Types of Trusts for Estate Planning

A trust is an estate planning instrument that takes effect while you are living and survives your death. It can provide valuable protections to both you and your beneficiaries. There are many types of trusts for estate planning, depending on your needs and ultimate goals. The key is selecting the right type. Here's a look at some of the most used types.

Revocable Trusts

Revocable trusts are extremely popular because they can be changed, and they help avoid probate. Assets can be added to or removed from the trust at any time. The trust itself can be revised as well. You, as the trustee, maintain full control during your lifetime. Upon your death, the designated backup trustee becomes responsible. You can name your children as beneficiaries but allow the trustee to maintain oversight until your children reach a certain age, at which point they receive the full proceeds from the trust. This is one of the most popular types of trusts for estate planning for families with children.

Irrevocable Trusts

As the name implies, irrevocable trusts cannot be changed regardless of whether you are living or deceased. Once assets are placed in the trust, they permanently belong to the trust. Upon your death, the terms of the trust are activated for the benefit of your designated heirs. Irrevocable trusts are often used to shield assets (since those assets no longer belong to you as an individual), but they have limitations that should be well understood in advance.

Charitable Trusts

If you plan to leave your assets to charity, a charitable trust can be set up in advance. Charitable trusts can provide tax benefits during your lifetime. They can also provide estate tax savings upon

your death since you will have a lower estate value given the prior contributions made to the charitable trust.

Special Needs Trusts

If you have dependents with special needs, you may be concerned about whether assets you bequeath upon your death will disqualify them from government benefits. A special needs trust is designed specifically to address this. It is created for the benefit of your dependents but they neither control distributions nor can revoke the trust. It allows your dependents to receive financial support from the trust and from government programs.

Tax By-Pass Trust

For married couples, a tax-bypass trust can provide tax savings to their children and other heirs. Typically, when one spouse dies, assets may be transferred to the other spouse without much tax obligation. However, when the second spouse dies, significant taxes may apply when assets are transferred to the surviving spouse's heirs. A tax-bypass trust can help mitigate that burden and lead to significant savings.

Additional Types of Trusts for Estate Planning

The above are just a few examples of the different types of trusts for estate planning. Gun trusts, totten trusts, spendthrift trusts, constructive trusts, and asset protection trusts are a few others that you might consider.

Contact our team for assistance with creating trusts for your estate plan. We'll help you understand your options and achieve your estate planning goals.

4 Benefits of Revocable Trusts in Estate Planning

There are many benefits to revocable trusts in estate planning, making it one of the most popular options. If you're looking to create a new estate plan and aren't sure whether a revocable trust is a good fit, here are a few key benefits to consider. You can weigh these against the features of other options you are evaluating.

1 – Can Be Changed

One of the biggest benefits of revocable trusts is the ability to change it. At any time, you can alter the terms through an addendum or replace it with a newer version. Thus, it easily adapts to changes in your life. For instance, you may have certain preferences while your children are young versus when they become young adults. You can change trustees, beneficiaries, or any other specific terms as needed. It's truly a flexible document.

2 – Avoids Probate

Avoiding a lengthy and costly probate process is a primary goal for most estate plans. Revocable trusts do precisely this. Assets are transferred into the trust in advance rather than going through probate. Additionally, a pour-over will can transfer any remaining assets upon your death. Although those residual assets may require probate, the process is usually less complicated.

3 – Simplifies Transfer of Assets

Transferring of assets to heirs is easier in estates with revocable trusts. Since assets already belong to the trust, they can be quickly liquidated or transferred. As for monetary distributions, that can be done as soon as debts are settled and the remaining value is determined. There are no court proceedings or other such delays.

4 – Takes Effect Immediately

Trusts become active as soon as the legal documents are prepared and signed, so they can be helpful in cases of disability or incapacitation. While you are living and fully capable, you are the trustee and control the assets in the trust. In cases where you cannot perform this duty, the individual(s) that you name as backup(s) have the ability to act on your behalf. This, along with a power of attorney, can ensure that your finances are properly managed under those circumstances.

More Benefits of Revocable Trusts

These are just 4 of the key benefits of revocable trusts in estate planning. Based on your personal circumstances, there are many other protections available. For example, if you have minor children, revocable trusts can provide financial assistance to cover living expenses, medical care, and education expenses until they reach a certain age, after which they receive the balance of the trust. If you own real estate in multiple states, in can simplify the sale and transfer. Since the terms of a trust can vary based on your needs, it’s important to consult with an attorney to discuss your goals and how revocable or other trusts can help you accomplish them. Contact us to schedule a consultation with our team of Massachusetts estate planning attorneys.

Common Estate Planning Documents

Although every estate plan is technically unique and designed to fit your specific needs, there are some documents that appear in most plans. Below is a quick overview of what those are. Should you include these common estate planning documents in your own estate plan?

Will

A will allows you to list desired beneficiaries for your assets and who should care for your children. Without it, courts will designate heirs based on intestate succession laws and guardians based on information available to them. Although it sounds like a straight forward document, an improperly created will is much like having no will at all. The best way to ensure your wishes are honored and disputes among family members is to have a will formally prepared by a Massachusetts estate planning attorney.

Healthcare Proxy

A healthcare proxy allows someone you trust to make medical decisions on your behalf when you are unable to do so yourself due to incapacitation or disability. By making it clear who has this power, it can avoid disputes among family members and delays in medical care. The person you select need not be a relative, but it should be someone familiar with your preferences regarding life saving measures.

Power of Attorney

Financials are another important consideration. If you are incapacitated or disabled, who will manage your financial affairs? This may include paying your mortgage, rent, utilities and other bills. By assigning power of attorney ahead of time, the person of your choosing can instantly step in when needed. Again, be sure to select someone that you thoroughly trust. Additionally, it may be best to select someone who is not also your healthcare proxy.

Trusts

Another of the most common estate planning documents are trusts. There are many types of trusts, each with different goals and benefits. Many people use trusts to avoid a lengthy and expensive court probate process. Trusts can also enable more detailed instructions on how your assets should be managed and disbursed. Selecting the right type(s) of trusts is key to achieving your

intended outcomes.

What Common Estate Planning Documents Do You Need?

So, which of these common estate planning documents will you need? It truly depends on your personal requirements and goals. The plan for a single person will vary from that of a married couple with children, a divorced person, or someone with children from previous marriages.

Additionally, special circumstances such as providing for long-term care of a disabled dependent, minimizing estate taxes, gifting strategies, and anonymity must be taken into consideration. Every estate plan is unique to the individual and must be reviewed and changed as one's life circumstances change. If you're interested in creating an estate plan, contact our team to schedule a free consultation.

Overview Of Burlington MA ABC Trusts

Overview of Burlington MA ABC trusts written by Peter Damore at Law Offices of Peter T. Damore Jr.

Types and Goals Of Irrevocable Trusts

Types and goals of irrevocable trusts provided by Peter Damore at Law Offices of Peter T. Damore Jr.

Advantages And Disadvantages Of Massachusetts Revocable Living Trusts

Advantages and disadvantages of Massachusetts revocable living trusts written by Peter Damore at Law Offices of Peter T. Damore Jr.