July 4, 2013

Alimony Trusts and Family Wealth Management

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Alimony Payment Dilemma

Paying child support is the legal obligation of the parents of minor children. When parents and minor children live together, the payment of alimony does not usually create a legal issue. Today, however, in light of the high rates of divorce and children born out of wedlock, it is not uncommon for one parent not to live with the child, which makes child support payment a central issue.

There are two main issues concerning the payment of alimony. The first is the regular payment of alimony. If the obligor frequently either makes late payments or does not pay at all, the cost of securing the legal remedies of the underage children is excessive. As a second issue, when the payment of child support is conducted in a one-time payment, there exists a high risk that one of the parents will abuse the money controlled by him/her. For example, in one divorce case, the parties mutually agreed that the mother would live with the minor children, and the father would make a one-time payment of 5 million in cash, and two sets of housing registration for the children, as a one-time payment for underage child support. However, the mother, acting as the guardian of the children, sold the houses and deposited the money in the bank, and then ran away to a far-away place, letting the nanny bring the children to the father. At that point, the father had to make other preparations for the futures of the children, and as he had remarried, he had to balance the relationship between the children and his new family. Although in theory there is possibility of legal recourse against such a woman who takes such an action on behalf of her children, in reality enforcement of such an action is difficult to obtain.

Alimony Trusts

Through the use of an alimony trust, both of these two issues discussed above can be resolved. In an alimony trust, the parents support the child by giving the payments to a third party, or “trustee,” and the trust income is used to support the children on a regular basis; this money also counts as part of the family’s wealth management.

An alimony trust framework works as follows:

a) The party obligated to raise the minor children (either one or both parents) becomes a principal capital contributor for setting up the trust, with the children designated as the beneficiaries of the trust.

b) The duration of an alimony trust contract is often designated to be either the age of adulthood (18) or college graduation. For the duration of this time period, there is an obligation for child support.

c) An investment committee is set up to determine every two to three years when the next of the fiduciary investment will occur, as well as set up a committee in order to ensure compliance of investment and to control the need for child support payments.

d) The return on the investment will be paid either at regular intervals, or as needed in accordance with the expenses, the returns on the investment of the trust estate, the life of the minor children, and the necessity to pay for studies.

e) After the trust expires, the trust will be fully liquidated by the beneficiaries, to become either his/ her family fund or capital for his/her business.

The above framework is just a standard design, as in reality the design may vary depending on the amount of family property, the age of the children, or the number of children, and the design will be correspondingly adjusted to create a “custom” trust.

Using an alimony trust also prevents the possibility of the failure to make regular payments, as well as preventing the above-mentioned example situation of a guardian damaging the interests of the beneficiary. A child support trust, once set up, can protect children until they become adults, and through contingency factors prevents domestic misfortune, which can negatively affect children’s growth. Finally, a trust such as this protects both the interests of the minor children and family’s wealth and financial management together.

Of course, due to the high cost of the trust company to set up a single alimony trust (usually around 30 million RMB) and the cost of setting up an investment committee and an oversight committee, as well as the fee charged by the trust company, an alimony trust is not suitable for all families. But for those wealthy families and individuals of high net worth, because of the combination of protecting both family wealth management and the interests of minor children, a trust is worth considering under the current system.

If the money available for the alimony trust does not reach the amount necessary required by a trust company, you can also can consider entrusting a specific individual or institution (for such as the foundation. It is best to use a non-profit organization, or one with a government background, in order to avoid mixing up with the business trust).

Important Announcement

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