

A Living Trust Primer

A living trust is a popular consideration in many estate strategy conversations, but its appropriateness will depend upon your individual needs and objectives.

What is a Living Trust?

A living trust is created while you are alive and funded with the assets you choose to transfer into it. The trustee (typically you) has full power to manage these assets.

A living trust will also designate a beneficiary, or beneficiaries, much like a will, to whom the assets are structured to automatically pass upon your death.

If you create a revocable living trust, you may change the terms of the trust, the trustee, and the beneficiaries at any time. You can also terminate the trust altogether.

Why Create a Living Trust?

The living trust offers a number of potential benefits, including:

- **Avoids Probate**- Assets are designed to transfer outside the probate process, providing a seamless and private transfer of assets.
- **Manage Your Affairs**- A living trust can be a mechanism for caring for you and your property in the event of your physical or mental disability, provided you have adequately funded it and named a trustworthy trustee or alternative trustee.
- **Ease and Simplicity**- It is a simple matter for a qualified lawyer to create a living trust tailored to your specific objectives. Should circumstances change, it is also a straightforward task to change the trust's provisions.
- **Avoid Will Contests**- Assets passing via a living trust may be less susceptible to the sort of challenge you might see with a will transfer.

The Drawbacks of a Living Trust

Living trusts are not an estate panacea. They won't accomplish some potentially important objectives, including:

- A living trust is not designed to protect assets from creditors. They are also "countable resources" for purposes of determining your Medicaid eligibility.
- There is a cost associated with setting up a revocable living trust.
- Not all assets are easily transferred to a living trust. For example, if you transfer ownership of a car, you may have difficulty obtaining insurance because you are no longer the owner.
- A living trust is not a mechanism to save on taxes, now or at your death.

Using a trust involves a complex set of tax rules and regulations. Before moving forward with a trust, please consider working with us. We are familiar with the rules and regulations.

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