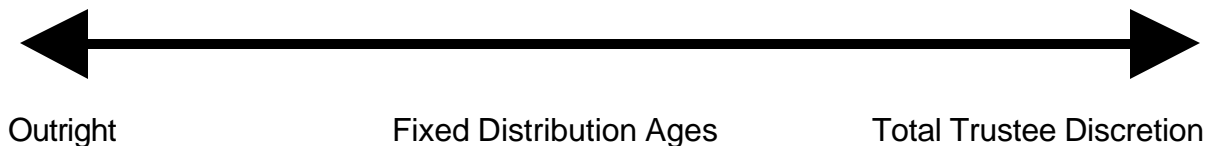


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# Trust Distributions To Children

How does a parent decide **today** the best way to distribute funds to a child after the parent's death? The required thought process is even more difficult if the child is, today, an infant. Ascertaining the correct answer requires the ability to see into the uncertain future.

The following diagram indicates the 2 extreme positions, and the commonly used middle ground. Each has its pluses and minuses, and several variations.



## 1. OUTRIGHT.

### 1.1. Example.

"The Trustee shall distribute each share allocated to a living child of Trustor to that child outright, free of trust."

### 1.2. Pluses.

The advantages of this approach are obvious. First, the Trustee need not be "on the hook" as trustee for very long. As soon as a reasonable period (3 years) has passed to allow for estate administration, the estate is distributed to the children.

Second, the children are not tied to the Trustee as they would be to a parent. They get their funds quickly, and can proceed to live their lives free of interference.

### 1.3. Minuses.

The principal minus of an outright distribution approach is equally obvious: the children can easily lose the entire inheritance to bad investment decisions, spouses and other creditors, and drugs or similar addictions.

**1.4. Variations.**

A common variation is to leave the estate outright to the children, but only once they have reached a certain minimum age, e.g., 25.

**2. FIXED DISTRIBUTION AGES.**

**2.1. Example.**

"The Trustee shall distribute each child's share to the child beneficiary as follows:	
<u>Child's Attained Age</u>	<u>Fraction Distributed Outright</u>
25	1/3rd
30	1/2
35	balance of that child's share"

**2.2. Pluses.**

The principal advantage of this approach is that it allows children to make mistakes without risking their entire inheritance. In other words, a bad decision at age 25 only risks - in the example above - 1/3rd of the child's share.

**2.3. Minuses.**

This approach arguably promotes delayed maturity. The child need not bother making a life for himself or herself - instead the child sits around waiting for that next distribution. Also, this approach has a similar weakness to outright distribution: if the trustee *must* give the child money at a certain age, what if the child is not then ready to handle the money, e.g., the child is an addict?

**2.4. Variations.**

One common variation is to fix the distributions not on ages of each child, but on the number of years elapsed since the surviving parent's death. Yet another variation is to fix distributions based not on each child's age, but on the youngest child's age.

### **3. TOTAL TRUSTEE DISCRETION.**

#### **3.1. Example.**

“The Trustee shall have complete discretion as to whether or not to distribute principal or income, or both, from each child’s share to that child.”

In this type of distribution pattern, any funds left at the child’s death are held in further trust for the child’s children.

#### **3.2. Pluses.**

This approach protects children, to the greatest extent possible, from the consequences of their own bad investment decisions, spouses and other creditors. This approach can also be useful if one child has, after the parents’ deaths, a greater need than the other.

#### **3.3. Minuses.**

This approach leaves the children at the mercy of a non-parent trustee. This approach arguably encourages a child to develop dependence on earning the trustee’s good feelings. This approach also encourages the trustee to keep the funds in trust, since the trustee is paid a trustee’s fee while the funds are in trust.

#### **3.4. Variations.**

One common variation is to require distribution of all income to the children, but to leave principal distributions in the trustee’s discretion. Another common variation is to give the adult children, by majority vote, the power to remove the trustee in favor of a corporate trustee (which might be more amenable to distributing principal). Another variation is to give the children complete investment discretion, and leave the trustee only with the power to veto principal distributions.

### **4. CONCLUSION.**

Our recommendation is that you study and consider the alternatives, make a decision, and then forget about it. Ten years from now you can revisit the topic and see if one of the other alternatives is then more appropriate.