
Specific Needs Planning & Advanced Estate Planning

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Specific Needs Planning refers to areas in financial planning for which traditional insurance advisers, independent financial advisers and private-banks are unable to do due to the lack of expertise and lack of the need for product purchase. Advanced Estate Planning refers to matters which require the service of a commercial trust company.

The following are specific needs planning in areas which I offer:

- Provision for children who are still minors
- Provision for aging parents
- Asset Protection for professionals and business owners
- Hedging the Risk of You Having Mental Incapacity

Example 1 - Provision for children who are still minors

Parents of young children are often overwhelmed by the burden to take care of their children when they are young. However, it is always the concern of all parents on what will happen if either or both parents pass away (say through a common accident). In addition to existing assets, the prudent approach is to purchase life insurance so that monies from life insurance proceeds can be used for their children's cost of living and education. The usage of life insurance is technically called estate creation and this is normally achieved through term insurance offering high coverage at rock bottom prices.

The problem is that such life insurance proceeds cannot be given to minors because they are not allowed to own assets. Moreover, they may be still immature to manage money.

Under ordinary estate planning, these life insurance proceeds and as well as all other wealth owned by parents will be held by a trustee who are usually a family member. If there was no Will, the Administrator will hold the monies in trust. If there was a Will, normally the Executor will hold in trust on behalf of the children. The common issues are

- Which family member can be trusted and will not embezzle these monies? Using a simple calculation of providing for \$2000 per month for two children over 20 years, the lump sum amount is $2000 \times 12 \times 20 = \$480,000$ assuming inflation and investment returns the same. You can see the temptation which the family member is subjected to.
- If such a trusted person can be identified, is such a person financially savvy so as not to get cheated by financial salespersons, scams and ponzi schemes?
- Will this family member have the time to maintain proper records so as to ensure that the monies are not accidentally mixed with his own estate resulting in his own creditors making a claim on such monies? Do not forget that the monies will be held in trust possibility for more than one decade depending on the children's age.

To address the above three problems, we recommend Advanced Estate Planning. Under Advanced Estate Planning, the estate planning practitioner will be able to arrange for such monies to be placed in a testamentary trust. A testamentary trust is a trust setup only after a person dies. Arrangement can be made to have the trust setup automatically if both

parents pass away. After deducting for all debts, all movable assets such as life insurance proceeds, bank saving accounts, fixed deposits, unit trusts, shares and ETFs are shifted to the testamentary trust. Immovable assets such as properties can also be shifted to the testamentary trust at a nominal stamp duty of \$10 (at this time of writing) per title. The following are some characteristics of the trust:

- The trustee can be given powers to invest the assets, sell the assets and/or rent properties to generate income and capital gains. Such powers and asset allocation can be pre-specified from the onset.
- Parents are also able to specify exactly which investment adviser the trustee should consult. The trustee has the fiduciary duty to ensure the assets are managed to the benefit of the beneficiaries. In this case, it will be the children.
- The trust can provide maintenance, education and medical expenses to the children on a discretionary basis. A certain regular amount of money can also be specified to provide for the children guardian's personal allowance.
- As the trustee holds huge powers, it only makes sense that a corporate trust company be allowed to be the trustee. In Singapore, corporate trust company must be licensed by Monetary Authority of Singapore. Also, anyone offering trust services within Singapore can only recommend MAS licensed trust companies.

The setting of such a testamentary trust requires careful planning such as the duration of the trust and the contingency event on what happens if one of the beneficiaries dies. When the duration of the trust ends, how the proceeds are to be distributed is also needed to be plan for. There is no need to be an Accredited Investor or high networth individuals to obtain such a service.

