

Fairness and Flexibility - A Pot Trust Can Benefit All of Your Children

A trust is one of the most versatile and effective tools in an estate plan. It allows you to manage how and when your assets are distributed, often avoiding probate and ensuring that your wishes are carried out efficiently. If you have children, creating trusts for them can offer a range of benefits beyond simply naming them as beneficiaries in your will.

Many parents' estate plans call for their assets to be split into equal shares and used to fund a separate trust for each child. But, depending on your family's situation, it may be preferable to pool your assets into a single "pot" trust (sometimes referred to as a family trust). Let's take a closer look at how a pot trust works.

Different children, different funding needs

Most parents want to avoid "playing favorites," so separate trusts appeal to their sense of fairness. But "equal" and "fair" aren't necessarily the same thing. Think about how you use your funds now. If one of your children has a specific need — such as paying for college tuition or medical care — it's likely that you'll pay for it without feeling any pressure to spend the same amount on your other children.

View your estate plan in the same light: Fairness means providing for your children's needs, regardless of whether you distribute your assets equally.

For example, suppose you have two children, James and Janice, aged 23 and 18, respectively. James recently graduated from college and Janice is about to start. You've already spent more than \$200,000 on James' tuition and other college expenses.

If you were to die tomorrow, and your estate plan divides your wealth equally between James and Janice, James will come out ahead. That's because he already received the benefit of \$200,000 in college expenses. Janice, on the other hand, will need to tap her trust fund to pay for college.

Benefits of a pot trust

A pot trust can be a great way to continue meeting your children's individual needs and avoid giving one child a windfall, as James received in the example above. As the name suggests, you pool assets into a single trust and give your trustee full discretionary authority to distribute the funds among your children according to their needs.

Essentially, a pot trust allows the trustee to spend your money the way you would if you were alive. If one of your children has substantial educational expenses or medical bills, the trustee has the authority to cover them, even at the expense of your other children's inheritances.

For many families, a pot trust makes sense when children are relatively young and are likely to have differing needs that can change dramatically over time. If appropriate, your plan can call for the pot trust to be divided into separate trusts for each child at some point in the future — for example, when the youngest child reaches 21, 25 or some other milestone.

Your trustee choice is critical

For a pot trust to be effective, it's critical to choose your trustee — as well as a backup trustee — carefully. As with any type of trust, your trustee should be trustworthy and impartial and have the skills necessary to manage the trust assets. But for a pot trust, it's particularly important for the trustee to have the ability to communicate effectively with the beneficiaries.

Because distributions depend on each beneficiary's unique needs, the trustee must understand those needs, as well as your objectives for the trust, and be able to explain the reasoning behind his or her decisions to all the beneficiaries.

Maintaining family harmony

A pot trust can be an excellent option for parents who want flexibility in providing for multiple children. Including one in your estate plan can provide peace of mind that your assets will be used wisely and fairly, supporting your children according to their needs while maintaining a unified approach to preserving family wealth. Contact your estate planning advisor to learn more about a pot trust. Ask your estate planning attorney to draft your trust document.