



A trust representative office of National Advisors Trust Company, FSB

Monthly Update for Administration of Trusts From a Trust Administrator's Perspective.

It is our hope that our Monthly Update will be helpful to you and your clients to better understand the administration of trusts from a Trustee's viewpoint

January, 2016

WELCOME TO 2016

Does it seem possible we are already in 2016? It sure seems that the older we get, the faster time flies.

During the recent holidays, many people enjoyed the tradition of giving gifts to their family and loved ones. While "gifting" is on our minds, this newsletter will discuss just some of the problems that can occur when someone decides to "gift" their assets during their lifetime to his or her heirs instead of consulting with a professional estate planner.

This newsletter is the first of two that will discuss possible problems with gifting.

"WHOLESALE" GIFTING

Some people have chosen to do "wholesale gifting" to their children during their lifetime. When asked, most people who have gifted practically their entire estate to their children will tell you that they made the gifts because they thought it was simpler and faster, and not to be overlooked, cheaper than getting professional assistance to establish an estate plan.

Unfortunately, people who engage in wholesale gifting usually are not aware of possible negative repercussions. A few examples are:

YOU CAN'T CHANGE YOUR MIND

Once you make a gift, you cannot change your mind. A substantial gift to an adult child today may be exactly what you would have wanted to accomplish upon your death. However, a change of circumstances can occur which could make you wish you had

never made the gift in the first instance.

Most wholesale gifting occurs by the parent putting their adult children as co-owners of the asset in joint tenancy with right of survivorship (JTWROS). The parent's intent is to make sure that the adult child inherits the asset upon the parent's death. However, by adding an adult child to the title of an asset makes that child a co-owner, and may result in serious problems for the family.

For example, assume a parent puts his or her adult child on the title to the parent's home in JTWROS. If later on, the parent wants to either sell or mortgage the home, the parent would have to get the adult child to sign the deed or mortgage, AND if the adult child is married, then the adult child's spouse would also have to sign the deed or mortgage. Now you have to ask yourself "Why am I involving my in-laws in my estate planning?" Once the adult child's name is added to the title to the home, the parent forever gave up the right to change his or her mind without first getting the consent of his or her child and, possibly, the consent of the adult child's spouse.

DIVORCE

Using the example of the parent adding his or her adult child to the title of the parent's home, what if the parent wants to either sell or mortgage the home, but the adult child is going through a divorce, and his or her spouse refuses to sign the deed or mortgage? That is obviously not a result that the parent contemplated when he or she added the child's name to the deed on the parent's home.

What if the parent gifted cash to an adult child, who then puts that money in an account owned by the adult child and his or her spouse? If the adult child then becomes involved in a divorce proceeding, it is possible that the spouse may claim some type of ownership in the money that was received as a gift. While the spouse's argument may not be entirely successful, the possibility of a loss and the expense of defending against the spouse's claim are much worse than if the parent had never made the gift in the first instance.

BE CAREFUL!

The above illustrations are just a couple of examples of how good intentions can end in unexpected bad results by gifting. Considering that you have spent your entire life accumulating your estate, it is always best to consult a professional to make sure that you are fully informed about every possible outcome before you make a gift that you cannot "undo".

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WealthTrust Oklahoma is the Oklahoma Trust representative office of National Advisors Trust Company, FSB, which currently has more than \$9 billion under administration. We hold a federal charter and are independent.