



Advisor Views

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A Matter of Trust

Think of estate planning and what comes to mind? For many, the concept of estate planning evokes thoughts of high-net worth individuals and families, and their specialized needs for managing and distributing their wealth.

While there's little doubt that the affluent can benefit from a carefully crafted estate plan, estate planning is not for the wealthy alone. While you may have never thought of it as such, you have "an estate" that's made up of your home, automobiles, your savings and investments, as well as everything else you own. Through some basic estate planning, you have the ability to provide financially for a designated individual, while also helping to ensure that your assets will be passed on to family and friends as you desire when you pass away. With proper planning, you can even provide instructions as to how and when your beneficiaries will receive them.

While most are familiar with basic estate planning tools such as "wills" – a detailed outline describing who will receive your assets upon your passing; "living wills" – instructions as to your wishes for life sustaining medical care in the event you become terminally ill and are unable to communicate; or a "power of attorney" – a document that grants someone else the power to act on your behalf to manage your affairs, other tools such as "trusts," may be somewhat less well known.

Trusts*: Some Basic Terms...

Typically drafted by an attorney as part of a comprehensive estate plan, trusts may be a valuable planning tool that create a legally binding agreement between the "grantor" of the trust – the person who creates and places assets in the trust- and the "trustee" – the person or institution charged with overseeing the trust and carrying out its intentions for the benefit of one or more "beneficiaries."

Typically, trusts may be "revocable," meaning they can be rescinded at the discretion of the grantor, or "irrevocable," meaning they are permanent once implemented. "Living trusts" are revocable trusts that are funded and activated while the grantor is living. When funding the trust, the grantor transfers ownership of his or her property to the trust, and frequently appoints him or herself as the trustee.

It's important to note that trustees typically assume tremendous responsibility when overseeing a trust. If the grantor chooses to appoint someone other than himself as the trustee, careful consideration should be given to the potential trustee's trustworthiness, willingness and ability to effectively manage the trust in the grantor's best interests, and according to his or her wishes.

"Testamentary trusts" are created and included as part of a will. As long as the grantor is living, a testamentary trust can be revoked at the grantor's discretion, however these types of trusts become irrevocable upon his or her passing.

...and Common Uses

So why might you need a trust? While different types of trusts serve different needs, they are often created to outline how you want your assets managed, and how you want them distributed upon your passing.

One common purpose of a trust is to provide financial assistance to someone who is unable to manage his or her own finances such as a minor child, a disabled person, or even an adult who lacks financial maturity, and in the absence of the trust, might squander the assets. While the trust provides for the financial assistance that the grantor intended, it prevents the beneficiary from gaining total control or ownership of the assets. The beneficiary would

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only assume ownership if it is so specified in the trust, and only at a time that was chosen by the grantor.

Trusts can be effective, as well, in helping to ensure that assistance to the beneficiary continues in the event of the grantor/trustee's incapacitation or death. When establishing a trust, the grantor may name a successor trustee who would assume oversight of the trust if the original grantor/trustee is unable to perform his or her required duties, thereby ensuring continuity of his or her wishes into the future.

Yet another benefit of trusts is their potential ability to serve as a tax shelter upon the death of the grantor. While assets left to a surviving spouse are typically exempt from taxation up to certain limits, trusts may be able help shelter additional assets of the estate depending on the situation. Determining the tax advantages of different types of trusts is a complex topic, however, and persons interested in the possible tax benefits of a trust should seek the advice of a qualified estate attorney.

While a will can serve as a useful tool to help ensure a decedent's assets are passed on to his or her beneficiaries, wills are subject to probate court proceedings that can be potentially expensive and time consuming. When assets are placed in a trust, however, upon the grantor's death, they bypass public probate proceedings, thereby helping the estate to maintain greater privacy, and pass directly to the named beneficiaries. Please note, however, that while assets may be distributed more quickly when they are held in a trust, trust assets may still be subject to estate and inheritance taxes.

So is a Trust Right for You?

Ultimately, the determination as to whether or not you may benefit from a trust is a decision that should be made with the guidance of a qualified estate attorney. Just as we have worked with you in a financial advisory capacity to help you develop a financial plan designed to help you reach your long-term goals, we believe that a plan that helps ensure a smooth and seamless disposition of your assets according to your wishes may be equally important. An estate attorney can help you determine what strategies and tools may be most effective in helping to ensure that your financial objectives will be met when you're gone, and that your assets will be passed on to your heirs in a timely, tax efficient manner according to your wishes.

Sources:

1. The Probate Courts of Connecticut, "Understanding Trusts: A Look at Living Trusts and Other Trusts," 2005.
2. <http://www.estateplanning.com>
3. T. Rowe Price, "Estate Planning Guide, Key Considerations"

*Trusts should be drafted by an attorney familiar with such matters in order to take into account income, gift and estate tax laws (including generation skipping transfer tax). Failure to do so could result in adverse tax treatment of trust proceeds.

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