ESTATE PLANNING FOR FAMILIES:
TRUSTS FOR MINORS IN 2025

Parents and grandparents often desire to gift money or property to children. A good way to do so may be to consider establishing a trust for the children. The parents and grandparents can establish a trust for children at death via their Will or revocable trust and this would be called a testamentary trust as it is created as of the death of the parent or grandparent. A trustee for the trust, which could be a living parent or relative of the child, will manage the assets held in the trust for a time period that is chosen by the parent or grandparent and make distributions to the child pursuant to the terms and conditions as promulgated in the testamentary trust.

If parents and grandparents desire to give money and property to children while they are alive, a trust can be established specifically tailored to the minor's needs. One such trust is called an Internal Revenue Code Section 2503(c) minor's trust which also allows usage of the federal gift tax annual exclusion which in 2025 is $19,000 per beneficiary. The gift tax annual exclusion is only available for present interest gifts that the beneficiary can actually receive and use immediately. A gift into trust for the minor is usually not immediately available for the minor and therefore the gift into trust may not qualify for usage of the gift tax annual exclusion. The 2503(c) minor's trust will allow application of the gift tax annual exclusion if the assets held by the minor's trust must be spent for the minor's benefit upon turning the age of 21. Some clients may want to extend the term of the trust beyond the age of 21 and in this case a Crummey Trust could be considered. A Crummey Trust will have similar management terms but the distribution of trust assets to or on behalf of the beneficiary could extend beyond the age of 21 and still be able to apply the gift tax annual exclusion to the gift into the Crummey Trust. This is because the Crummey Trust will incorporate a crummey power (which are often used with irrevocable life insurance trusts or ILITS) whereby the beneficiary (or parent or guardian of a minor beneficiary) is provided the right by notification to withdrawal all or a portion of the annual additions to the trust.

Planning for gifts to children using trusts and the gift tax exemptions and the annual exclusion should be carefully planned. Trusts may be a good choice for some who are looking to make somewhat large gifts and there is a desire for these gifts to be managed for a younger beneficiary beyond them reaching the age of majority.