

PROTECTING FAMILY ASSETS
FROM YOUR CHILD'S SPOUSE

by Neil R. Lubarsky, Esq.

Do you have any concerns about the strength of your children's marriages, or do you worry about what might happen to family monies should your children get divorced? Do you have any concerns about what might happen to family assets left to an adult child if such adult child were to predecease such adult child's spouse? If so, you should consider leaving some or all of the assets to your children in the form of a "beneficiary controlled" trust.

"Beneficiary controlled" trusts, if properly structured, can significantly reduce or eliminate the risk of having assets intended to benefit your child ending up with your child's spouse in the case of a divorce. In addition, in the event your child predeceases his or her spouse, such a trust minimizes or eliminates the risk that family monies intended for the benefit of your child and grandchildren will instead be squandered by your child's surviving spouse, or used by your child's surviving spouse to support some other family. These "beneficiary controlled" trusts can be established in a manner which will allow your child to pull out limited amounts of assets on an annual basis, which will allow your child access to additional assets in the discretion of an independent trustee, and which will allow your child to remove and replace an uncooperative trustee.

Leaving assets directly to an adult child with a rocky marriage, or leaving monies directly to a child with health issues, often creates a significant risk that such assets will end up in the hands of unintended beneficiaries. As an alternative, leaving such assets to a properly structured "beneficiary controlled" trust established on behalf of your child will provide your child with effective control over the trust funds, while significantly

reducing the chance that such funds will end up in the hands of unwanted beneficiaries.

Such trusts also provide the advantage of insulating family assets intended for the benefit of your children from being taken by your children's current or future creditors.

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