THE HINDU BusinessLine

Primer

ABC of special child trust

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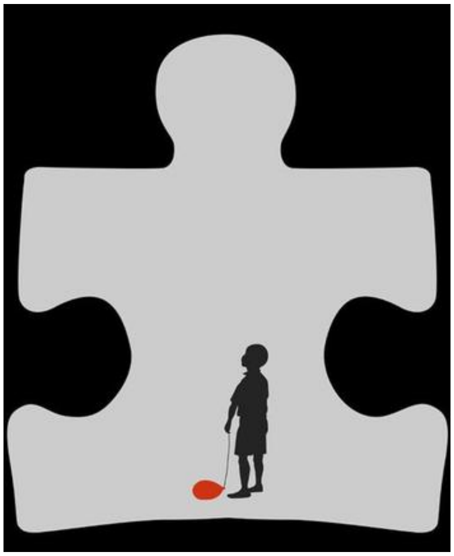

For families having children with special needs, a private trust is a good solution

Families with special needs children often worry about securing the assets for their child's care, given that transferring it to the child's name is not an option. Families may consider leaving the asset to a family member, such as a sibling or a close relative, who will also be a lifetime guardian. But this has issues. For example, receiving immovable property may have tax implications. Also, should something happen to the guardian, the assets will change hands to a third person; this could be risky.

Setting up a trust can help eliminate these issues and can be done by following three simple steps.

Forming a trust

To set up a trust, there are no separate provisions for families with special needs children. You need to create a private trust and cover provisions for the child's care, along with name, address and settlors of the trust. Objective of the trust, appointment and rules for trustees, investment and management of trust corpus, and distribution of income for child care are a few provisions covered in the deed. Seek advice from estate planners and legal professionals as the legal framework is complex.

After drafting the trust deed, print it on a stamp paper of requisite value and get it signed by the settlors and two witnesses. The deed (original and photocopy), along with the initial cash/cheque it is funded with, is presented to the registrar, the photocopy is retained and the original is returned to the settlor.

You must estimate the lifetime cost of care, including provisions such as therapies, hiring servants, schooling, rehabilitation and transportation. Costs may change in early years and become somewhat constant only at the adult stage. Inflation makes things even more difficult. Say, for example, the parent spends ₹18,000 a month for their four-year-old special needs child. Some of the costs may reduce in the future while some others such as transportation or medication may increase faster than the average inflation rate. To make things easy, you can consider an average inflation of, say, 7 per cent to arrive at the funding needed.

The other factor is life expectancy that is increasing, thanks to medical advancement, and must be estimated reasonably. If we assume a life expectancy of 70 years, the child has 66 more years of lifetime. The corpus needed today will be about ₹1.07 crore, if we assume a return of 8 per cent on the corpus. Add unexpected cost of, say, 10-20 per cent to estimate lifetime cost.

Running costs

There are costs associated with managing the functions of a trust. These include administration costs for transferring assets to the trust, managing distribution to beneficiaries and accounts of the trust. Investment-related expenses, including fee for managing the corpus, custodian fee and charges for record keeping. For services such as filing income tax returns, and audits, payments should be made. If there are immovable properties, there is cost, including paying property taxes and upkeep costs.

Some of the costs may be a percentage of the assets managed and others may be a flat yearly fee. Unless you have an idea of these fees, it is difficult to know the actual cost; these should be estimated and monitored yearly for any shortfall.

Funding the trust

You need to identify the source of funding the trust — lumpsum amount or regular contributions, adjusting for any income which the child will receive. You may transfer immovable assets through a will so that the cost of transfer can be kept low. Movable assets can be added as you earn and grow your money.

There might be inheritance through will or a gift to the child from grandparents/relatives. You can advise them to will or gift it to the trust. But do not include these assets till they are bequeathed, as they may not make their way to the trust, leading to shortfall in the funding estimation.

Common sources of errors include not taking all costs into consideration. You can typically keep costs lower by involving family members/relatives/friends. But there are tasks that should be left to professionals and the costs must be borne.

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