
TRUSTS

One of the most valuable and flexible estate planning tools is a trust. Basically, a trust is a legal arrangement by which one party (the “*trustor*” or the “*settlor*”) gives title to property to another party (the “*trustee*”) who manages it for the benefit of one or more beneficiaries. Individuals establish trusts for a many reasons. The following is a short list of some of them.

- **MANAGEMENT** — Assets can be transferred to a trustee (corporate, individual or both) who is skilled in managing and investing the particular type of property deposited into the trust (real estate, stocks and bonds, cash, etc.).
- **PROTECTION** — Certain trusts help insulate one’s assets from creditors claims. Others are established to protect against the settlor’s, or a beneficiary’s incapacity, improvidence, or incompetence.
- **TAX SAVINGS** — Trusts frequently are created to afford the settlor and his or her family the opportunity to save current income taxes or future death transfer taxes.
- **FLEXIBILITY** — Trust provisions can be established to complement almost any set of circumstances.
- **PRIVACY** — Unlike a will which becomes part of the public record after probate is initiated, the details of an *intervivos* (“*living*”) trust can be kept confidential.

The two most common types of trusts are “*living*” trusts (trusts created during the Settlor’s lifetime) and “*testamentary*” trusts (trusts created in the Settlor’s will). Living trusts can be either revocable (i.e., the Settlor can amend or revoke the trust at any time) or irrevocable (i.e., the Settlor cannot amendment or revoke the trust). During the Settlor’s lifetime, a testamentary trust is also “*revocable*” in the sense that he or she one always can change its terms through the formal procedure of changing the will in which it is found. Living and testamentary trusts both usually become irrevocable at the Settlor’s death.

A more detailed discussion of some of the various types of trusts frequently used is contained in the handout entitled “*Tools for Estate Planning*” and the chart entitled “*Revocable Living Trusts*”.