

PERSONAL BUSINESS

YOUR MONEY

Bequeathing, With Strings Attached

By HILLARY CHURA

ONCE only for the superrich, dynastic trusts now provide a way for the rest of us to leave money to loved ones, preserve wealth for future generations and even control how an inheritance is used once donors die.

There are a record nine million households in the United States worth \$1 million or more, excluding their primary residences, according to the Spectrem Group, a consulting firm specializing in the affluent and retirement markets. Therefore many more parents, kindly uncles and loving grandparents now have the wherewithal to use their lifetime of savings to enrich their children's lives without destroying them.

"The philosophy is that you leave them with enough to do something but not enough to do nothing," said Richard A. Lehrman, a Miami Beach lawyer, underscoring a common sentiment among wealth managers.

Complex yet flexible legal documents, trusts can be set up to do just about anything the donor wants — give themselves access to principal, buy real estate, reward good grades and stop payouts to beneficiaries addicted to drugs or alcohol. They can also keep money away from divorcing spouses, creditors and even irresponsible or impressionable beneficiaries. It is also a way to shield money at risk in lawsuits.

Kevin and Cynthia Brousseau of Seekonk, Mass., established trusts for their two teenage sons. They want the documents for tax purposes as well as to establish how their estate should be passed on. Should they die before their sons Kyle, now 16, and Justin, 14, turn 18, a grandfather and Mr. Brousseau's best friend would be the trustees. Once a son reaches 26, his portion of the assets would go into his trust. Each son would be a trustee on his account along with the original trustees, who would have primary power.

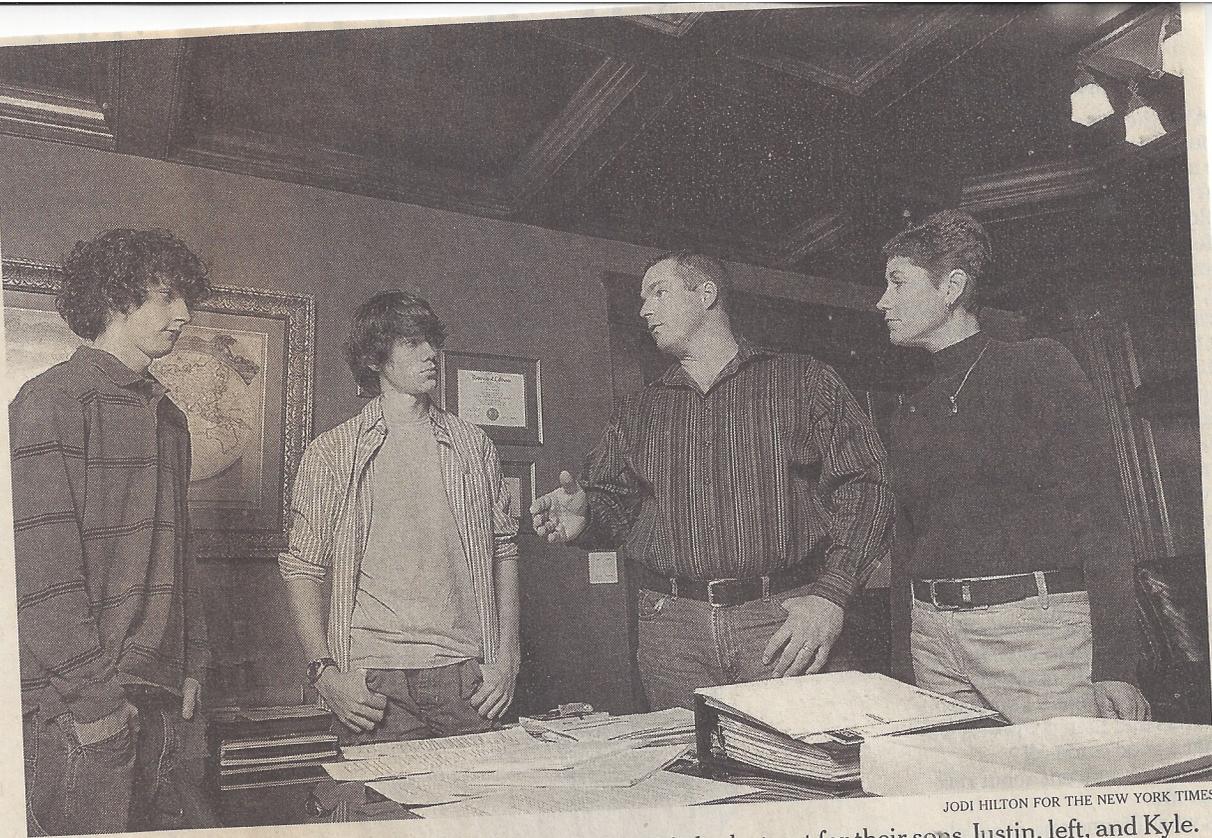
Dr. Brousseau, a dentist, estimates the trusts ultimately will be worth \$10 million to \$12 million and should continue for several generations. He and his wife imposed no restrictions because the trustees have sufficient flexibility in distributing the money.

