

# Memo

To: Clients  
From: Vold and Morris, LLC.  
Re: Contingent Testamentary Trusts

Years ago we determined we needed to provide a service to people who were starting out in life as a young couple with children, but not a lot of money. We would advise them to get some life insurance to protect the surviving spouse and young children. This brought up the need for an estate plan.

The insurance proceeds are typically paid to the surviving spouse as primary beneficiary. If there is a joint death, the insurance proceeds and employee benefit plans (401k, IRA, profit sharing plan, etc.) are typically distributable to the children. However, if the children are minors, without planning, we must create a minor's estate in probate court. Fees must be paid to attorneys, the court must approve of all disbursements and investments and annual settlements are required. The costly attorney fees and court costs are not an efficient way to handle assets. However, the worst part is that when the minor child reaches age 18, he or she gets the assets!! We have not seen good results with this plan. Not only will the minor child probably spend and misinvest the money, he may lose his ambition. If you know people who have received assets at a young age, they will understand.

We have developed a Contingent Testamentary Trust (an 18-20 page Will which includes a Trust in it). The spouse is still named the primary beneficiary of the life insurance. If we lose both parents, the beneficiary is the Trustee and the assets are paid into the Trust and not to probate court. This saves attorney fees and court costs. Most importantly, the children do not get the assets until they are old enough to deal with them. Certainly not 18! The assets can be used to help named guardians raise the children and can be used for the children's health, education, maintenance and support. When the children reach an appropriate age, the assets are distributed to them.

When we created this plan in 1982, the cost of one Contingent Testamentary Trust (single parent) was \$325 and the cost for two Contingent Testamentary Trusts was \$416. Lawyers do not have a reputation for making decisions that are based on kindness, but we decided to do a kind thing. (This is the only one in our office.) We decided to freeze the cost of these documents at the 1982 price so young couples would always be able to afford to protect their children. Two decades later, the cost of this plan is still \$416 for clients under 35 years of age whose net worth is under \$50,000, excluding life insurance. There will be an additional charge to this document if the couple has retirement plans and desires to add special language that will give them some tax benefits.

Our usual office policy of no charge for initial office visits, telephone calls, review appointments and no hourly charges apply for these documents as well as our more expensive documents. Everything is done on a flat fee basis.

We are obviously not making any money on these documents, but they are essential for people with children who are too young to receive assets. Providing this service makes us feel great.

Potential clients who hold most of their estate assets in IRA's, employee benefit plans, and life insurance, and whose total estate is less than 1.5 million dollars, may want to discuss the use of Contingent Trusts.