

## **Niche Trusts: As Unique as You Are**

You're not a carbon copy of your neighbor. Likewise, your estate plan shouldn't be a carbon copy of theirs.

A qualified estate planning team's approach to counseling will be tailored to your specific needs. As your team works together to produce, tailor, or edit your estate plan, one key tool to consider is the niche trust.

What is a trust?

Usually when we speak about a trust, we mean an "express trust." An express trust is a three way relationship between the grantor, the beneficiary or beneficiaries, and the third party, or trustee. The grantor has assets he or she wishes to distribute in a specified way to the beneficiary, and the trustee holds those assets on behalf of the beneficiary.

Your assets, financial needs, and wishes are particular to you, so your attorney's use of trusts needs to be a nuanced strategy. Enter the niche trust. These trusts are designed for very special situations and fulfill certain particular needs. Your attorney can help you decide which of them may be right for you.

### **Health and Education Exclusions Trust (HEET)**

This trust is tailored to help you avoid paying gift tax on tuition and medical care expenses for individuals two or more generations younger than you (grandchildren, great-grandchildren, etc.). Tuition payments made from a HEET Trust directly to an educational institution on behalf of one of these beneficiaries are not subject to gift tax. Similarly, payments made directly to a medical care provider that are not reimbursed by the donee's insurance are not subject to gift tax. However, in order to qualify for these benefits, at least one beneficiary of the trust must be a charitable organization.

These payments, if made on behalf of a "skipped person" from a non-Generation Skipping Transfer Tax (GSTT)-exempt trust are not considered GSTT transfers. This is a great option if you have already used your GST exemption.

### **Pet Trust**

This trust can either stand alone or be part of a revocable living trust. Pet trusts are used to provide for the care of pets after you pass or during any period of incapacity, and to appoint someone to care for them. A pet trust also nominates someone to handle disbursement of funds to cover pet care.

### **Gun Trust**

A gun trust is used to pass firearms to heirs in compliance with state and federal regulations and outside of probate. Due to the regulations and penalties for violating state and federal firearms regulations, it is crucial that you work with a qualified estate planning attorney when planning for the distribution of firearms.

### **Incentive Trust**

With an incentive trust, assets are held for the benefit of a beneficiary who must meet certain requirements before a distribution will be made. These trusts are put in place by you, the grantor, and certain requirements defined by you must be met prior to the distribution of any of the principal or income. For example, you could stipulate the funds be distributed:

- Only when the beneficiary has graduated from college.
- Only if a beneficiary abstains from illegal drug use.

While being able to put stipulations on a beneficiary's inheritance may sound appealing, it is important to note that conditions for the disbursement of assets cannot be illegal or against public policy.

### **Gifting Trust**

Using either the annual gift tax exclusion or lifetime gift tax exemption, a gifting trust holds and invests property for the benefit of family members. This can be a great strategy for transferring family wealth to someone in a lower income bracket.

If you want to use the annual gift tax exclusion to shelter gifts to the trust for gift tax purposes, you will need to include a Crummey power. A Crummey power is a technique that allows a person (beneficiary of the trust) to receive a gift that would not usually be eligible for gift tax exclusions, and makes that gift eligible. To accomplish this, after each annual gift is made, the beneficiary will be given the opportunity to withdraw the amount. However, in most cases, the beneficiary will leave the money so as to ensure you will keep making the annual gifts according to the original plan. Because gifts can be made annually, you can stop at any time.

### **Supplemental Needs Trust (3rd Party)**

In a supplemental needs trust, assets are set aside for the benefit of a beneficiary whose disabilities may allow that person to receive public assistance for medical and other care expenses. In order to guarantee your beneficiary will not lose government benefits or fail to qualify for those for which they would otherwise be eligible, it is important to consult with an experienced estate planning attorney.

### **Standalone Retirement Trust**

This trust is designed to receive "qualified retirement accounts" like IRAs and 401(k)s. Standalone retirement trusts can be set up as either revocable or irrevocable, and provide additional protections for the inherited retirement account. While the future of the lifetime "stretch" for non-spouse beneficiaries is still in question, this type of trust is still a great alternative to allowing a beneficiary to immediately cash out an inherited retirement account. This can be an important consideration when planning for retirement if you anticipate having a large sum remaining upon your death.

### **Qualified Personal Residence Trust (QPRT)**

With a QPRT, a personal residence is the main asset of the trust. You keep the right to live in the home for a specified number of years, and after that term ends, the home is transferred to

your named beneficiaries. This means if you survive the term of the trust, you must move out or begin paying rent to the trust in order to remain living there. This type of trust can reduce the burden of gift tax that will be incurred when the residence is transferred to the named beneficiary.

### **We Are Here to Help**

All of these trusts are tools in building a comprehensive, personalized estate plan that will make your estate's future a bright one. Estate planning must be a collaboration, taking into account your wants and needs and drawing on the expertise of planners and attorneys. Don't hesitate to reach out today to work with us. Together, we can make your estate plan dreams a reality.