"We didn't want to micromanage the situation," he said. "We didn't feel it was necessary with the way it was structured."

Lawyers and trust experts say iron-clad rules are unwise since provisions that once seemed worthwhile may one day no longer be legal or in the trust's best interest.

"The more discretion you give the trustee, the more asset protection there is for the beneficiary," Mr. Lehrman said.

While it is unwise to try to maintain control even after death, advisers say it is all right to set up guidelines that discourage bad behavior and encourage good works, however the donors may define that.



JODI HILTON FOR THE NEW YORK TIMES

Kevin Brousseau, right center, and his wife, Cynthia, established a trust for their sons Justin, left, and Kyle.

In addition to saying how their trust may and may not be used, Julia Tang Peters and Michael Peters of Chicago included a one-page preamble. It advises their children and future generations about the couple's values, saying recipients should pursue full and active lives, be productive citizens, create more opportunities than they have been given, live up to their potential and provide for themselves and their families as if the trust did not exist. Disbursements will be staggered as recipients age.

A trust is better than a will at enabling orchestration from the grave.

"We are firm believers that they will be happier, they will have better self-confidence, if they do it on their own — if they make it on their own in terms of professional identity, professional reputation and human reputation," said Mrs. Peters, a consultant.

Setting up a trust can cost \$2,000 to \$20,000, depending on its complexity. As such, it may not make sense for, say, a \$20,000 estate, but the final determination depends on the situation. People expecting to spend their entire \$5 million portfolio before they die may not go through the exercise, while a couple

with \$50,000 may want to secure it in a trust for their daughter, keeping it from her husband in a bad marriage, said Kirsten L. Izatt, an estate planning lawyer in Wheaton, Ill. She said that even if people expect to use their entire estate before they die, they may want to consider a dynasty trust to shield any left-over money.

A. Eugene Sullivan, a 76-year-old retired engineer in Winchester, Mass., and his wife, Rosemary, 74, initially had age requirements on when their three children would receive the money from their trusts. They have eliminated that limitation — as well as all others — since their children are in their 40s and have demonstrated financial responsibility.

"They have absolute control," he said. "There are no strings attached."

Mr. Sullivan estimates his trust will have \$2 million and that his wife's will have another \$1 million — exclusive of real estate holdings, life insurance or individual retirement accounts — enough, they hope, to help future generations.

Whereas savings commonly were bequeathed in wills, trusts can provide a way to reduce estate taxes — currently topping out at 45 percent of most sums over \$2 million. Trust money can be kept from a spouse or other unintended beneficiary, while funds willed outright can become common property. Though wills can also minimize taxes, they are public information, and people with enough money for a trust tend not to want everyone to know what they

have, Ms. Izatt said. She also said wills were more easily contested than trusts.

Trusts are essential for parents of children who otherwise would gain access to their inheritance once they reach adulthood, said Myrna E. Arroyo, an estate planning lawyer in Baton Rouge, La. She said that while some people choose to skip a generation and leave money directly to grandchildren or grandnephews because they do not feel parents need the money or would be good stewards, generation-skipping trusts can be subject to federal estate and generation-skipping taxes of 90 percent if someone leaves more than \$2 million. Bequests directly to the next generation would be subject to half that.

Seth M. Pearson, a certified financial planner in Dennis, Mass., and author of "The Two Million Dollar Gift" (Pearson Publishing, 2003), a book about inter-generational trusts, said most parents would prefer to leave money to their children rather than later generations, assuming that their children will take care of their own offspring. He said many people avoid creating dynasty trusts because they do not realize that the documents can be structured to leave money directly to their own children.

Though the Peterses, who would not reveal the size of their trust, did not set it up as a generation-skipping trust, they said it should last for several generations.

"Our goal," Mr. Peters said, "is to help but not do."