Do I Need a Living Trust?

A trust is just one of many estate planning options for individuals. Oftentimes, when people think about their estate plan, they think only of what happens to their property when they pass away. However, planning your legacy can involve tools during life as well.

Revocable and irrevocable living trusts are mechanisms that offer individuals and couples an opportunity to hold assets during life and direct them after their death. Our trusts and estates lawyers helps clients develop comprehensive plans that meet their needs and wishes.

Revocable v. Irrevocable Living Trust

Living trusts hold your assets and allow you access to those assets during life. Upon your death, those assets are then distributed as directed in your estate plan. A major decision for those creating a living trust is choosing between a revocable and irrevocable trust. Both come with their own benefits, and one or both may be appropriate for your goals.

- **Revocable:** A living trust is “revocable” if it can be revoked. This means that the trust creator retains control over the trust property and can easily modify terms, beneficiaries, etc. This is a major benefit for those who want greater flexibility and control.
- **Irrevocable**: A trust is “irrevocable” if the creator cannot alter its terms. The trust creator does not have control over the assets held in the trust, therefore careful drafting and choice of trustee is crucial. However, irrevocable living trusts offer greater protection from creditors and estate tax. This can be critical for certain estates.

Your trusts and estates attorney can help identify the right trust tools for your estate. Identifying your goals and how Florida estate laws and federal tax laws apply are vital to these decisions.

Trust Roles and Responsibilities

When creating your trust, you need to understand the roles necessary for its success, this includes the grantor, trustee, and beneficiary. You will also need to understand the responsibilities of each. While your attorney can provide you with guidance, you are the best person to know who can fulfill certain obligations and who should benefit from your trust.

- **Grantor:** The grantor, or trust creator, is the person who creates the trust. This individual designates the trustee and beneficiaries, determines the terms, and contributes the trust property.
- **Trustee:** The trustee is the person who manages the trust. This can be a person or company. They will manage the assets in the trust, distribute per the trust terms, and ensure compliance.
- **Beneficiaries:** The beneficiaries are the people who receive the benefits of the trust. This includes any assets held in trust or income generated by the trust.

For a revocable living trust, you will be the grantor, trustee, and beneficiary of your revocable living trust. Upon your death, a successor trustee will distribute the assets as directed to the surviving beneficiaries.

With an irrevocable living trust, you will be the grantor and beneficiary during life. However, someone else must serve as trustee. This is critical for receiving tax benefits and creditor protection. Upon your death, a successor trustee will distribute the assets in accordance with the trust terms.

Do I Still Need a Will if I Have a Trust?

While your trust can be comprehensive, a will is still necessary to complete your estate plan. A “pour over will” will ensure that any property that was not held in trust, but should have been, is put into trust. It names the trust as its beneficiary, “pouring” any assets into the trust. Those assets will then be directed pursuant to the trust terms. Additionally, your will can direct the distribution of your personal property.

Other Non-Probate Assets

Some assets like life insurance policies, retirement accounts, and joint bank accounts are distributed through beneficiary designations. You can name individuals as the beneficiary, or you can name your trust. Your lawyer can advise you on these designations and make sure your trust is properly funded during life to avoid probate.

Estate Questions? Contact a Trust Attorney Today

A living trust can provide you with wealth management during life and secure your legacy after death. Ensuring that you are provided for during your life and future generations benefit from your hard work is vital to any estate plan. We understand the importance of crafting a comprehensive plan to meet your goals.

If you have questions, contact us today. Our trusts and estates attorney is ready to assist you with your legacy planning.