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Memorial Day

“Tip of the Month”

When a Minor Child Receives a Big Inheritance

Actually, a minor child cannot receive an inheritance. The money has to be set aside until the child reaches the age of majority, which is age 18. If the inheritance is a lot of money, people might be concerned that age 18 is too young to manage that kind of money properly. Several options are available to protect the child’s inheritance, each of which has tax benefits and disadvantages that should be discussed with a tax professional.

One option is to place the inheritance in a custodial account established under the Uniform Transfers to Minors Act (UTMA) or Uniform Gifts to Minors Act (UGMA). A custodial account might not be the best option for a large inheritance because the child will be able to take all the money by age 18 or 21, depending on how the account is set up. Also, income from the investments is taxed at the parents’ marginal tax bracket.

A § 529 Plan is another option if the family would like to invest for higher education. The funds cannot be used to pay K-12 costs. Since § 529 funds can only be used for higher education, this option is best suited for children who are most likely to attend college.

For a large inheritance, the family might establish a guardianship or conservatorship. Under NH law, a minor receiving a judgment or settlement in an amount over \$10,000 must have a guardian of the child’s estate. Although an inheritance is not a judgment or settlement, it should be protected in a similar way.

To start a guardianship, a family member would petition the probate court asking to be appointed guardian over the estate of the minor. After being appointed by a judge, the guardian can invest the inheritance money until the minor reaches age of majority. The guardian will file an inventory to identify the fund, and an annual accounting to update the court on the value of the estate under guardianship.

Typically, guardianships end once the child reaches age 18. If the family is concerned that 18 is too young to access a big inheritance, the guardian can establish a trust within the guardianship. Using a trust, the guardian can protect the inheritance until the child reaches the age of 25. The trustee-guardian can be given discretion to release funds as needed for the child’s health, education, maintenance, and support.

The probate court will need to approve the guardianship and the trust, but the added years of asset protection should outweigh the inconvenience of court involvement.

If you need help with guardianships or trusts or estate planning, please do not hesitate to give us a call at 603-668-1971, or contact us by e-mail at mailbox@biz-patlaw.com to schedule an appointment.

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