

Not Your Typical Incentive Trust: The ROTE and FST, Part 1

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In January, the three of us introduced the concept of the Results-Oriented Trust Environment (ROTE) and the Financial Skills Trust (FST) at the 45th Annual Heckerling Institute on Estate

Planning of the University of Miami School of Law. Instead of Eileen writing her typical Money & Soul column and Jon writing his Tax & Estate column, we decided we would jointly co-author both columns with James Grubman, Ph.D., and share our concepts with the readers of the *Journal*. This column lays out the problem, and the Tax & Estate column offers our solution.

Most estate planners and financial advisers have listened to clients expressing concern about the possible negative effects their money has or will have on their children.

Most of us hear such comments as, “My child doesn’t have the slightest idea of the value of a dollar,” “She will blow through her inheritance in five years,” and, “If I leave my money to my son, he’ll never do anything with his life.”

Because of these reservations, one approach adopted by many estate planners and financial advisers is to suggest that their clients consider the use of an incentive trust. An incentive trust attempts to influence beneficiary behavior through the inclusion of carrot/stick provisions related to trust distributions and trusteeships. Beneficiaries who engage in behavior that the trust creator

seeks to encourage receive money and possibly trusteeships. Behavior that the trust creator seeks to discourage is punished through the withholding of trust distributions and trusteeships.

At first glance, the inclusion of incentive provisions in irrevocable trusts seems a reasonable approach. Why not motivate members of the next generation to engage in behavior the trust creator approves of and to discourage behavior the trust creator wishes them to avoid? After all, people

“It turns out that the behaviors on which incentive trusts typically focus are not reliable predictors of responsible money management.”

typically work for a living with their income contingent upon the satisfactory completion of that work. Doesn’t the business world pay for performance? Aren’t incentive estate plans merely a reflection of real life?

Despite the widely held belief that money makes the world go round, a review of the estate planning literature, as well as major studies in motivational psychology over the last 40 years and