Pando Partners Wealth Management of Raymond James

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of Raymond James

Offices: Orlando & Ponte Vedra Beach

Theresa "Teri" Benson, CDFA®
Financial Advisor
Orlando, FL 32801
407-648-2171
teri.benson@raymondjames.com

Catherine Trinder Miller
Financial Advisor
Ponte Vedra Beach, FL 32082
904-273-2426
catherine.t.miller@raymondjames.com

www.pandopartners.com

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Pando Perspectives:
Beyond a Special Needs Trust

By Teri Benson, CDFA®

As a parent, you are constantly in search of strategies to help ensure your children's well-being and happiness – today and for their lifetime. Here are three (3) concepts that may complement a special needs trust you have or are considering for the benefit of your developmentally disabled child(ren).

Trust Advisory Committee. Having created a Supplemental Needs Trust for their loved one, families of an individual with special needs (the "Beneficiary") are finding it valuable to form a Trust Advisory Committee to advise the Trustee. This can be especially effective when the Trustee becomes someone other than the original Grantor (aka the parents). Constructed and ideally operating with a parent as chairman during his/her lifetime, such a Committee would be comprised of those with a personal interest in the Beneficiary and/or their knowledge and experience in assisting special needs individuals. The Committee's primary responsibility would be to advise the Trustee on distributions that would be in the best interest of the Beneficiary. The Trustee retains sole and absolute discretion with regard to trust distributions; however, a well-structured Committee can provide both valuable insights to the Trustee as well as an additional and important level of oversight.

Trust Protector. In some cases, such a committee may be permitted to also serve in a Trust Protector role, which carries the right to terminate a Trustee in the case of any misconduct. Whether an advisory committee or an individual, it is generally a best practice to appoint a Trust Protector in the Trust language in an effort to prevent any malfeasance that would keep the Trust from accomplishing its objective. Trust Protector language in a Supplemental Needs Trust is relatively new, so depending on when the Trust was drafted, the client's attorney may not have presented this option for consideration.

Pando Perspectives:

Beyond a Special Needs Trust

Tax Deferred Growth/Tax-Free Withdrawals. Provided that the Supplemental Needs Trust is not structured as a qualified disability trust, an ABLE account under IRC Section 529A may provide some future tax diversification for you and the Trust. Like the well-known 529 Plans for education purposes, contributions to an ABLE account are non-deductible but grow tax-deferred and withdrawn tax-free for qualified disability expenses. An individual is limited to one ABLE account for his/her benefit and is limited to $15,000/year in total contributions from all sources. A child's ABLE account could grow to a $418,000 or more (varies by state). For an ultra-high net worth family, an ABLE account could serve as an adjunct to a Supplementary Needs Trust that may provide future tax savings and flexibility.

For example, from an investment perspective, the ability to buy/sell securities free of tax consequences can be valuable (even in a small side account) to take advantage of market opportunities or reduce allocation risk, as may be necessary. ABLE accounts are nascent as a planning tool, where states are administering the programs today with relatively limited investment options. However, it is expected the flexibility and limits of these accounts will increase quickly as the demand for them is high and rising.

For additional guidance and/or a discussion about your family's situation, contact Teri Benson at Pando Partners Wealth Management of Raymond James at 407-648-2171 or teri.benson@raymondjames.com.