating means.

◇ It is normal for insurance companies to raise premiums as the block of insured individuals that make claims increases, but those increases should not be regular or excessive. Ask your agent if the recommended company has a history of raising premiums, and if so by how much and how often.<sup>1</sup>

◇ Consider policies that trigger benefits on the inability to perform two of six "activities of daily living." These include bathing, dressing, eating, moving from a bed to a chair, continence and toileting, and taking medications.<sup>2</sup>

◇ Insist on coverage with a cost of living adjustment. This can be done with simple or compound interest. Ask your agent to compute both ways at your expected time of need to compare the cost and see which will provide the benefit you anticipate will be needed.

◇ Consider the length of the waiting (also called elimination) period for benefits to start under the policy. The shorter the period, usually the more expensive the coverage. Ask your agent to compare for you the estimated cost during the waiting period and the increase in your premium to find the appropriate balance.

◇ Consider the length of benefits – available options range from months to

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*1 Suggestion offered by Kimberly Lankford in her book, The Insurance Maze: How You Can Save Money on Insurance-and Still Get the Coverage You Need (Kaplan Publishing, Chicago, July 2006).*

*2 From an article by Alan Lavine in the Trusts & Estates newsletter, August 30, 2006, Volume 1 Number 8.*

years to lifetime. Lifetime benefits are the most costly and may not be necessary for your expected care forecast. On the other hand, more people need long term care for longer than 3 years if you include home health care, assisted living and nursing home care. Talk to your agent about your anticipated care needs to determine what length of benefit is affordable and would be best for you.

◇ Consider the maximum daily benefit and the maximum policy benefit. Both should be high enough to pay the expected cost of care, but not so high that it exceeds the expected cost of care.

◇ There are many riders you can purchase with your policy. These include riders that provide a death benefit and return premiums paid if you die before using your policy, riders to ensure that the full payment is made at the daily benefit level, even if not owed to the facility (which would provide extra cash to a spouse or child remaining at home), riders that waive premiums at the death of one spouse for the surviving spouse's policy, and many others. Ask your insurance agent what riders are available and their effect on the premium to determine if they are right for your policy.

Finally, many people ask at what age should they purchase long term care insurance. The simple answer is before you need it and while you still qualify. You should purchase long term care insurance before you have a disqualifying health condition, such as diabetes or heart disease. For some people that means buying coverage in their 30's and 40's. However, many purchase this coverage well into their 60's. It is generally true that the younger you purchase, the better. Ask your agent to compare for you the premium cost if you buy it 10 years and 20 years later. If you want this insurance protection, don't delay. Be sure to get it while you can.

- Beverly Eckard

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the death of the second spouse those amounts placed into the credit shelter trust.

**Privacy.** In most circumstances, a will has to be probated with the County Clerk of Court. The will and its contents become part of the public record when probated. If you do not want the public to have access to the details of your estate plan or family dynamics, a family trust allows for the private transfer of assets since it avoids probate.

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**Avoidance of Probate.** A properly drafted trust can avoid probate if it is properly funded. After the signing of the document, the assets to be governed by the trust must be transferred into the trust name. As discussed above, privacy is one reason to avoid probate. Another reason is to avoid the cost of probate. In North Carolina, there is a maximum limit on probate costs of \$6,000. Many states do not have a cap on probate costs. In those states, the avoidance of probate with a family trust may save the survivors substantial funds.

**Protection after Death.** Trusts may be more difficult to challenge in a contest proceeding after the death of the grantor. Another protection provided by a family trust is from the divorce, bankruptcy or other court proceedings of a beneficiary of the trust. Since the assets of the trust are protected within the trust, even though they may be considered a financial resource of the beneficiary and may impact the proceedings, the trust assets might escape divorce distribution or creditor's claim.

If you would like to discuss including a family trust in your estate plan, then give us a call for an estate planning consultation.

- Beverly Eckard

## A Change in the Ensemble

There was a recent radio news story on a famous jazz club – The Vanguard in New York City’s Greenwich Village. It brought to mind how much of business life is like a musical production. There are the headliners, the back-up band, the ticket takers, the stage hands, the lighting technicians and the manager. The audience sees the headliners and the back-up band but the other players operate in the shadows. The folks who don’t share the spotlight are equally important to the successful production of a musical event. And so it goes with our law firm.

This month we are saying good-bye to one of those folks who has made our production run - Karen McLaughlin, our Firm Administrator. Karen has been with us since September of 1999 and has been our behind the scenes magician. Our clients come to know the attorneys, the intake specialists, the legal team members who work on their behalf – but Karen is mostly known only to our vendors, our contractors and, of course, all the employees at the firm. She has managed the business of our business and has done an outstanding job with the myriad tasks she juggles on a daily basis. In addition to being the keeper of all things financial, she has been our database guru, our one person marketing support

team and a pragmatic giver of advice for our employees.

About a year ago, Karen’s husband, Fred, took a great job in Raleigh. In the ensuing twelve months, Karen and Fred have been among the many couples who have had to make temporary accommodations with a commuter marriage. However, given the particulars about their work opportunities, Karen made the understandable decision to join Fred in Raleigh and she is taking her considerable skills to another law firm in Durham.



Certainly, we celebrate Karen and Fred’s opportunity to be together more. As we send Karen off with our gratitude for all she has done on our behalf and our sincerest wishes for her continued success, we do so with heavy hearts as we will miss her more than she may ever know.

*- Jack Harrington and Frank Johns*

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