Example 2 - Provision for aging parents

If you have parents who are your dependents, you will be concern on how to provide for them if you are no longer living. Again, if you would to leave behind a lump sum of assets and life insurance proceeds, you will have the following concerns:

- Will your parents be able to manage this lump sum of money? Again assuming an allowance of \$2000 per month over 20 years, the lump sum involved is \$480,000.
- While \$480,000 (example) can be easily created through a cheap term insurance insuring your life, will your parents be cheated by financial advisers to invest in toxic assets and unsuitable investments to earn a huge commission? When there is a sudden increase in your parents saving balance by almost half a million from your insurance proceed, be rest assured that they will be constantly prospected by financial advisers to invest in the latest hot funds.
- To be kind hearted is a virtue but it can become a liability. Your parents are kind individuals but they will be subjected to constant harassment from relatives and friends to borrow money. Very soon, your parents will be like an ATM dishing out cash except never to see it back again.
- What happens if your parents develop mental disabilities due to aging? They will no longer be able to enter into any contracts and thus they cannot manage these monies. There is also a current lawsuit in which a local bank froze the bank account of a customer whom the bank believed was mentally not capable of operating the account.
- Some parents hold joint-accounts with others so as to provide a convenient way to operate the account in the event of mental disabilities. This is similar as appointing a trustee but it comes with the risk of the trustee embezzling the money.
- It is a well known that many retirees spent a considerable amount of time gambling in the casinos. The convenience of having free hotel stay for visiting casinos has resulted in many retirees visiting the casinos as a way to kill boredom and some even developed compulsive gambling habits.. Now that Singapore has its own casinos, the convenience is even more irresistible. While you are still living, you can provide your parents a monthly allowance but if you have passed away, providing them a lump sum can be detrimental as your parents could gamble it all away overnight. Due to the above six reasons, Advanced Estate Planning involves setting up a testamentary trust. There are many similarities compared with that for minor children but with some minor differences:
 - Unlike a testamentary trust for children, you would probably prefer a regular allowance be given to your parents of say \$2000 (example) per month adjusted for inflation rather than based on the trustee's discretion;
 - You may wish to provide a yearly lump sum of say \$6000 (example) for your parents to go for a holiday;
 - You can instruct the trustee to pay insurance premiums for your parents so that their medical expenses will be paid for through insurance rather than from the trust assets. In this way, the trust assets will not be unnecessarily depleted. You can decide which insurance your parents should purchase when you are still living.
 - The duration of the trust could potentially be quite long depending on the age of your parents. As such, it is recommended that the assets be managed for long term investments to earn a potentially better return;
 - When the trust ends (say when both parents pass away), you probably would prefer any remaining monies to be distributed to your own children rather than to other relatives. If you give a lump sum, any remaining assets left would form part of your parents's estate which could eventually ends up with unwanted relatives. Again, there is no need to be a Accredited Investor or high networth individuals to obtain such a service.

Example 3 – Asset Protection for professionals and business owners

Many professionals and entrepreneurs take significant risks in their field of work. Professionals such as doctors, accountants, dentist, pilot etc could face significant financial hardship should there be professional negligent and breach of contract. Lawsuits brought about either by their clients or by the authorities could result in severe financial hardship and bankruptcy. Take for an example of a recent case in which a doctor was investigated because his patient died after going through liposuction at his clinic. This case is a reminder of the potential risk that all professionals face.

Entrepreneurs such as business owners could also face financial hardship. For example, it is quite common for business owners to become guarantors for loans borrowed by their companies. Should their companies be unable to pay the loan, these guarantors become personally liable.

For others who are neither professionals and entrepreneurs, they could also face financial hardship and bankruptcy due to the duties imposed upon them. For example, individuals servicing as Board of Directors have the fiduciary duties to ensure shareholders interest are looked after. Thus, Board of Directors could face lawsuit from shareholders as well.

Under Advanced Estate Planning, it is possible to plan for asset protection against creditors. There are various techniques and setting up an irrevocable trust for the benefit of their family members is one of a well-known technique. The following is an illustration (but not necessary a recommendation) on how this can be done:

- The settlor (the persons who is setting up a trust) transfers the assets that he wants to be protected to the trust. The trust is an irrevocable discretionary trust. "Irrevocable" means that the transfer is irreversible. He is also not able to benefit directly from the trust's asset anymore. The beneficiaries to the trust could be his spouse, children and parents (for example) but cannot be himself. The trust is "discretionary" because the trustee has the final decision as to how the assets in the trust can be distributed.

