



MEDICO & ASSOCIATES, LLC

ATTORNEY AT LAW

75 Holly Hill Lane, Suite 100 Greenwich CT 06830

Phone: 1 203 661 8151 Fax: 1 203 661-0357

www.MedicoandAssociates.com

Trusts for minors, why do you need them and how do they work?

Other than gifts to minors due to health care concerns, most gifts are typically made due to a parent or grandparent's desire to fund education or other specific purposes. Many times such gifts are designed to protect against unwise spending or to protect assets from creditors. Minimizing estate taxes and shifting wealth to future generations also play a big part in gifting to minors.

The overwhelming concern for most of my clients is the fact that the law recognizes the age of majority at 18. For the typical parent in today's day in age, that is considered far too young to receive substantial wealth. Let's face it, no parent wants to see their children receive substantial income, only to have it spent unwisely and exposed to creditors and lien holders.

Fortunately, there are a variety of techniques you can use to make sure this doesn't happen. First, is either an Inter Vivos (living) or testamentary (in a Will) Trust that is set up to receive funds and other assets. The minor is designated as the beneficiary of the Trust and the Trust documents set forth the terms in which the minor will receive the assets.

This type of Trust can limit disbursements to a minor in several ways including higher age specifications (I've done them as high as 40 years old!) and intermittent distributions for clearly outline purposes. Another benefit of this type of Trust is that it can direct how the principal of the Trust must be invested and maintained which will allow for greater longevity of the assets as well as creating an income stream on the principal which is almost guaranteed to be non-existent with a direct distribution to a child at the age of 18.

Another comforting factor in creating this type of Trust is that the principal and income can be distributed at any time, at the discretion of the Trustee for health, education and wellbeing of the minor.



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Another technique is the Connecticut Uniform Transfers to Minors Act ("UTMA"). Basically, the UTMA allows for the annual gifting to a minor without losing control over the assets. The custodian maintains legal title to the assets until the child reaches the age of 21. Usually this type of transfer is utilized for smaller amounts and is maintained with far less stringent terms than a Trust, simply due to the fact that the child will receive the assets outright upon the age of 21. Despite this, however, the UTMA is usually seen as a great tool and is appealing to many potential donors because both real property and other investments can be held in a UTMA account.

Gifts to minors is a consideration that shouldn't be taken lightly. As part of an overall estate plan, the ages of your children should always be considered as well as your intentions for the use of the assets you intend to give them.

The techniques discussed in today's column as well as the multitude of other options in this area of estate planning can provide you with the confidence that your children will be financially stable well into their adult lives.

As with all of the estate planning techniques and tools that I discuss in my columns I caution you to seek both legal and tax counseling before creating these plans. The legal and taxation concerns are considerable and are often times only a part of your overall planning.

Anthony J. Medico, Esq., has practiced law for over 22 years. To ask a question for this column, or to receive Medico's free Estate Planning Survival Guide, visit his website at www.medicoandassociates.com, send an e-mail to Amedico@medicoandassociates.com or call (203) 661-8151. You can read most of his previous columns on his Greenwich Time estate planning blog on the internet. Just go to <http://www.greenwichtime.com/blogs> and scroll down until you find him under the business section. Enjoy.