TESTAMENTARY TRUSTS

What is a Testamentary Trust?

A trust created through your will that is established for the benefit of your beneficiaries.
How can it be used?

- To save up to $15,000[1] a year (per beneficiary) in taxes on the future income earned on estate assets.
- To protect your beneficiaries' inheritance from claims by present and future creditors and potentially marital or family property claims.
- To ensure your wishes will be respected regarding the use or timing of the inheritance, especially where young children are concerned.
- To provide continuity of ownership (i.e. cottages, small business corporations).
- To preserve the beneficiaries' entitlement to government benefits. Who uses it?
- Parents with children who are young, in a high income tax bracket, or on disability benefits.
- Parents wanting to protect their children's inheritance from creditors or spouses.
- Parents wanting to provide financial support to a surviving spouse for life, while ensuring that assets remain available to distribute to the children on the death of the surviving spouse.
- Someone wanting to provide an income-splitting opportunity for their surviving spouse.

Case Study

Jay and Pamela are in their 70s and have a combined estate of $1 million. Their older son, Michael, is married with three teenage children, while the younger son, Chris, has been living in a common-law relationship for several years and has two young children. Jay and Pamela want to ensure that whatever inheritance they leave for their sons will not have to be shared with a spouse or partner if the relationship ends. They are also concerned about Michael's difficulty managing his financial affairs.

Solution

Rather than leaving their sons outright gifts in their wills, Jay and Pamela establish testamentary trusts in their wills for each son's share of the estate. By using a discretionary testamentary trust, they are able to better protect their childrens' inherited assets in the event either one separates from their spouse. Michael's inheritance is also protected from his own financial mismanagement by having a trustee oversee the use and distribution of the assets, helping to

1 *Savings may differ depending on your province of residence, the value of the trust and type of income generated.*

ensure there are assets for his lifetime and likely his childrens'. Finally, the trust provides Chris, who is in the highest tax bracket, an income-splitting opportunity that will initially save him $6,300[2] a year. Over the lifetime of the trust his annual savings will increase as the trust grows.

2 *Assumes initial investment of $500,000, 5% rate of return (interest income) and marginal tax rate of 46.41%.*

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Source: Assante Wealth Management Generations series, "Testamentary Trusts". January 2010. Content provided by the United Financial Wealth Planning Group.

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