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HUGE TAX IMPLICATIONS

Inheritance: do we go for a trust for minors?

A Moneyweb reader asks the following question:

Our parents passed away and left us four children each R875 000 – R3.5 million in total. The money was intended to be used to pay for their grandchildren's studies – we would only inherit once the grandchildren completed their studies. My oldest brother's children are excluded since their studies were already paid for by my parents. There are in total seven other grandchildren, ranging from two to 21 years old. Should we consider a trust?

Gavin Butchart, tax practitioner at Brenthurst Wealth, answers:

When it comes to minors, trusts are still readily used for various reasons. One such reason is for the purpose of grandchildren's studies.

If this was the intention of the grandparents, this could have been done via the last will and testament, by creating a testamentary trust.

Once the beneficiaries (grandchildren) had attained a certain age (eg 25/30 years) the remaining funds after the last grandchild had finished their studies would be distributed and the trust wound up.

The reader's question is a bit more complicated, in that no provision was made for a testamentary trust, as the four adult children received equal shares in their parents' estate.

If trusts are now to be established, I'd assume four separate trusts would need to be set up, so as not to prejudice any of the adult children, as some adult children may have one, two or no children of their own.

The adult children would also need to establish if they now need to donate or set up loan agreements to get the funds into the trust.

Another problem arises if a further grandchild is born. The trust would then need to be administered for a further 25 to 30 years. It also comes with its own administration duties and costs, besides the fact that the Davis committee and Sars are imposing huge tax implications on trusts.

I'm led to believe the grandparents had full faith and trust that their adult children would carry out their wishes, at the same time providing equal shares in their parents' estate.

There are various other investment products that the adult children can make use of as an alternative for their own children. For example, an endowment, which is taxed within the fund and can be invested for a five- or 10-year period or until the grandchildren obtain the age for further studies.

Contact your financial advisor and tax consultant for further advice. – *Moneyweb*

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