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Ten Reasons a Trust Might be Right for You....

Ten Reasons a Trust Might be Right for You - And Ten Reasons it Might Not.

Perhaps you have heard a neighbor or a friend comment that they have put their house in a trust or that they have a trust that avoids probate or saves taxes. These are good reasons to have a trust, but all trusts are not alike, and there are just as many reasons not to set up such an arrangement. Trusts can be revocable or irrevocable, for the benefit of the individual who set them up or for family members, friends, or charities. Trusts are set up by one person and managed by an individual or institutional trustee for beneficiaries.

So, you may need a trust

1. To Avoid Probate.

If your assets are held in a Revocable Trust rather than in your name alone, your property passes to your heirs directly without going through the expense, delay and publicity of probate.

But: You don't need a Revocable Trust if all of your property is held jointly with a right of survivorship with another person and your life insurance, retirement benefits, bank and investment accounts all have beneficiaries.

2. To Minimize Estate Taxes.

In Massachusetts, if an estate exceeds \$1,000,000, the estate will pay taxes on the entire amount, not just the excess. If a married couple has \$2,000,000 and leaves everything to the survivor, the tax on the survivor's estate will be in excess of \$100,000. However, if the property had been left through a Revocable Trust to a Marital Trust for the survivor, there is no tax on either estate.

But, if you are married with assets under \$1,000,000 or single with any amount of assets, you do not need a Revocable Trust for estate tax purposes.

Note: The federal estate tax returns in 2011, and Revocable Trust work just as well to reduce federal taxes. For larger estates, specialized trusts such as Qualified Personal Residence Trusts or Grantor Retained Income Trusts can also help to reduce taxes.

3. To Protect Assets for Children of your Prior Marriage.

A Revocable Trust can pass assets to a Marital Trust for a current spouse with the property remaining at the spouse's death going to the children.

But, mutual wills leaving all assets to the children also work as long as your spouse does not change his or her will after your death.

4. To Protect a Family Member Whose Medical Expenses may Exceed Their Resources.

A Special Needs Trust can hold assets for the beneficiary without adversely affecting eligibility for Medicaid, MassHealth, etc.

But, a SNT cannot be for your own or your spouse's benefit.

5. To Delay Distribution to your Beneficiaries.

A Revocable Trust pouring over into a Family Trust which holds property until trust beneficiaries reach specified ages or a sufficient level of maturity.

But, in these days of merging financial institutions, be sure the beneficiaries can remove and replace an institutional trustee.

6. To Provide Centralized Management.

A trust can hold and administer property for the benefit of multiple trust beneficiaries and succeeding generations.

But, a Limited Liability Company may be more appropriate for business property management.

7. To Provide Liquidity at Death to Pay Estate Taxes.

An Irrevocable Life Insurance Trust can hold life insurance proceeds outside of your taxable estate.

But, if your estate is not taxable, life insurance (and the creation of a trust) may not be the best investment.

8. To Provide Financial Management Services While you are Living.

A trustee named by you in a Revocable Trust can do this.

But, you could individually hire a trustee to do the same thing.

9. To make gifts to charity.

A Charitable Remainder Trust allows you to receive annual payments from trust property, often well in excess of customary investment returns. The charity receives what is left at your death, and you receive a charitable deduction against income.

But, Charitable Gift Annuities frequently work better for smaller gifts and are much less expensive to create.

10. To Preserve Some of your Assets for your Heirs in the Event of a Long Term Illness.

An Income Only Trust can own your home, and you can continue to live there or in a replacement home purchased by the trust.

But, do not use such a trust if you anticipate the need for nursing home care for you or your spouse in the next five years because the transfer disqualifies you (and your spouse if applicable) for Masshealth nursing home benefits for five years.

So, a trust is a great tool, but only if you need it!