

NAFEP

The program described in this brochure is offered and supported by independent associates of The National Association of Financial and Estate Planning (NAFEP). NAFEP was created for the purpose of developing the best financial, estate and business planning tools available in the country today. It has a unique and prestigious Board of Advisors to guide the Association with expert advice and consulting in estate planning, business planning, the law, taxation, accounting and finance (see the "NAFEP" brochure for more details).

NAFEP develops various estate and business programs, and then teaches its associate members how to implement them for their clients. Associate members who successfully complete NAFEP and/or ACSFP* training and testing receive the NAFEP Certified Estate Advisor® (CEA®) or the ACSFP* CSFP - Chartered Senior Financial Planner designation and certificate. They also have the full research and consulting resources of NAFEP to support them as they implement their clients' special strategies and tools. The associate members then work with a knowledgeable attorney for final client planning recommendations and legal document creation.

NAFEP handles more estate planning clients in one year than most estate planning attorneys see in a life time. And many NAFEP clients have their own attorneys and CPAs review their NAFEP estate plan. This independent evaluation has happened thousands of times, and provides an intensive level of peer review to help ensure no flaws are inherent in NAFEP programs. This broad client experience and peer review ensures the highest quality and service.

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* CSFP is a certification from the Association of Chartered Senior Financial Planners. NAFEP recognizes the CSFP as a qualification for NAFEP membership.

NAFEP Products & Services

- ✓ Premier I Living Trust. Basic Family Trust.
- ✓ Premier II Life Estate Trust. Asset Protection Family Trust.
- ✓ Premier III Childrens Trust. Irrevocable Fund For Heirs.
- ✓ Premier IV IRA - LLC. Enhancement for IRAs.
- ✓ Premier V Life Insurance Trust. Estate Tax Planning.
- ✓ Premier VII Self Directed 401(k). The one.k.
- ✓ SDISSM Self Directed Installment Sale.
- ✓ CSSSM Cost Segregation Study.
- ✓ 1031XSM 1031 Exchange Strategy.
- ✓ 1031 RescueSM
- ✓ Limited Liability Company. Business Entity For All 50 States.
- ✓ C And Sub S Corporations. Business Entity For All 50 States.
- ✓ Nevada Corporations. Special Limited Liability For All 50 States.
- ✓ Miscellaneous. Advanced Gift & Estate Tax Planning, Wills, Power Of Attorney, Medical Power Of Attorney, Advance Medical Directive And Guardianship Appointment For Minors.



NAFEP programs are offered in your area by:

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Children's/Gifting Trust

PREMIER III

- *Special*
- *Funding*
- *Program*
- *For Your*
- *Heirs*



NOTE: The service described in this brochure was developed by the legal counsel for the National Association of Financial and Estate Planning (NAFEP), and is offered and supported by its Certified Estate AdvisorSM (CEA[®]) members.

PREMIER III CHILDREN'S GIFTING TRUST

The Premier III Children's/Gifting Trust is used for individuals and families who want or need to create a special, controlled fund for their children, grandchildren or other heirs. The trust creators (grantors) typically use either their annual gift tax exclusions or their life time gift tax exemption to make tax free gifts to the trust. Gifts can be either gifts of cash or securities, possibly made on a regular basis. Or a one-time large gift, such as the family farm, may be used to create the trust. The Children's/Gifting Trust can be set up to care for multiple generations, such as surviving spouse first, then children and, finally, grandchildren, if desired.

The trust permits the grantors to specify up-front what kind of controls and strings are attached to the gift. Typical uses of the trust can be either to provide a college education fund for the beneficiaries, to simply give them supplemental income or to assist with the purchase of their first home. The trustee can either pay beneficiaries directly or spend funds in their behalf, paying their obligations rather than paying the beneficiary directly. These controls assure that the money will be spent for the college education or other important needs of the beneficiaries as the grantors planned it. The life of the trust and its controls can extend to any age of the beneficiaries, and are not limited to the legal age limit as with UGMA gift accounts (Uniform Gifts to Minors Act).

