

Have You Protected Your Loved Ones By Signing A Living Trust Agreement?

A Living Trust is a type of trust formed to hold ownership of the assets of the Grantor during his or her lifetime and to distribute the same in the event of his or her death. It is common practice in the United States to use such a document since it facilitates the transfer of assets to heirs without need to go through probate. Not having to go through probate is very convenient and time saving as well as being private.

Probate means paying fees (based on the net worth of assets) and is a public process as opposed to living trust which is private. A living trust is useful in planning for cases of incapacity of the Grantor. The Grantor may be a solo trustee or a co-trustee and may act independently with respect to the agreement. In addition, the living trust agreement may provide for either trustee to act independently should the Grantor become incapacitated.

Though this has a lot of advantages it also suffers from certain drawbacks, especially in the case of inter vivos trust. Beneficiaries do not obtain the benefit of any savings on estate or state inheritance taxes. Furthermore, a living trust can be expensive to create and this expense has to be borne at the outset by the Grantor. Getting a professional quality agreement may, in certain cases, help even double the estate tax exemption.

HOW TO ESTABLISH A LIVING TRUST

Establishing a living trust means that a person wants to transfer assets from himself, in the form of Grantor, to himself as Trustee of the trust and to administer benefits for himself. During the lifetime of the Grantor such beneficiaries do not receive anything. Sometimes, it may be advisable to make use of the services of a corporate trustee such as banks.

The main advantage of corporate trustees is that they may operate forever (in perpetuity) whereas an individual cannot. Furthermore, corporate trustees are required to keep accurate and complete records of all transactions of the trust as long as the trust remains in existence. These records are called the accounting of the trust and may be required by courts as well as the other beneficiaries. In addition, corporate trustees must also actively manage the trust.

A properly drafted and executed living trust will certainly reduce the necessity of probate. This is because the trust owns the assets and not the deceased and only property owned in the name of the deceased must go through probate. Make sure that all the necessary homework on this subject has already been done before formalizing the arrangement.

A living trust agreement may not be enough by itself. In addition, you may want a will, known as a "Last Will and Testament" which instructs the executor to transfer assets to the trust so that the trust's provisions can kick-in. Also, you would be well advised to have a "Durable Power of Attorney" for financial matters and one for health matters.

A Living Trust may be thought of as a detailed proposal of how to handle the Grantor's affairs when he becomes incapacitated. Such an arrangement allows for greater flexibility in executing the Grantor's wishes. There is also better acceptance of actions of trustees than for agents of a durable power of attorney.

Source: <http://www.articlecircle.com>

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