



Trusts:

Three Tips to Avoid Headaches for Heirs

By

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Three Tips to Avoid Headaches for Heirs!



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I bet that you remember the following line:

“Not just a headache . . . but an Excedrin headache.”

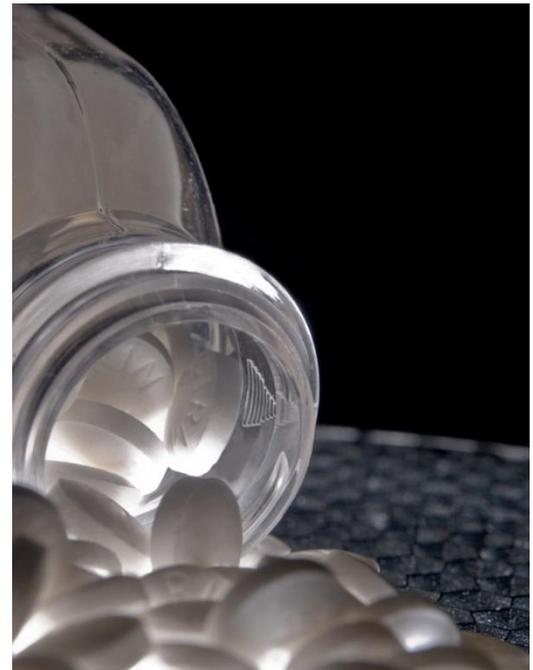
Remember that ad campaign? According to the commercial, Excedrin was reserved for the worst type of headache in the world.

Grantor trusts – sometimes called living trusts – are popular documents that many retirees set up to avoid Excedrin headaches for their heirs.

Now I am not an attorney – and don’t give legal advice. As a CPA and a Certified Financial Planner, the following

suggestions come from my experience in viewing trusts from a tax, administrative and investment perspective. Keep in mind that it is much easier to attend to these matters when you are vertical – than letting your spouse or children deal with them when you are horizontal.

Pitfall #1 – assets are not in the trust name. Sometimes in my practice I find that a client has paid \$1,500 - \$5,000 in attorney fees to set up a trust – but the trust was never funded – the assets that they own were never titled in the name of the trust. Essentially they spent an enormous amount of money for an empty box. Tax time is a terrific time of year to verify that your accounts are properly titled. Review the 1099’s that you have received from your investment and bank accounts and make sure that the name of the trust is listed on the 1099. Also check your real estate property tax receipts (or go online to the county assessor’s website) to ensure that the real estate that you own is in also in the name of the trust. Finally, peek in your safe deposit box and pull out those US Savings bonds. If they are in your name, it may be a good idea to start cashing them in – or they will be subject to probate. Keep in mind that accounts that have a named beneficiary (such as retirement accounts, annuities and life insurance policies) do not need to be owned by the trust – although a trust can be the beneficiary of these accounts.



Pitfall #2 – An unnecessary AB trust. In addition to probate avoidance, trusts have also been used for tax planning. In the past, estates as small as \$300,000 were subject to estate tax – with rates as high as 55%. To avoid some of the tax liability, attorneys did a great thing – they established more complicated trusts that allowed a married couple to pass \$600,000 estate tax free to their heirs. This saved estate tax, but it came at a cost. When the first spouse passes away, the “B” trust becomes a separate taxable entity. This means that a form 1041 needs to be filed for the trust – and most CPA firms charge between \$500 – \$1,000 to prepare that return. For a trust that is subject to estate tax, this additional tax prep fee is worth it. However, now a couple can give \$10,680,000 to their heirs without paying estate tax – so the tax need for an AB trust has been eliminated for most taxpayers.

Sometimes there are valid non-tax reasons for an AB trust (such as a couple with children from previous marriages), but if your estate is less than 10,680,000 it may be time to review this issue with your attorney.

Pitfall #3 – Attaching strings to the final payout of the trust. Many retirees are concerned about leaving a large bequest to their heirs all at one time, so they set up payments to be made over a certain number of years or to be paid at a certain age. There are a couple of things to be aware of with this arrangement. The first is similar to Pitfall #2 – there are tax prep fees to file the form 1041 each year. However, the accounting fees can pale in comparison to the trustee fees that a bank or institution typically charges to manage the trust when you pass. Oftentimes the annual fees to manage the assets and administer the trust will be 2%- 4% of the value of the trust. Over many years, these fees can add up and result in the bank being the biggest beneficiary of the money that you worked a lifetime to accumulate. Additionally, the income tax rates for trusts are substantially higher than the rates for individuals. Therefore, be sure to think very long and hard about having a trust that lives substantially longer than you do.

Hopefully these three suggestions will help your kids avoid hitting the medicine cabinet when trying to wrap up your estate.



Originally appearing in
Lovin' Life After 50
April 2014 Issue



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Teresa has been helping families and retirees reach their financial, tax, retirement planning, and estate planning goals for over 25 years. She is legally bound to uphold the highest level of fiduciary standards when providing investment advice to her clients.

Author of the book, *She Retired Happily Ever After*, Teresa is committed to educating clients and assisting them in reaching their financial goals.

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