

Planning Ahead



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Trust Myths and Truths

People have common misconceptions about revocable living trusts. Here are a few myths along with the truth.

The biggest misconception is a trust will protect from creditors. The truth is the common revocable living trust provides no creditor protection. The reason is during your lifetime you still have control over all the trust assets, including the ability to revoke the trust and remove assets from the trust. Because you still have access to the trust assets, your creditors do too.

A second misconception is a trust saves taxes. The truth is while provisions in a trust can minimize estate and income taxes and protect against property tax reassessment, just having a trust without such provisions does nothing to save taxes. The fact that a home is held in the name of a trust won't escape capital gains tax if sold during the trust creator's lifetime.

A third misconception is a trust cannot be challenged. The truth is that just like a Will Contest, heirs and beneficiaries may also file a Trust Contest.

So what good is a trust? First and foremost, it avoids probate. A probate can tie up an estate for a year or longer and depending on the value of the probate assets can be very expensive. Compare the settlement of a trust which may be accomplished in as little as six months and for a fraction of the cost of a probate.

A second benefit as people live longer, often with diminished capacity, is a trust can provide continuity of access to and management of trust assets for the benefit of the trust creator, without the terrible expense and loss of legal rights that come with a Court conservatorship.

So why doesn't everyone have a trust? They don't want to think about death and incapacity, they don't want to make the investment and it's easy to put off. The truth is it's not that expensive and it doesn't have to be hard. The reward is knowing your family will be taken care of according to your wishes.

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