

SELECTED EXCERPTS FROM
TESTAMENTARY INSURANCE TRUSTS FOR MINORS

Parents often worry about providing for minor children if they themselves should die. This is particularly the case with single parents, whose solo responsibility is a special concern. Sometimes the parents have insufficient capital to make adequate provision for their children. They may, however, be able to afford the modest outlay for insurance premiums. But if they purchase a life insurance policy for the benefit of their children, how can they control the manner in which that money will later be spent?

Paragraph #2 here.

The simplest solution to this dilemma is for a parent to name his or her estate as the beneficiary under the life insurance policy and then set up the appropriate trust in a Will. This type of trust is called a “testamentary trust” because it takes effect upon death and guidance and direction to trustees are provided in the body of the Will itself.

Paragraph # 4 here.

The most complete method of avoiding probate fees and the effects of bankruptcy is to set up an *inter vivos* trust (one created before a person dies), and then name that trust the beneficiary under the life insurance policy. The Trust Agreement creating the *inter vivos* trust would set out the role and responsibilities of trustees, as well as provide direction for a scheme of distribution. However, there will be initial setup fees and ongoing administration costs associated with an *inter vivos* trust, and *inter vivos* trusts do not enjoy the same tax benefits as testamentary trusts.

Paragraph #6 here.

As a testamentary trust it also enjoys the benefit of preferred tax rates; trustees are given guidance and direction by reference to other trusts in the Will; and the insurance proceeds will not be factored into probate fees since insurance proceeds payable to *named* beneficiaries are not included in the calculation. Ironically, however, an insurer would probably require the Will to be probated before paying the insurance proceeds as directed. To decrease the likelihood of this happening, it would be wise to ensure that the beneficiary designation in the policy itself is properly completed.

Paragraph #8 here.

For those people who have purchased or are contemplating the purchase of life insurance for the benefit of their minor children, the more cautious approach would be to set up an *inter vivos* trust to ensure that if they die at least the insurance proceeds will escape their creditors. Otherwise, the special insurance trust may provide for many a practical answer to an otherwise difficult problem.