

# Naming Trustees for your Disabled Child

Appointing the right person to manage your child's finances once you pass away is an extremely important, yet very challenging task. Who should that individual(s) be?

This may be one of the hardest decisions you will have to make and although I do not want to make it even more complicated, I want to share some points to consider when faced with this task.

- **Age** ~ the proposed trustee(s) should be of the age that they may be around for your child's lifetime Naming your parents could perhaps work if you pass away at a very young age but this is not a long term strategy.
- **Alternates** ~ Always name a back-up trustee (or more) in case your initial choice predeceases you or is unable to act for whatever reason.
- **Joint trustees** ~ It may be beneficial to name two people to act together. One that may know the family situation best and another that may have more financial/business skills. It may also be beneficial to name a co-trustee in case one of the trustees could be negatively influenced by the beneficiary of the trust. If two will be working together, they should be able to get along.
- **Conflict of interest** ~ If a sibling or other family member is appointed as trustee but is also the secondary beneficiary of the trust once the disabled child passes away, this could potentially result in a conflict of interest. They have the ability to hold back funds for the disabled individual so that there will be more to come to him/her on the termination of the Trust.
- **Competency** ~ Acting as a trustee isn't an easy task. The trustee is responsible for investing, and managing the assets and is also responsible for completing the necessary paperwork and filing the annual trust income tax returns.
- **A Professional** ~ If there isn't a suitable family member or close friend, you may wish to use a Trust Company to act in this capacity.
- **Trusted Financial Advisor** ~ Ideally, you should have a trusted financial advisor that is experienced in managing Trust funds, Registered Disability Savings Plans and has a thorough understanding of the rules and regulations surrounding government support programs etc. Establish a relationship early, so that this person/company can get to know the family situation and can help guide the trustee.
- **Fees** ~ It can be written into your Will/Trust that the trustee can take a fee for the extra work they will be providing. Quite often a family member may waive this cost, whereas an outside individual will not. A typical fee is 2-3% of the trust assets for a family member and up to 5% for a Trust company/professional.
- **Residency** ~ Where the proposed trustee lives is another consideration. If this person lives outside of Canada, there may be income tax consequences and other jurisdictional challenges.

**Finding and naming a Trustee can be a very difficult decision and although there may not be many ideal choices for a trustee in your situation, the worst thing you can do is put off preparing your Will because of this.** Changes can always be made at a later date.

You must ensure the necessary protections are in place for your loved one in the event of your passing.

#### *A few additional TIPS*

- ❖ *Speak to your potential trustees ahead of time and express your desire to have them play a part in this extremely important task.*
- ❖ *Write out your wishes for continued care for your child to make it easier for the trustee, be it a family member, friend or a Trust company.*
- ❖ *Should a more appropriate candidate arise in later years, a simple codicil to the Will can be done to modify the trustee or Trust structure.*

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