Many families and individuals like to set up these trusts to move money out of their taxable estate. Even wealthier individuals can move a lot out of their estates if they have enough heirs. A married couple could transfer up to \$22,000.00* per year, per trust beneficiary to

the trust. Gifts up to this amount are exempt from gift taxes through a tax law provision known as "annual exclusion". Annual exclusion gifts are free of gift taxes, free of gift tax reporting, and removed from the grantors' taxable estate.

Trust principal can be invested in virtually any worth while investment. The investment gains and appreciation of trust assets will be outside the taxable estate of the trust grantor, or of anyone else who makes a gift to the trust.

Non-Grantor Trust. Since the grantor will no longer own or control gifts after they go into the trust, anything the grantor puts into the trust is subject to gift tax laws (though a certain amount is exempt from taxes, as explained in a paragraph above). This type trust is known in federal tax laws as a "non-grantor" trust. The trust is designed to allow transfers to it to be considered as "gifts of a present interest". This is important because only gifts of a present interest are eligible for the annual gift tax exclusion. Gifts of "future interests" to the trust are also appropriate. But future interest gifts must use up some of the grantor's once-in-a-lifetime gift tax exemption to avoid gift taxes.

Crummey Trust. The name "Crummey" comes from a 1968 Ninth Circuit court case involving the IRS vs. Crummey. This court ruling allows a trust to give a notice to each beneficiary whenever a present interest gift has been transferred into the trust. The notice gives each beneficiary 30 days in which to claim any part of the present interest gift, up to the limit of the annual gift tax exclusion amount. The beneficiary must have an absolute right to claim up to the full amount of the gift. If the beneficiary fails to claim any of the gift, the funds are retained in the trust and then administered and controlled according to its terms. The effect of the Crummey notice procedure is that the gift becomes a "present interest" and qualifies for the annual gift tax exclusion described above. Only when the beneficiary fails to claim the gift does it become subject to

the trust provisions and/or restrictions.

Most grantors will want to have a discussion with the beneficiaries who are over legal age and explain what the grantors want to have accomplished with trust funds. They will want to let the beneficiaries know that withdrawing their gift is completely legal and proper. But, it will hamper the grantors' estate planning, and further gifts probably would not be made in behalf of any beneficiary who withdraws one. Children under legal age cannot make a withdrawal due to their minority age status. The trustee is in charge of their (Crummey) right to withdraw and will let their withdrawal right lapse.

Special Needs Usage. The Premier III Children's /Gifting Trust can function equally well as a "special needs" trust. This is a trust which is created to provide for the special needs that an heir or child may have. Most often this type trust is needed when an heir is physically or mentally handicapped and unable or unwilling to take care of his or her own financial needs and affairs. Grantors sometimes fund these trusts sufficiently to provide at least the minimal living needs for the handicapped heir. Sometimes the trust is funded to pay supplemental needs only, funds which are above and beyond the Medicaid or other state provided aid which the heir is receiving or will receive.

Trustee Selection. A wide range of choices are legal to act as trustee without conflicting with tax rules. This includes the grantors themselves, one or two of the beneficiaries, other family members, professional advisors and independent trustees such as NAFEP's corporate trustee services.

* As of the year 2005, the gift tax exemption known as the "annual exclusion" allows gifts in the amount of \$11,000 per donor, per donee, per year to be completely free of gift taxes. A parent with eight heirs could give 11,000 to each one, each year, for a total of 88,000 that would be excluded from gift taxes. A married couple could combine their annual exclusions for twice the limit, or 22,000 per donee couple per year. Under the Taxpayer Relief Act of 1997 the annual exclusion amount indexes upward with inflation, though it doesn't index upward in less than \$1,000 increments (meaning that inflation must cause the exclusion amount to require an increase of \$1,000 from the prior index level before further indexing occurs).