Enterprising Rural Families™

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TIP OF THE MONTH:

DEVELOPING GOOD FOREMEN

Overcoming the objections:

Understand the candidate's perspective. Many employees may feel they are entitled to a promotion by virtue of seniority alone. Others feel they are qualified simply because they do a better job than the rest. Make sure you explain the job description requirements clearly. Even when the opening is clearly communicated to all in the organization, do not be surprised if you find just a few interested candidates.

If you have a candidate who you think would qualify, but does not seem interested in a promotion, find out their objections and overcome them by explaining your vision and supporting them.

Development:

When an employee begins a new position, a high level of morale and motivation is expected, but this level is likely to drop gradually for two basic reasons: the morale level starts high, and a person becomes discouraged as he finds difficulty and makes mistakes in his new role. Your approach and techniques for support and coaching should vary according to both the level of performance on new tasks and the level of motivation for each of the tasks. The basic rule is: the lower the productivity level, the more teaching is needed, and as performance increases, teaching decreases.

A BENEFICIARY-CONTROLLED TRUST

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Property and business owners are inclined to transfer ownership directly to the next generation so that their heirs can have the full use and enjoyment of the assets. But they lose out on the asset protection and estate planning benefits of a trust. A beneficiary-controlled trust can be a good compromise. Either immediately, or at the grantor's death, the primary beneficiary controls the trust effectively but retains the trust's protection and estate planning benefits.

Typically, a trust is designed to last for a short time after the grantor and spouse are deceased. The trust may pay out principal when the beneficiaries reach a certain age, or perhaps at two or three different age levels. This is very important in case the grantors die while children or other heirs are still young, and is perhaps the primary reason that most trusts are established. But if you and your spouse (as grantors) live relatively long lives, your children may have already reached the required ages, and full distribution from the trust may be immediate at your deaths. Such trusts can achieve important estate planning benefits such as maximizing use of the estate tax exemptions, or exclusion of life insurance proceeds from estate taxation. But they miss out on achieving greater long-term estate planning and asset protection goals.

BENEFICIARY-CONTROLLED TRUST ...

The KEY to creating a structure that will continue for a long time.

Conversely, the beneficiary-controlled trust starts with the premise that the primary beneficiary (typically your child) is capable of managing the trust assets. So, the objective is to maximize asset protection, while putting as much control as possible in the beneficiary's hands. The goal is to come as close to outright ownership for the beneficiary as possible, while leaving the assets inside a trust.

There are five key elements to contemplate:

1. Longevity. The key is to create a structure that will continue for a long time – at least another generation. More than a quarter of the states have completely done away with the "rule against perpetuities" that limits how long a trust can remain in existence.

By creating a long-term trust, you also maintain a structure that protects assets from creditors and bankruptcy as well as from ex-spouses in a divorce, for a long line of descendants who will follow you. Setting up a trust can also potentially solve future personal and financial problems that you couldn't begin to anticipate at the time. You can also create an estate planning vehicle that takes advantage of current generation-skipping exemptions and builds in value without being subject to future estate taxes. Thus, the trust can achieve estate tax savings for future generations.

2. **Trustee powers**. Rather than appointing a truly independent trustee (such as a bank), you appoint the primary beneficiary as trustee, whether alone or with someone else. If you name an additional trustee, he or she may have only certain powers. For example, the additional trustee could have duties regarding distribution and not investments. The primary beneficiary could have the right to fire the co-trustee and appoint a successor. In addition, the primary beneficiary could also maintain a broad special power of appointment that would allow him or her to eliminate an individual as a beneficiary altogether, which would effectively prevent interference.

3. **Investment standards.** A trust is normally subject to "the prudent person rule" that requires a trustee to invest assets carefully, at the risk of a personal claim by any beneficiary. By its terms, a trust can negate the prudent person rule and thus allow the trustee to have nearly the same investment freedom he or she would have with his or her own assets, which is really the purpose of the beneficiary-controlled trust.

4. **Income and principal distribution.** You can give the primary beneficiary the right to all income, but not require distributions – because that would bring funds back into the beneficiary's hands and partially defeat the trust's estate planning and asset protection purposes. If the beneficiary doesn't need the income, the assets should stay outside his or her taxable estate and within the trust's protection. Remember, a creditor has access to any income distributed. And the trust should provide a right to principal under the "ascertainable standard" of health, education, maintenance and support. Under that standard, trust assets are not includable in the beneficiaries' estates, yet the beneficiaries can still access the assets to meet these needs.

5. **Investment flexibility.** You may want to consider investing in assets that your beneficiaries can use. Examples include homes, artwork, jewelry and business interests.