Home Depot got my money

The husband and wife were sitting in my office and the wife said, "Our daughter is not very responsible and will immediately give her husband any money we bequeath her. Her husband is nice enough, but he has a problem handling money."

I said I understood, and asked what they wanted to do with their estate after their deaths.

Mom announced, "We'd like it tied up so she can't get any of it until she's sixty-two years old."

Dad was in full agreement. "No money until she's sixty-two," he said.

This is when I really like my job. I get to ask the nosey questions and find out the real story. Parents are brutally honest with their doctors and their lawyers, and I often find out what parents really think about their children. I believe the true nature of a child is determined at birth. Parents see and recognize these personality traits at a young age and these traits don't change much as the child grows older.

"My daughter is a lovely person, a great mom and wife, but she's just not strong emotionally." Mom said. "We've given her eleven thousand dollars on two separate occasions, but she just gave the check to her husband."

"He cashed the check and took all of the cash to Home Depot," Dad grumbled, "and bought yard equipment, a tractor, and a bunch of other useless stuff. He spent the entire damn amount in one day and he did it again when we gave her the second check." He shook his head. "How could anyone spend all that money in one day?"

As he said this, I was thinking about the wood-working tools, cabinets, toilets, faucets, and the new lawn tractor I would have bought with that money. I suddenly realized they were waiting for me to say something. "There's no doubt about it," I agreed, "your son-in-law is out of control, but I think I can help."

After another hour of discussion, Mom and Dad came to an agreement. They would establish A/B Living Revocable Trusts directing the

Trustee, at the last death, to hold all of their daughter's assets in Trust until she reached the age of sixty-two years. Dad said, "Even if she gives all of our estate to her husband at least she'll still get her social security."

I pointed out that their estate was so large it was still advisable to gift this $11,000 amount to their daughter. "If you don't give it to her now, the IRS will get almost fifty percent of it when you die."

"I don't give a damn," Dad said. "I'd rather the IRS get my money than that bum."

Mom winked at me. "And you never know. If he realizes he can't get any of her money, maybe he'll dump her."

Legal Analysis: *No law requires that you leave your estate assets to your children at a particular time. This couple could have omitted her completely if they desired. They can certainly control the timing and amount of the distributions. I have prepared many estate plans where the distributions to children occur later in life, such as ages 55 to 65. I have worked on many distributions where the child never gets the principal of the estate. The principal is held in Trust and the child receives income but not the principal. Some parents feel a large influx of cash will spoil a child. Others feel their children are irresponsible with money and want to protect them against themselves. Still others know that any large inheritance, more than a couple thousand dollars, could possibly cause the death of their child, who would use the money for alcohol or drugs. If this is the case, the parents want their child to receive a small monthly stipend that will allow the child to pay for a small apartment, food, and little else. If they use the money for drugs or alcohol, they will not have a place to sleep. After a few nights sleeping in the woods, the child may use the next check to pay for rent. The child can count on receiving a monthly check to pay for some of the necessities. If the amount came in a lump sum, it would be gone within a short time leaving the child without that lifetime financial security blanket.*