- As an option, the settlor can still have the power to make investment decisions although he cannot direct the assets to his own benefit.

- The settlor can indicate how the assets are to be managed and distributed to beneficiaries through Letter of Wishes.

- Should the settlor becomes a bankrupt, assets that have been transferred into the trust more than 5 years ago would generally be protected from creditors. In this way, beneficiaries such as his own family members need not suffer financial hardship as a result of the settlor's financial distress.

- Should the settlor dies or becomes mentally incapacitated, the trustee will take over from the settlor to make investment decisions and distribute the assets according to the Letter of Wishes.

Assets in such a living trust will not be subjected to Probate if the settlor dies. Also it is possible for the settlor's Will to "pour over" his estate into the trust. However, these assets in his estate are not protected from creditors.

In the past, setting up an irrevocable trust described above requires million of dollars for it to be economical. Moreover, such a trust used to be marketed by private banks and placed in offshore justifications. Now, it is possible to set up such a trust in Singapore with trust companies regulated by Monetary Authority of Singapore (MAS). Also, there is no minimum size required.

There is no need to be a Accredited Investor or high networth individuals to obtain such a service.

Example 4 – Hedging the Risk of You Having Mental Incapacity

Since the Mental Capacity Act took effect from 1 March 2010, a new tool has become available for everyone. Under the Act, one can draw up a Lasting Power of Attorney ("LPA").

A LPA is a legal document that allows a person who is 21 years of age or older (also known as donor), and who has mental capacity, to voluntarily appoint one or more other persons (also known as donee(s)), to act and make decisions on his behalf for his

- Personal welfare matters;

- Property & affairs matters; or

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- both matters when the donor lacks mental capacity in the future.

Unlike a General Power of Attorney that generally ceases to have effect when the donor loses his mental capacity, an LPA takes effect when the donor loses capacity. The LPA allows a person to plan for such a possible occurrence.

Mental Incapacity is a serious condition. A person who is mentally incapacitated cannot enter into contracts, operate bank accounts, make investment decisions, is completely dependent on others and highly vulnerable to physical and financial abuse. If you want to “control” and manage your assets even if you would to lose your mental capacity, we will be able to help you by hedging the risk of Mental Incapacity.

We will do the following with regard to property & affairs matters:

- Ensure existing financial soundness of the client through Comprehensive Financial Planning;
- Co-ordinate with private trust companies to ensure Trust Deed and Letter of Wishes meets the client's specification;
- Co-ordinate with professional Will writing legal counsels to ensure it meets the client's specification; and
- Arrangement with solicitor to draft a customize Lasting Power of Attorney.

Hedging the risk of Mental Incapacity is a sophisticated and complex task which requires close co-ordination of a number of professional parties. All professional parties must be competent in their own fields and able to work with each other.

There is no need to be an Accredited Investor or high networth individuals to obtain such a sophisticated service relating to Mental Incapacity. Since there are a number of professionals involved in this subject matter, the total professional fees would be approximately \$10,000.

No standalone planning permitted

If you are keen, please be informed that Advanced Estate Planning is not offered as a standalone service. For example, you cannot tell us that you want a Will with a testamentary trust or to start making arrangement with solicitor for Lasting Power of Attorney. Unlike others, we insist in thoroughly understanding your financial and family situation first. This will involves fact finding, analysis and providing you with a recommendation. Of course, we will charge planning based on a time cost basis.

Those who engage our Comprehensive Financial Planning will automatically be recommended such service provided it is suitable. Like all services and products, any recommendations will strictly be based on a needs-basis after a thorough analysis.

Related links: [FAQs on Estate Planning and Free Will Writing for Existing Clients](#)