

A Living Trust: It's Not Just a Way to Minimize Estate Taxes

For most families, the revocable living trust is arguably the simplest and most powerful estate planning tool for wealth protection and asset distribution

April 2011 - One of the misconceptions about a trust is that its main purpose is to reduce one's federal estate tax burden. In fact, it can do much more than lessen estate taxes, and its simple yet powerful advantages are often overlooked. That's why, every year, tens of thousands of people whose estates are unlikely to be taxed set up trusts in order to provide important non-tax benefits to their heirs.

It is very likely that, in your situation, you are more focused on having control over who gets what, in what amount, and under what circumstances, as you are on minimizing your estate tax obligation. Further, you probably want to be assured that your loved ones will be well provided for and protected from outside predators – e.g., creditors, ex-spouses or parties filing lawsuits – who seek a piece of your estate.

Probate Avoidance. Another excellent motivation for setting up a trust is to spare your loved ones and other heirs the expense and aggravation of probate. ("Probate" is the legal process of administering the estate of a deceased person by resolving all claims and distributing the deceased person's property as instructed by the deceased person in his or her will.)

Unless you establish a trust to hold the assets upon your death or utilize certain other asset-ownership alternatives (such as joint tenancy), when you die your assets can generally be transferred to your beneficiaries only through probate court proceedings. Depending on the complexity of your estate and the number (and greediness) of your heirs, the amount of time that your estate is tied up in probate court can extend to months or years – time that your heirs are not benefitting from owning the assets that you intend for them to have.

Establishing a trust and properly "funding" it (i.e., transferring ownership of assets into the trust) can eliminate the need for probate court altogether. After you die, the trustee of your trust distributes your assets in accordance with the instructions that you wrote into your trust.

Three Types of Savings. In considering whether to create a trust, you should be aware of three major savings opportunities – in terms of money, time and stress – that generally are made possible by a trust.

- *Money:* Avoiding probate reduces legal fees incurred by your estate and to pass along those savings to your family and other heirs.
- *Time:* The time required to administer your estate is reduced substantially.
- *Stress:* Since a trust simplifies the process for the beneficiaries, it can ease (a) the emotional pain of losing you and (b) the stress associated with a messy and protracted administrative process.

Any of these benefits is sufficient to justify your serious consideration of a trust (if you haven't already created one). If you would like to explore the advantages further, we would be happy to lead you through that process.

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- [Return to Article Index](#)

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