Financial, Legal & Tax Advisory

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Estate Planning: Common Types of Trusts

Having a trust in place is an effective estate planning tool. While trusts are often shrouded in confusion, in reality they can be quite simple, depending on the wishes of the Grantor, who is the person funding the trust. Trusts can be effective the second the Grantor signs the documents and obtains a FEIN. In other cases, trusts are only enforceable after the Grantor's death. If a trust is properly established, assets can flow very easily to the Beneficiary, who is the person or persons benefiting from the trust. Having this proves to be an advantage as it keeps property away from the probate process and may even help reduce or eliminate taxation upon the assets within the trust.

A Trustee is a person, often someone who is sound-minded and over the age of 18, who administers the trust. Trusts are either revocable or irrevocable. A revocable trust can be changed or canceled at any time by the Grantor, who often acts as the Trustee. Often in a revocable trust, the Grantor, Trustee, and initial Beneficiary are all the same person. The assets in the trust are still owned by the Grantor, and therefore, any revenue generated by the trust must be reported on their personal taxes. Revocable trusts become irrevocable when the Grantor dies. An irrevocable trust cannot be modified or revoked by the Grantor without the permission of its Beneficiaries. Irrevocable trusts are also generally more tax beneficial compared to the revocable trust because the Grantor is giving up complete control of the property after the conveyance.

In other words, they are at the mercy of their Trustee. However, the Trustee has a duty to act with the best interests of the Beneficiaries in mind. A living trust is one of the most commonly used types of trust. This type of trust is also known as an intervolves trust, and the living trust is made by the Grantor during their lifetime using assets that are intended for the Grantor during their lifetime. Upon the death of the Grantor, the assets are then passed to the Beneficiary. A living trust can avoid any probate in court so long as the trust is funded and administered properly. Living trusts are almost always revocable for the lifetime of the Grantor and will become irrevocable upon their death.

A testamentary trust, also known as a will trust, is set up through an individual's last will and testament. This trust is used to appoint a trustee to manage and distribute the Grantor's assets upon their death. After the probate court determines the legitimacy of the will, the executor will then transfer assets in accordance with the will and into a testamentary trust. This type of trust allows you to set limitations and stipulations on when and how assets can be accessed by the beneficiaries. A Special needs trust is a trust established to benefit a physically or mentally disabled or chronically ill person. This trust allows any additional financial support of an individual with special needs without losing the possibility of public assistance programs such as Social Security, Medicare, or Medicaid.

These assets, usually cash, do not count towards any of the beneficiary's income for the purpose of qualifying for public assistance. Insurance trusts are now becoming quite popular with the rise in the cost of life insurance. An insurance trust allows a Grantor to place their life insurance policy within the trust, which saves a large portion of any possible proceeds from being subject to taxes. This type of trust is irrevocable. With a wide variety of trust structures at your disposal, it can be very difficult to decide which one is right for you. Each trust has its own unique features, but they all share common benefits such as: reduced estate taxes, allocation of assets to preferred beneficiaries, avoidance of court fees and probate, and protection from creditors.

While it is normally a topic people wish to avoid discussing, death is an unfortunate reality that should be planned for accordingly. Having a strong estate plan that includes necessary items such as a will, healthcare and property Power of Attorneys, along with one of the above-mentioned trusts, is a great start for you and your heirs to have a good peace of mind. The professionals at The Center for Financial, Legal, and Tax Planning are more than knowledgeable with regard to the best trust to fit your needs. If you have any further questions or would like our assistance in selecting the best trust for you, please contact us online at www.taxplanning.com or call us at (618) 997-3436.

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