

Trusts: What's the Use? And Charitable Gift Options

Estate Planning Series - Province of Our Lady of Consolation - 4/13/22 Notes

1. A Trust is a legal arrangement whereby a person (a trustee) holds property as its nominal owner for the good of one or more beneficiaries.
 - a. Most Trusts are “Living/Revocable” Trusts
 - b. Irrevocable Trusts are only made if you want it carved in stone with no flexibility
 - i. If the heirs you set up to be beneficiaries supersede you in death, you should have a contingent beneficiary already named in the trust, and this is a good opportunity to add a distribution to a Charity
 - c. The trustee is the one who holds title to the trust property, and the beneficiary is the person who receives the benefits of the trust.
 - d. Trusts are established to provide legal protection for the trustor’s assets, to make sure those assets are distributed according to the wishes of the trustor, and to save time, reduce paperwork and, in some cases, avoid or reduce inheritance or estate taxes.
 - e. A Trust works in conjunction with a Pour-Over Will.
 - f. A Pour-Over Will is a legal document that ensures an individual’s remaining assets will automatically transfer to a previously established trust upon their death.
 - i. Decisions about minor household items can go into the Pour-Over Will
 - ii. No reason to put smaller items in a Trust
 - g. Assets for Trust
 - i. Real Estate
 - ii. Stocks
 - iii. Cash
 - iv. Charitable Distributions
 1. Your Will or Trust allows you to set your legacy to your heirs – including Charity
 - v. Trusts are considered persons for federal tax purposes and are therefore subject to taxation the same way an individual would be. However, income of the trust that is distributed to a beneficiary is not taxed to the trust, it is taxed directly to the beneficiary.
 - vi. If you don’t make a list of heirs in your Will the state law recognizes ALL Heirs
 - h. A Living Trust is revocable all the way up to the time of your death
 - i. A Trust can help you provide for a loved one in graduated payments to them for the rest of their lives rather than giving to your loved one all at once
 - j. Instructions must be included to the trustee
 - k. A Trust helps to avoid and reduce the costs of probate
2. Probate is the court-supervised process of administering your estate and transferring your property at death pursuant to the terms of your will.
 - a. The fees you pay for setting up a trust are up front rather than after you die
 - b. Probate in states like Indiana may not be a lengthy process
 - c. Probate in places like California, Texas and Florida can be lengthy

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3. Any assets you owned will be changed to be owned by the Trust. The Trust will hold Title until the instructions in the trust indicate when the Title will change over to be the beneficiary
4. Property that passes at death through a revocable living trust must be transferred to the trust, administered by a trustee who may or may not charge fees, and then transferred out of the trust to the beneficiaries.
5. A trust is established with a trust agreement that is established to carry out goals you have.
6. Once the person who created the trust dies, the trust doesn't die with them. Instead, it is a separate entity that continues to live on. In fact, the next beneficiaries can keep the assets in the trust long after the original owner's death, depending on the terms or years or lifetime benefits that the original owner added to the trust when it was first created.
7. The Successor Trustee is who takes over once you are no longer living or no longer have the mental/physical ability to be in control of your own assets.
 - a. A Trustee is like a firewall and can be set up to be so for the entire life of a beneficiary or until a certain date/age until the beneficiary retires
 - b. The Trustee is usually a trusted friend, family member, CPA, lawyer or local Bank and Trust Co.
 - c. The Trust can establish a fee be paid to the trustee
 - i. Custodian Fee (for holding assets)
 - ii. Investment Fee (for keeping track of investments)
 - iii. State Law usually suggests a set fee for Trustee to administer the Trust
8. Trustee - The Trustee has permission to organize all your assets according to your wishes/goals you established in your Trust
 - i. Gather Assets
 - ii. Secure Assets
 - iii. Pay Debts
 - iv. Pay Installments to your beneficiaries
 - v. For example, a Trust can be set up to pay educational expenses for minors
- b. Beneficiaries
 - i. Young children, grandchildren, disabled heir
 1. Education
 2. Buying a Home
 3. Care
9. Once you have passed, your Will is filed in the state where you currently reside
10. Many states still have an inheritance tax [see following list], but the 2020 federal estate tax assessed as of the date of death, applies only to decedent's estates with assets over \$12.06 million.

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11. 4/2022 Current States with Inheritance Taxes

- a. <https://www.aarp.org/money/taxes/info-2020/states-with-estate-inheritance-taxes.html>
- b. **Connecticut:** Estate tax of 10.8 percent to 12 percent on estates above \$7.1 million
- c. **District of Columbia:** Estate tax of 11.2 percent to 16 percent on estates above \$4 million
- d. **Hawaii:** Estate tax of 10 percent to 20 percent on estates above \$5.5 million
- e. **Illinois:** Estate tax of 0.8 percent to 16 percent on estates above \$4 million
- f. **Iowa:** Inheritance tax of up to 15 percent
- g. **Kentucky:** Inheritance tax of up to 16 percent
- h. **Maine:** Estate tax of 8 percent to 12 percent on estates above \$5.8 million
- i. **Maryland:** Estate tax of 0.8 percent to 16 percent on estates above \$5 million; inheritance tax of up to 10 percent
- j. **Massachusetts:** 0.8 percent to 16 percent on estates above \$1 million
- k. **Minnesota:** 13 percent to 16 percent on estates above \$3 million
- l. **Nebraska:** Inheritance tax of up to 18 percent
- m. **New Jersey:** Inheritance tax of up to 16 percent
- n. **New York:** Estate tax of 3.06 percent to 16 percent for estates above \$5.9 million
- o. **Oregon:** Estate tax of 10 percent to 16 percent on estates above \$1 million
- p. **Pennsylvania:** Inheritance tax of up to 15 percent
- q. **Rhode Island:** Estate tax of 0.8 percent to 16 percent on estates above \$1.6 million
- r. **Vermont:** Estate tax of 16 percent on estates above \$5 million
- s. **Washington:** Estate tax of 10 percent to 20 percent on estates above \$2.2 million